

OCEAN-FRONTING PUBLIC ROAD PROTECTION RULEMAKING ADVISORY COMMITTEE

MEETING PACKET #1



TO: Ocean-fronting Public Road Protection Rulemaking Advisory Committee Members
FROM: Meg Reed, Coastal Shores Specialist, DLCD
SUBJECT: RAC Meeting Packet #1

Ocean-fronting Public Road Protection Rulemaking Advisory Committee Members,

Thank you for bringing your lived experiences and expertise to help the State of Oregon shape rulemaking around the protection of ocean-fronting public roads from coastal erosion through a narrow exception rule path. This effort will help to protect an essential lifeline route (highway 101) along the coast, while balancing the protection of Oregon's public beaches from the negative impacts of shoreline armoring.

To help center the perspectives of those who live or work on the Oregon coast, this Rules Advisory Committee (RAC) is intentionally geographically and professionally diverse. We would like your input on adding new language to Oregon Administrative Rules for the land use goal exception process for public roadways built prior to 1977, creating the option to protect them through shoreline armoring. This rulemaking effort is meant to create narrowly defined rule language and to avoid unintended consequences.

August 2022 is the target schedule for adoption of these rules. The primary role of the RAC is to be advisory to DLCD staff as we prepare rules for consideration by the Land Conservation and Development Commission (LCDC). All meetings will be open to the public. Although not every meeting will allow time for verbal public comment, written public comment is welcome at any time. Public testimony at LCDC during the rule hearings process will also be accepted.

Please review this packet before our first meeting on **December 8 from 2 to 4pm**. This packet includes materials that further describe the contextual background, purpose, operating principles, and timeline that help frame our shared work over the next several months.

Our goals for our first RAC meeting are as follows:

- To get to know one another and the perspectives we each bring to the table.
- To build a shared understanding of the role of the RAC in the rulemaking process, the processes that led to this rulemaking, and the context of our efforts in relation to other coastal management topics.

The majority of RAC Meeting #1 will be learning about Goal 18, shoreline armoring in Oregon, previous efforts to protect Highway 101, the outcomes of the Goal 18 Policy Focus Group, and the goals for this rulemaking. For some of you, this will be review, but for others it will be new. We want to make sure everyone is starting from the same information. We look forward to talking with you.

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In addition to the packet materials, we encourage you to familiarize yourselves with the administrative rules we plan to amend through this rulemaking effort. Links to the rules are provided below:

[Chapter 660, Division 4](#) – Interpretation of Goal 2 Exception Process

Rules that interpret the requirements of Goal 2 and ORS 197.732 regarding exceptions.

For reference, all statewide land use planning goals may be found [here](#).

Finally, if you have any questions on the materials in this packet or the administrative rules, please feel free to contact us via phone or email. Our information is listed below. On behalf of DLCD and the Land Conservation and Development Commission, we are grateful for your participation in this important initiative and look forward to working with you!

Meg Reed, Coastal Shores Specialist | Oregon Coastal Management Program

Pronouns: She/Her

Oregon Department of Land Conservation and Development

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Additional DLCD Staff Contacts for the Rulemaking Process:

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**Ocean-fronting Public Road Protection
Rulemaking Advisory Committee Meeting #1**
December 8, 2021; 2:00 – 4:00pm



This meeting will be recorded and posted to the DLCD Ocean-fronting Public Road Protection rulemaking webpage: <https://www.oregon.gov/lcd/LAR/Pages/OFPRP.aspx>.

Public comment: Individuals that wish to share written public comments with the full Advisory Committee should submit written comments to meg.reed@dlcd.oregon.gov.

AGENDA

Time	Topic	Who
1:50 – 2:00 pm	<i>Arrive and Settle In</i>	RAC members
2:00 – 2:15 pm	Welcome, Opening Remarks, and Review Agenda Review public meetings law	Meg Reed
2:15 – 2:35 pm	Review of Operating Principles and Guidelines – What is the role of the RAC and how can we most productively work together? Review of LCDC’s Charge to the Ocean-fronting Public Road Protection Rulemaking Advisory Committee – What is the work we will be doing?	Meg Reed Heather Wade
2:35 – 2:45 pm	RAC Member Introductions – Participants are invited to introduce themselves and answer why you wanted to be part of this RAC.	Meg Reed RAC Members Staff
2:45 – 3:00 pm	Brief overview of DLCD, state land use program, and coastal goals – What is the big picture?	Heather Wade
3:00 – 3:30 pm	Review of Goal 18, Goal 18 policy group outcomes, and past efforts to protect Highway 101 – How does our work fit in with past efforts?	Meg Reed RAC members
3:30 – 3:45pm	Questions and Discussion	Meg Reed Heather Wade RAC Members
3:45 – 3:55 pm	Scheduling for RAC meeting #2 and RAC meeting #3	Heather Wade
3:55 – 4:00 pm	Next Steps and Wrap Up Proposed agenda for next meeting	Meg Reed

Rulemaking Schedule

<i>Ocean-fronting Public Road Protection Rulemaking Tentative Schedule</i>	
July 2021	LCDC Initiates Rulemaking
August 2021	RAC formed
September 2021	RAC meeting timeline finalized
Wednesday, December 8, 2021 2:00 – 4:00pm (virtual)	RAC 1: Agenda to include: <ul style="list-style-type: none"> • Review charge and operating principles • Introductions • Review of background materials • Schedule future meetings
Mid-January 2022 (date to be determined)	RAC 2: Preliminary Agenda: <ul style="list-style-type: none"> • Review, discuss, revise draft rule language
Mid-March 2022 (date to be determined)	RAC 3: Preliminary Agenda: <ul style="list-style-type: none"> • Final draft rules review, financial impact statement drafted
April 25, 2022	Deadline to file administrative rules with the Secretary of State
May 2022	First Hearing with LCDC
June 2022	Geographic Hearing on the Coast
July 2022	Second Hearing and Adoption with LCDC
August 2022	Rules become effective

The second and third meeting dates will be scheduled at the meeting on December 8th. Please review your schedules for the following weeks so that we can pick a date together.

- Weeks of January 10th and 24th
- Weeks of March 14th or 21st

Meeting times will occur virtually between 9am and 5pm.

Rules Advisory Committee Members

Rulemaking Advisory Committee (RAC) members represent various priority interests of Oregon's coastal communities. They are listed below in alphabetical order by first name.

Member	Organization, Perspectives
Cameron La Follette	Oregon Coast Alliance, environmental advocacy
Charlie Plybon	Oregon Surfrider Foundation, coastal recreation
Chris Laity	Director of Public Works, Tillamook County
Elizabeth Van Loo-Stinnett	Individual: south coast, small business, retired
Geoff Crook	Oregon Department of Transportation
Jack Stillwell	Santiam Canyon CERT, emergency management
Laurel Hillmann	Oregon Parks and Recreation Department
Melissa Cribbins	Coos County Commissioner
Nan Devlin	Executive Director, Tillamook Coast Visitors Association

Ocean-fronting Public Road Protection Rulemaking Advisory Committee Operating Principles and Guidelines



Committee Charge – Desired Outcomes

The full Committee Charge is a separate document. Desired outcomes of the rules:

1. Keep consistent with the principles of Goal 18's shoreline armoring provision and grandfathering clause;
2. Allow for protection of an important lifeline route (Highway 101) on the coast through shoreline armoring when needed;
3. Support local government decision-making through a clear goal exception process and rule language;
4. Develop clear and focused rule language targeted to public, ocean-fronting roads only; and
5. Ensure the new rule does not have unintended adverse impacts on coastal communities or natural resources.

Overview of Rulemaking Advisory Committee Role

Oregon's Land Conservation and Development Commission (LCDC) has asked members of a Rulemaking Advisory Committee (RAC) to help staff develop rules as described in the committee charge.

The role of the RAC is to be:

- Advisory to staff;
- Provide policy direction and guidance (is not intended to seek consensus);
- Recommend policies, language, and direction to staff;
- Considered "volunteers" by the state and will receive an overview accordingly;
- Supported by DLCD staff;
- Will comply with open meeting, public record, and ethics laws;
- May submit claims for mileage; and
- May participate from remote locations.

Ocean-fronting Public Road Protection Rulemaking Advisory Committee Operating Principles and Guidelines

I. Background and Purpose

The purpose of this proposed rulemaking is narrowly focused – to provide a more specific option for public roads and highways (such as Highway 101) along the oceanfront to seek structural protection from coastal erosion through a local government goal exception process. As proposed, a specific reason would be added to OAR 660-004-0022 (in Goal 2: Land Use Planning) for Statewide Planning Goal 18 (Beaches and Dunes) to include public highways and roads developed prior to January 1, 1977, as eligible for shoreline armoring. Shoreline armoring is the placement of structural material on the oceanfront with the intention of minimizing the risk of coastal erosion to development (e.g., riprap, seawalls). Currently, under Goal 18, only certain types of development that existed as of January 1, 1977, is eligible to apply for shoreline armoring permits. 'Development' is defined as houses, commercial and industrial buildings, and vacant but improved subdivision lots. Under the current language, roads (such as Highway 101) are not eligible for shoreline armoring.

The intention of this provision of Goal 18 is to limit the placement of shoreline armoring structures to those areas where development existed prior to 1977. This policy effectively places a cap on the amount of ocean shore that may be hardened, and thus limits the negative cumulative impacts of such hardening. Shoreline armoring fixes the shoreline in place, traps sediment, and cause scouring and lowering of the beach profile, which can result over time in the loss of Oregon's public beaches. New development must account for shoreline erosion through non-structural approaches (e.g., increased setbacks). In the face of increased ocean erosion occurring in conjunction with climate change, limiting hard structures and allowing natural shoreline migration is a critical policy tool for conserving and maintaining Oregon's public beaches.

However, public facilities and roads, including those that were developed prior to 1977, are not currently included in the definition of development eligible for shoreline armoring under Goal 18. In particular, some sections of state Highway 101 are oceanfront and vulnerable to the hazards of coastal erosion. This highway, which was built in the 1960s, is an essential lifeline road that connects coastal communities and provides links to the rest of the State. Exposed, ocean-fronting sections account for about 20 miles or less total. The Oregon Department of Transportation is currently conducting a study to assess this number more exactly. If this road were to become inaccessible, it could cause major challenges for transportation and safety. While there may be options for the road to be moved or re-routed in some areas, this option may be extremely costly; impact sensitive habitats; and/or be infeasible because of the mountainous and landslide-prone terrain.

In 2019, DLCD convened a focus group of interest groups, local government staff, and state agencies to review the equity and consistency of the shoreline armoring provision of Statewide Planning Goal 18. [Focus group members](#) considered information related to the practical, political, technical, and scientific aspects of Goal 18's shoreline armoring requirements. The focus group concluded in September 2019 with several proposals for next steps, one of which was to commence rulemaking to create a specific land use planning goal exception option in OAR 660-004-0022 for

public roads developed prior to January 1, 1977, to address some of the challenges stated above. While this change would not guarantee approval of a land use planning goal exception, it could help streamline the goal exception process with local governments specifically for these types of roads.

A different option, an amendment directly to Goal 18 to include public roads in the definition of development eligible for shoreline armoring was ultimately considered to be infeasible by the focus group. In 2002, LCDC and the Oregon Transportation Commission attempted a Goal 18 amendment to include Highway 101 in the definition of development eligible for shoreline armoring. However, the goal amendment proposal was ultimately withdrawn because of opposition from multiple parties. Rulemaking to address these roads more specifically through the local government process was seen as a more feasible and balanced approach by the focus group members, particularly because of the minimal miles of exposed roads. This rulemaking effort, led by the RAC members, operationalizes that recommendation from the focus group.

II. Meeting Principles and Suggested Guidelines

A. Good Faith

All members agree to act in good faith in all aspects of the Rulemaking Advisory Committee process. As such, members will consider the viewpoints of other participants and conduct themselves in a respectful manner that promotes collaboration.

Acting in good faith also requires:

- Specific proposals made in open and frank problem-solving conversation not be used against any other member in the future;
- Personal attacks and prejudiced statements are not acceptable;
- Individuals do not represent their personal or organization's views as views of the advisory committee;
- Individuals express consistent views and opinions in the advisory committee meetings and in other forums, including contacts with the press (see Section IV(B)); and
- Individuals with process concerns will raise them in the committee.

B. Process Suggestions / Ground Rules

Advisory committee members agree to apply the following ground rules:

- Honor the agenda and strive to stay on topic;
- Speak one at a time – use the raise hand feature to signal you'd like to speak;
- Allow for a balance of speaking time – respect time limits;
- Bring concerns and ideas up for discussion at the earliest point in the process;
- Address issues and questions, not people or organizations;
- Avoid personal attacks;
- Listen with respect;
- Avoid side conversations;
- Turn off cell phones or put them in the non-ring mode during formal meeting sessions; and

- Share preferred personal pronouns in video calls as one is comfortable doing so.

And consider the following process suggestions:

- Seek to learn and understand each other's perspective;
- Encourage respectful, candid, and constructive discussions;
- Seek to resolve differences and find common ground;
- As appropriate, discuss topics together rather than in isolation; and
- Make every effort to avoid surprises.

III. Decision-Making Process

The RAC is charged with updating Oregon's Administrative Rules for the Interpretation of Goal 2 Exception Process (Chapter 660, Division 4), to add an option for public roads to be armored under prescribed circumstances. This body is advisory to DLCD staff and will work with staff to present a set of recommendations for staff and LCDC consideration throughout the rule adoption process. Though this advisory committee is not a voting body, LCDC's goal in convening this set of diverse and experienced stakeholders is to receive individual and group guidance for staff on implementable rules. Staff will record and consider all points of view. Staff will work to develop rule language reflecting the guidance from members of the RAC. Committee members are welcome to express their concerns in writing. All communications of this nature will be included with final recommended drafts for commission review.

IV. Organizational Structure and Participation

A. Membership Agreements

All Rulemaking Advisory Committee members agree to the following:

- Attend meetings, review materials in advance, and actively participate in good faith while respecting time constraints, including the need to hear from a diverse set of perspectives on the advisory committee. Various ways to provide feedback will be provided by the staff and facilitation team (written, verbal, survey, etc.);
- Members will be responsible for reporting out to and engaging their stakeholder groups;
- Support the final decision, or communicate concerns in writing so these concerns may be shared with the commission;
- Follow through on promises and commitments;
- Share all relevant information that will assist the committee in achieving its goals; and
- Keep their organizations informed of potential decisions and actions.

B. Attendance and Alternates

Members are expected to make a good faith effort to attend all meetings until a final recommendation is made to LCDC. It is important to have members attend every meeting so progress can be made. However, members may name an alternate to attend in their stead as

needed. Alternates are expected to meet the participation and engagement guidelines explained in this document.

C. Facilitator

The Rules Advisory Committee meetings will be facilitated by DLCD staff. Staff will ensure all members' voices are heard and help the group have meaningful and productive conversations. The role of the facilitator is to:

- Support RAC members in providing their input and help ensure a balanced process;
- Ensure members adhere to the operating principles;
- Identify/communicate common themes, areas of disagreement, and decision points; and
- Summarize and relay RAC member comments, questions, themes, and decision points to LCDC.

D. Department Staff

The advisory committee will have assistance from department staff who will attend all meetings. Select DLCD staff may sit at the table and advise as needed in the Rulemaking Advisory Committee meetings. Legal questions will be handled by DLCD staff with LCDC's legal counsel.

E. Withdrawal

Any member may withdraw from the advisory committee at any time. Communication about the reasons for withdrawing, if related to the process, would be appreciated. Good faith provisions (see Section II(A)) apply to those who withdraw.

V. Meetings and Additional Community and Stakeholder Engagement

DLCD expects a wide range of public and other stakeholder perspectives will be expressed through advisory committee members.

RAC meetings are public meetings under Oregon's open meetings laws. Members of the public who wish to make their opinions known to the advisory committee are encouraged to submit written comments on the work of the advisory committee, which will then be distributed to all members for consideration.

Meetings will be open to the public and follow Oregon's Public Meeting Law.

A. Agendas and Notice

Proposed meeting agendas will be drafted by the department and circulated in advance of meetings. They will be posted on DLCD's website a week before the meeting. Members of the public may sign up for notifications [online](#).

VI. Additional Guidelines

A. Rights in Other Forums

Participation in a Rulemaking Advisory Committee process does not limit the rights of any member. Members will make a good faith effort to notify one another in advance, if another action outside the process will be initiated or pursued, which could affect the proposals, recommendations, or agreements being discussed.

B. Press/Other Public Forums

Advisory committee members agree to refrain from making negative comments about or characterizing the views of the other advisory committee members in contacts with the press. They also agree not to knowingly mischaracterize the positions and views of any other party, nor their own, in public forums. If contacted by the media, please refer the media to Meg Reed at DLCD. Members shall make clear, when talking to the media, that the views they are expressing are their own, not of the committee.

VII. Schedule

Given the timeline for LCDC to make decisions on the proposed rules, the final input from the advisory committee should be reached by March 2022. It is anticipated that this RAC will meet three times starting in early December 2021 and ending mid-March 2022. Please see the rulemaking webpage at <https://www.oregon.gov/lcd/LAR/Pages/OFPRP.aspx> for RAC meeting schedules and background materials. The proposed rule language will be brought to LCDC for public hearings in May and July 2022, and for a geographic hearing on the coast in June 2022.

VIII. Staff Information

Meg Reed, Coastal Shores Specialist and Point of Contact for Substantive and Procedural Questions

meg.reed@dlcd.oregon.gov (she/her)
541-514-0091

Casaria Taylor, Rules Coordinator and Point of Contact for All RAC Logistics

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971-600-7699

Please note: email correspondence should be sent to Casaria.taylor@dlcd.oregon.gov who will then distribute to staff or advisory committee members as needed.



Oregon

Kate Brown, Governor

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November 29, 2021

TO: Members of the Rulemaking Advisory Committee
for Ocean-fronting Public Road Protection Rulemaking

FROM: Meg Reed, Coastal Shores Specialist

CC: Land Conservation and Development Commission

RE: Charge for Ocean-fronting Public Road Protection Rulemaking

Summary

This charge from the Land Conservation and Development Commission (LCDC or commission) is intended to provide guidance to the Department of Land Conservation and Development (DLCD or department) and the Rulemaking Advisory Committee (RAC) for the Ocean-fronting Public Road Protection Rulemaking. LCDC initiates this rulemaking activity, guides it, and will ultimately decide what rules to adopt. The rules are meant to prescribe a local government goal exception process to allow for public ocean-fronting roads to have the option to use shoreline armoring if needed.

The commission expects that the rulemaking process will be completed in August 2022. Upon adoption, the department and commission intend to continually review the utilization of the new rule to ensure that it is working as desired and recommend changes accordingly.

Desired Outcomes of Rulemaking

The commission charges the department and the Rulemaking Advisory Committee with recommending rules that will achieve these outcomes:

1. Keep consistent with the principles of Goal 18's shoreline armoring provision and grandfathering clause;
2. Allow for protection of an important lifeline route (Highway 101) on the coast through shoreline armoring when needed;
3. Support local government decision-making through a clear goal exception process and rule language;
4. Develop clear and focused rule language targeted to public, ocean-fronting roads only; and
5. Ensure the new rule does not have unintended adverse impacts on coastal communities or natural resources.

General Rulemaking Principles

The commission expects that the department and Rulemaking Advisory Committee will follow these principles in co-creating a proposed rule through an equitable process that follows the lead of rural, coastal communities, and other communities traditionally underrepresented in the public process:

1. Rules must be clear and understandable by the public, local governments, and state agencies.
2. The amended rules will apply to local jurisdictions and public applicants in Oregon. Existing rules also apply in part to LCDC, DLCDC, and other state agencies. The state will maintain a role in coordinated land use planning.
3. The rules must be enforceable.

Rulemaking Actions to Meet Desired Outcomes

In order to achieve the desired outcomes, LCDC expects to amend the following rule:

- Interpretation of Goal 2 Exception Process, 660-004-0022

Items Not in Rulemaking Scope

This rulemaking is focused on developing a specific reasons exception to be added to OAR 660-004-0022 in Goal 2: Land Use Planning for Statewide Planning Goal 18 to include public highways and roads developed prior to January 1, 1977, as eligible for shoreline armoring through an exception. A range of other actions are needed for coastal communities along the Oregon coast to adapt to the impacts of coastal hazards, which will be exacerbated by climate change. The commission may undertake other rulemaking activities in the future to address other coastal hazard issues of concern.

The following items are **not** included in this rulemaking:

1. Actions or activities that do not fall within the commission's authority to adopt rules under ORS 197.040.
2. Changes to the core policy of prohibiting shoreline armoring for post-1977 development.
3. Changes to the interpretation of the definition of development and what is eligible or not eligible for shoreline armoring under Goal 18, Implementation Requirement 5.
4. Changes to local land use planning development codes or comprehensive plans outside of the goal exception process.
5. Changes to building codes, ocean shore alteration standards, or other related regulations that do not fall within LCDC's purview.

Contact: Meg Reed, Coastal Shores Specialist: 541-514-0091,
meg.reed@dlcd.oregon.gov

Goal 18: Pre-1977 Development Focus Group

FINAL REPORT

To the Oregon Department of Land Conservation & Development
September 2019



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List of Acronyms and Abbreviations

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

Focus Group Overview

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

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

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

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

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

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

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

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

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

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

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

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

Concepts reviewed by the Focus Group:

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

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

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

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

Focus Group Concepts

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

1 – Beachfront Protective Structures Definition

Overview:

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

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

Policy Options Discussed

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

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

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

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

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

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

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

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

2 – Pre-1977 Public Infrastructure

Overview:

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

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

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

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

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

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

Policy Options Discussed

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

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

Challenges:

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

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

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

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

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

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

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

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

Next steps:

See 2.4 Research Needs

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

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

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

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

Challenges:

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

Feasibility: Rulemaking for Division 4 is a feasible option.

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

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

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

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

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

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

Priorities for Concept #2:

High Priority:

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

Low Priority

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

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

3 - Small In-fill Parcels

Overview:

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

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

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

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

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

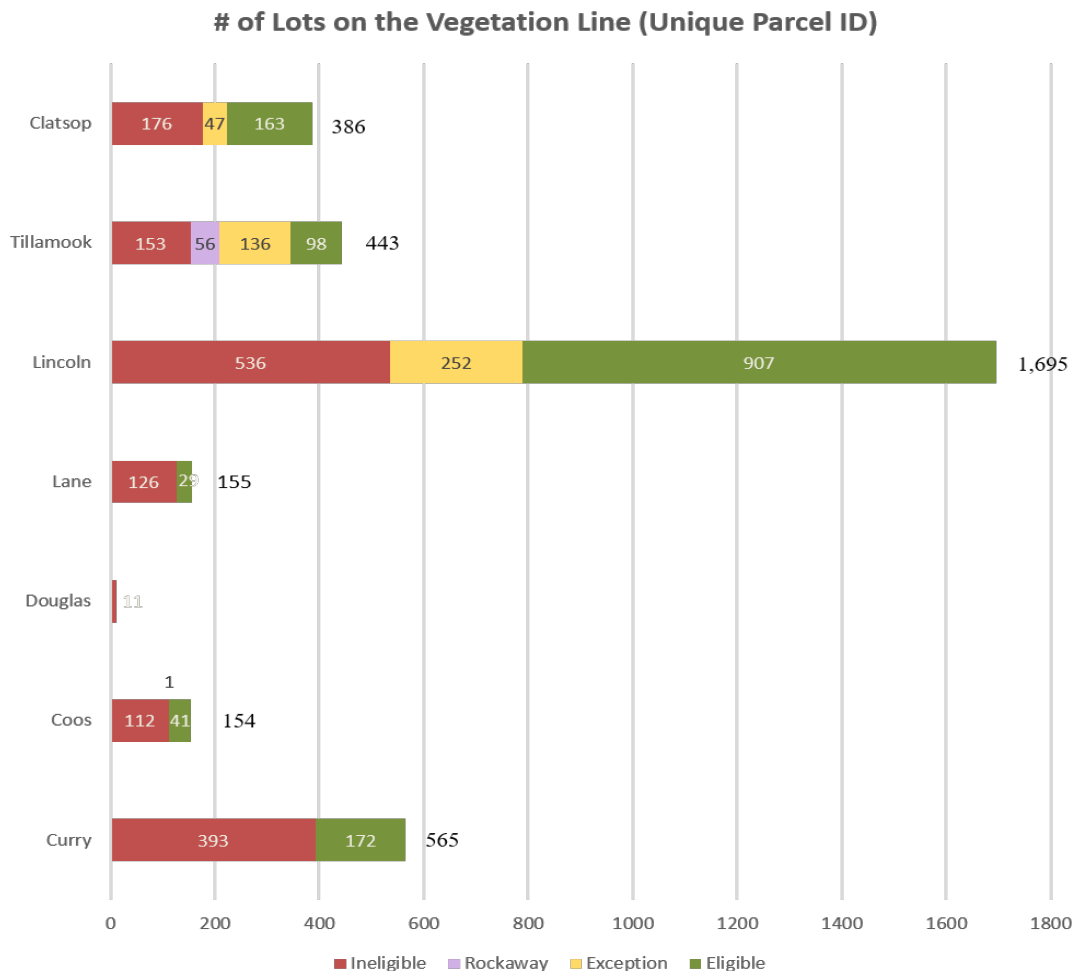


Figure 1: Parcels or lots that intersect the vegetation line and their eligibility status.

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

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

Lincoln County Details

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

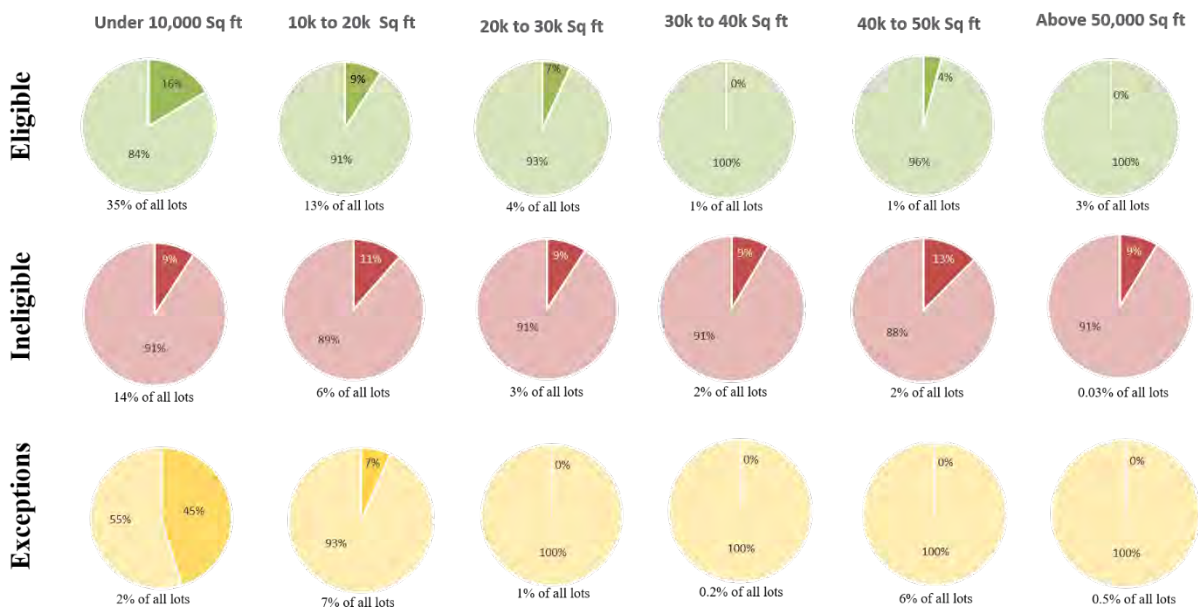


Figure 2: Parcel eligibility status by lot size for Lincoln County.

Summary of group discussion:

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

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

Policy Options Discussed

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

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

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

Challenges:

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

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

Next steps:

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

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

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

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

Challenges:

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

Feasibility: Low at this time.

Next Steps: See 3.4 Research Needs.

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

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

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

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

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

Feasibility: Feasible but difficult.

Next steps:

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

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

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

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

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

Priorities for Concept #3:

High Priority:

3.4 Research Needs - this research is needed to make future decision on the best policy options

3.1 Status Quo (Local Goal Exception) - this option already exists and a jurisdiction could try pursuing this process now; however there are perceived barriers to moving forward

3.3 Rulemaking for Chapter 660, Division 4 - could be done now, may be higher risk than pursuing for public infrastructure.

Low Priority:

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

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

4 – Mitigation and Alternatives to Shoreline Armoring

Overview:

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

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

Potential options for existing development:

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

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

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

Potential options for future development:

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

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

Policy Options Discussed (for existing development)

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

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

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

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

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

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

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

Suggested readings about mitigation banking:

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

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

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

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

Challenges:

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

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

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

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

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

Benefits:

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

Challenges:

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

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

Next steps:

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

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

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

Benefits:

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

Challenges:

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

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

Next steps:

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

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

Benefits:

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

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

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

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

Next steps:

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

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

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

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

Priorities for Concept #4:

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

Short Term:

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

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

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

Long Term:

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

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

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

Main Takeaways

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

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

has to be relocated. This information may help inform the most effective policy pathways.

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

Public Comments

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

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

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



OREGON SHORES CONSERVATION COALITION

October 14, 2021

Land Conservation and Development Commission
Oregon Department of Land Conservation and Development
c/o Sadie Carney, Policy Analyst and Communications Manager
635 Capitol Street NE, Ste. 150
Salem, OR 97301

Via Email to: sadie.carney@dlcd.oregon.gov

**Re: Oregon Department of Land Conservation & Development
2021-2023 Draft Policy Agenda
Public Comments of Oregon Shores Conservation Coalition**

To the DLCD:

On behalf of the Oregon Shores Conservation Coalition and its members (collectively “Oregon Shores”), thank you for the opportunity to provide feedback on the Department of Land Conservation & Development’s (“DLCD” or “Department”) Draft 2021-2023 Policy Agenda (“Draft Agenda”).¹ Please include these comments in the materials to be presented to the Land Conservation and Development Commission (“LCDC”) at their November 2021 meeting. Oregon Shores is a non-profit organization dedicated to protecting the Oregon coast’s natural communities, ecosystems, and landscapes while preserving the public’s access to these priceless treasures in an ecologically responsible manner. Our mission includes assisting people to participate in land use, policy, and regulatory decision-making processes with the potential to impact coastal communities, and engaging Oregonians and visitors alike in a wide range of advocacy efforts and stewardship activities that serve to protect our state’s celebrated public coastal heritage. Oregon Shores’ advocacy encompasses the entire coastal region from the crest

¹ See DLCD, *2021-2023 Draft Policy Agenda*, (Sept. 27, 2021) [hereinafter *Draft Agenda*], available at https://content.govdelivery.com/attachments/ORDLCD/2021/09/28/file_attachments/1950065/DLCD_FullPolicyAgenda_2021-2023.pdf.

of the Coast Range to the edge of the continental shelf. We have been involved with and defenders of the Oregon coastal region for half a century.

This comment generally expresses Oregon Shores' support for several of the policy items listed for public comment. Specific comments and suggestions are provided below. In addition, Oregon Shores has offered comment in several different processes before various state and local decision-making bodies that speak directly to the concerns or challenges sought to be addressed by many of the below Draft Agenda items. These materials, in addition to other resources relevant to the Draft Agenda items, are enclosed for the Department and Commission's ease of reference.

I. Legislatively Directed Policy Work and Ongoing Policy Work – Undersea Cables

Generally, Oregon Shores supports DLCD's decision to address "conforming rulemaking" separately from other legislatively directed work.

HB 2603 – Undersea Cables and Territorial Sea Plan Part 4: Telecommunication Cables, Pipelines, and Other Utilities

Oregon Shores recognizes that at times it is necessary to site and construct fiber optic cables that land in Oregon's coastal upland areas, cross under ocean shoreland, and the Territorial Sea. However, this need must be balanced against the equally important need to protect our vital and vulnerable coastal environments, public safety, and the public's interest in the beach. For these reasons, Oregon Shores strongly supports an update of TSP Part IV relating to the placement and operation of undersea cables. Oregon Shores is encouraged to see that DLCD, in consultation with DSL and local and Tribal governments, is beginning this review in the biennium.

If sited and regulated appropriately, the installation and operation of undersea fiber optic cables can generally be performed safely and in a fashion that reduces conflicts with the public's interest in the beach and minimizes impacts on vulnerable coastal habitats. However, given increasing demands on ocean resources, gaps in long-term planning, as well as lack of explicit environmental and public interest protections in Oregon's governing frameworks, Oregon Shores has been extremely concerned about the impacts these industrial undersea cable projects will have and are currently having on Oregon's nearshore waters, ocean shore, and seafloor areas as well as on public safety. Facebook's botched attempt last spring to connect a trans-Pacific telecommunications cable to the Oregon coast just west of and transiting the beach within the unincorporated community of Tierra Del Mar, and the ongoing problems arising from that disaster,² illustrate these concerns and led to the adoption of HB 2603.³

² For instance, as of the time of writing of this comment, OPRD notified concerned parties that another sinkhole had appeared west of Facebook's residential landing site in Tierra Del Mar. "October 8, 2021: a new small sinkhole appeared on the beach around September 28, roughly in line with the conduit installed under the ocean shore." See: <https://www.oregon.gov/oprd/PRP/Pages/edgecableoceanshorepermit.aspx>.

³ Oregon Shores provided comment on Edge Cable accident before the Oregon Parks and Recreation Commission and the Department of State Lands, as well as offered testimony on HB 2603 as introduced. Each of these comments are enclosed for ease of reference, and each speak directly to the gaps in the permitting process.

With respect to updating OTSP Part IV, Oregon Shores respectfully requests that the Department consider the following:

- The gaps in long term planning and policy protections, and lack of agency coordination (despite the TSP identifying a single point of contact), that exist for accidents arising from the construction of undersea cables on the seafloor and under the ocean shore.
- The lack of affirmative notice requirements, and consequences for failing to timely notify, impacted state and federal agencies, local governments, and communities of drill accidents or pipeline abandonment.
- The need for stronger siting and safety standards, similar to the same minimum standards that Oregon applies to other kinds of cables, that would ensure that future landings do not adversely impact vulnerable or residential communities.
- The need for increased transparency and public engagement opportunities at each stage of the undersea cable permitting process, by and before each relevant decisionmaker. This is especially important following any accident arising from an approved project.
- The need to consider cumulative impacts to the coastal ecosystem. This could be addressed by a more unified and streamlined permitting process for the siting and development of undersea fiber optic cables within the territorial sea, under the ocean shore, and on associated landing sites.
- The need for an independent, peer reviewed geologic study, obtained by the relevant state or local decisionmaker at the applicant's expense, to ensure safe placement and construction of a proposed undersea cable.
- The need to ensure the state has adequate funds to clean up after a fiber optic cable accident or conduct cable removal. Financial responsibility for cleanup and removal should be on project developers, owners, and operators, rather than putting that burden on ocean users and community members.

II. Ongoing Policy Work

As requested, Oregon Shores provides the below comment on ongoing projects to identify potential shifts in course, share support for the work with our Commission, and help refine outcomes.

A. Territorial Sea Plan Part 3: Rocky Shores

Oregon Shores signed onto a group letter to DLCD from organizations that participated in the site designation process that is part of the revised Rocky Habitat Management Strategy: Rocky Habitat Section E, Appendix C, and Further Evaluation Proposals Public Comment. We endorse the comments made therein, and incorporate them by reference into these comments.

We would comment further that the combination of increased visitorship to the Oregon coast, and threats to the intertidal and nearshore ocean environment from sea level rise, ocean acidification, and ocean warming, makes it increasingly vital that key habitat areas in the intertidal and immediately adjacent subtidal be protected. This is help to foster resilience in coastal ecosystems. Providing a public process for engagement in designation of protected sites

is a major advance in the new strategy. However, in the initial round of public nominations for designated sites, the process was so cumbersome as to seemingly be intended to discourage the public. Involving the public in management of intertidal resources is essential, not only to draw on local knowledge, but to encourage stewardship over these places. The public site nomination process should be facilitated as much as possible, with barriers to participation lowered. As noted above, we endorse the specific suggestions in the group letter. A few general comments:

- The process must be streamlined so as to be more accessible to ordinary members of the public. DLCD's policy should state firmly that public participation is a key component of rocky habitat management, and should be welcomed and facilitated at every stage of the decision-making process.
- We understand that acceptance of new proposals from the public has been suspended, while lessons from the initial pilot round are being absorbed. Once the new policy is in place, though, there should be an annual cycle during which proposals from the public are considered.
- Proposals submitted by members of the public should certainly be announced to local communities, and should be accessible online. Beyond this, though, it is unfair to demand of volunteer public participants that they conduct widespread community outreach. Busy people may have good ideas and local knowledge to offer, leading them to shape credible proposals, but may not have the time and capacity to make numerous contacts, appear at meetings, and so forth. Given the state of divisiveness in our culture, doing so might actually force them to face hostility from some elements of the population. This kind of time-consuming effort would be a barrier to many who have ideas and knowledge to offer. Positive endorsements from members of the community should certainly weigh in a proposal's favor, but it should not be the responsibility of those making proposals to contact all segments of their communities.
- Protecting key habitat areas of the intertidal and subtidal areas through special site designations to protect species and ecosystems and foster resilience should be an affirmative goal of DLCD's policies.

B. Goal 18: Public Ocean-Fronting Road Protection Rulemaking

Oregon Shores generally supports this Draft Agenda item, so long as it is narrowly tailored to protect public, ocean facing roads whether there is no reasonable alternative, and informed generally by the need to limit the proliferation of riprap on the coast for any private development constructed outside the footprint of a development that existed as of Goal 18's date certain limitation on shoreline armoring.

Riprap and hardened shoreline structures are antithetical to beach conservation, and harm ocean shore ecosystems. They increase erosion to adjacent properties. When a hard structure is built along a shoreline that is already undergoing long-term net erosion, as is natural for beaches, the shoreline will eventually and naturally migrate landward, behind the structure. The end result

is that the beach in front of the structure is gradually lost as the water deepens, and the natural shoreline migrates landward. As sea levels continue to rise, this beach loss will accelerate, and the public's beach will narrow and eventually drown, causing public safety hazards. To limit the cumulative impacts of such hardening and the taking of the public's beach, the legislative declaration in ORS 390 and the policy underlying Goal 18 effectively placed a cap on the amount of ocean shore in Oregon that may be armored in order to protect upland development. Under the current language of Goal 18, public, ocean fronting roads (including some sections of U.S. Highway 101) are not eligible for shoreline armoring.

Oregon Shores recognizes that in limited circumstances use of shoreline armoring for public road protection may be warranted. Careful analysis will certainly identify roads that are in peril from shoreline erosion and for which there is no reasonable alternative to hardening at present. A carefully tailored pathway to obtain shoreline armoring authorization is therefore in the public interest. But precisely because this involves public rights-of-way and public beaches, the state and local governments can and should impose tests on themselves that go beyond a demonstration of immediate need. Armoring ocean-facing roads should be considered only in the context of long-term strategy for addressing climate change. We propose four principles:

1. Before shoreline armoring is permitted for any road, there must first be an analysis of the likely future of that road, with a cost comparison of likely repairs needed over a span of decades, versus the cost of moving the road. Specifically, the state should be required to carefully study the possibility of moving Highway 101 inland in the Beverly Beach area, and in the area of several chronic slides on the Curry County coast.
2. In applying for shoreline armoring for a road, the government entity should be required to address the question of whether that road can instead be abandoned or moved. In all such cases, the decision should come after considering managed retreat. In particular, armoring should not be permitted for roads that exist to serve properties that would be developed in coastal hazard zones.
3. Before being granted an exception for shoreline armoring to protect a road, the state or local government should be required to demonstrate that it has a plan stipulating when and under what criteria roads will be abandoned as sea level rise and erosion progress.
4. Necessary though armoring may be in some circumstances, and thus in the public interest, it nevertheless conflicts with the public interest in the shoreline by taking land from the public recreation zone and impacting the visual and natural character of the shoreline. Before public entities are permitted to install shoreline armoring, they should first be required to enact a mitigation plan consisting of a compensatory land purchase. The specific rules for such mitigation might be complex, but the underlying principle should be that the land purchased should advance resilience: buffers for state parks on the inland side so they can move upslope; shoreline flanking parks so that the adjoining land won't be ripped and deflect waves onto the public parkland; or riparian areas on lower rivers to enable them to spread out and moderate flooding.

C. Climate Change Adaptation – Vulnerability Assessment

Oregon Shores strongly supports DLCD's ongoing policy work on climate change adaptation through a comprehensive statewide climate change vulnerability assessment, and applauds the prioritization of a multi-agency strategic plan to implement follow on actions from that assessment in the biennium. Oregon Shores is pleased to see that this will lead to updates to the DLCD climate change action plan and statewide Natural Hazards Mitigation Plan, to incorporate new information and actions identified in the vulnerability assessment. Both are crucial first steps to advancing climate resilience in our state, and ensuring an equitable process.

Oregon Shores concurs that at this time, the State of Oregon has a poor understanding of who is most vulnerable to the effects of climate change and where they live and work. Existing state agency climate change vulnerability assessments are typically limited to assets within the respective agency's control or regulatory authorities, which risks lack of consideration of cumulative impacts, diffuse management of climate change impacts, and gaps in accountability. State agency assessments, as noted by the Draft Agenda, infrequently focus on the vulnerabilities of the people served. When agencies do examine the effects of climate change on people, the resulting data is dispersed and difficult to locate (even if provided online). Oregon Shores strongly agrees that a coordinated effort will help Oregon efficiently direct resources to achieve significant reductions in vulnerability. We recommend that the comprehensive vulnerability assessment should explicitly address ways to improve agency coordination and consideration of cumulative impacts of agency decision-making in the context of climate change.

Climate change impacts every aspect of Oregon Shores' work. Oregon Shores has been advocating for conducting community-focused and community-led climate change vulnerability assessments for several years. We have enclosed several potential resources related to climate change vulnerability assessments for coastal communities for the Department's reference. As stated in our comment on the CCAF, we strongly suggest that the Department consider conducting a regionally specific coastal vulnerability assessment as a follow-on action to the statewide assessment that will be conducted this biennium. We hope that DLCD's multi-agency process will explicitly include an evaluation of multi-agency and inter-agency consideration of equity, diversity, and inclusion in program planning and delivery, consistent with the CCAF and CEB. We urge the Department to include robust and equitable opportunities for public participation (using best practices and resources identified within the CEB). The Department should also seek meaningful consultation with tribal sovereigns to ensure concerns are properly understood and addressed.

Oregon coastal towns and cities are frontline communities, and local coastal governments have an important role to play in climate adaptation and mitigation. As such, as a part of this policy item, Oregon Shores encourages DLCD to consider a follow-on action that explicitly considers how the state will support and coordinate local climate change vulnerability assessments for coastal communities. Finally, Oregon Shores strongly urges that DLCD consider creating and maintaining an online knowledge-exchange, similar to CAKEX (<https://www.cakex.org/>), for information and resources developed through this process. Such a

database would be one way to ensure that the best available data on climate change effects in Oregon is easily available for public review.

D. Climate Action Plan

As discussed in part II.D., Oregon Shores strongly supports DLCD's efforts to examine current policies, practices, and guidance to identify opportunities to address climate change within the existing land use planning program, particularly with respect to assisting local governments with climate adaptation and mitigation. Using this information, staff will prepare an agency-specific climate change action plan. As the Draft Agenda notes, the 2021 Climate Change Adaptation Framework ("CCAF") calls on all state agencies to undertake such a project during the 2021-23 biennium. Oregon Shores appreciates DLCD's recognition that "[t]he rapid speed of climate change demands that DLCD complete the assessment and implement the action plan as soon as possible so that we can effectively advise local government to act towards development and conservation practices that assure livability and wellbeing for all residents given future climatic conditions."

Oregon Shores is encouraged that the Department intends to update the Climate Action Plan that results from this Agenda "as new techniques for greenhouse gas emission reductions and adaptive responses emerge." Oregon Shores strongly agrees that the Climate Action plan must "account for the fact that climate change will affect different populations differently, with currently underserved, under-represented, and medically fragile people feeling the effects first and worst."

III. Long Term Policy Projects

Oregon Shores strongly supports the DLCD's intent to begin policy work to update Goal 5 to correct the lack of implementation of protection for cultural areas, and revisions to Goal 1 to ensure full and fair public participation in the biennium. We believe that the changes that will come from both Agenda Items are necessary to ensure that DLCD's program planning and implementation is consistent with best practices set forth in the CEB. As such, Oregon Shores hopes that DLCD is able to identify adequate funding and make agency capacity available for planning action on these priorities in the biennium.

A. Goal 5 Rule Update for Cultural Resources

Since December 2020, DLCD and LCDC have been "in discussion with representatives of Oregon's nine federally recognized tribal governments to explore how a new administrative rule for Goal 5 Cultural Areas could improve protections for areas and items that are sacred to one or more tribes." Oregon Shores supports this Draft Agenda item, and generally notes that it would correct lack of consistency and provide for the meaningful implementation for protections already required under Goal 5.

The existing Goal 5 administrative rules (contained within OAR 660, Div. 23) contain specific directives to protect each Goal 5 resource category except for cultural areas. As noted by DLCD, for various reasons, local protection measures for cultural areas have not manifested as

originally required by Goal 5. Completion of this project would be one important step in ensuring that local comprehensive plans finally comply with Goal 5 with respect to protection of cultural areas. Addressing this gap in protection is a matter of environmental justice, and is long overdue.

B. Goal 1 Revisions to Improve Community Engagement

Goal 1 of Oregon's 19 Statewide Land Use Planning Goals requires that local governments "develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process." As noted above, for half a century, Oregon Shores has worked to support ordinary people participate in land use processes impacting coastal ecosystems and communities. Based on several years of experience engaging with processes under Goal 1, Oregon Shores strongly supports DLCD's ongoing work to modernize and update Goal 1 to reflect equity and environmental justice through the public process of land use decision-making. Goal 1 is not currently implemented by any administrative rules, and its objectives do not currently incorporate the diversity, equity, and inclusion principles necessary to ensure equitable participation of disadvantaged as well as historically underserved and underrepresented communities in land use decisions. This means that, contrary to the requirements of Goal 1, not all people have an equitable opportunity to be involved in all phases of the planning process.

Historical exclusion of disadvantaged as well as historically underserved and underrepresented communities and systemic barriers to access currently present in Oregon's local land use decision making processes require remedy through the modernization and update of Goal 1. Oregon Shores is encouraged that this policy item recognizes:

- The importance of explicitly incorporating diversity, equity, and inclusion principles within Goal 1.
- The importance of including current communication methods and techniques in Goal 1. This is particularly important for notice of land use processes, which at present are not required to be made available online or via email. Public hearings should be held in several mediums, including in-person (when safe and appropriate), via phone, and online via a video platform.
- That the name of the goal does not reflect Goal 1's broad and inclusive intent to engage all Oregonians in the land use decision-making process.

At present, local land use proceedings are often fraught with barriers to meaningful and equitable participation by community members, landowners, environmental groups, and environmental justice communities. Regarding this Agenda Item, Oregon Shores respectfully requests DLCD to consider the following barriers to participation:

- Notice requirements: At present, local governments are typically only required to provide notice of significant land use development proposals to neighboring property owners. This limited notice requirement risks excluding impacted neighbors and community members who may rent adjacent properties.

- Access to public hearings: Meetings are often at times that many individuals would otherwise be at work, or require childcare to attend.
- Language accessibility: Land use notices, application, and planning materials are typically not offered in another language, and land use hearings typically do not offer translation services. Both make it difficult for non-English speaking people to attend and meaningfully participate in decisions impacting their communities.
- Technical Complexity: Local land use application and planning materials are often highly technical in nature, and depending on the type of land use process, can be thousands of pages long. Notice and comment periods offer very little time for meaningful review of these documents. Finally, applications materials may or may not be easily accessible, and are not required to be provided in electronic format. This often renders these participatory processes inaccessible to the general public unless a participant can invest significant amounts of time and resources.

Oregon Shores strongly urges DLCD and LCDC to update Goal 1, either through a goal amendment or rulemaking process. We strongly agree that this would be one way for DLCD and LCDC to have the opportunity to ensure local planning processes address equity in the community engagement process.

IV. Additional Agency Work

Oregon Shores strongly supports the Department's efforts to develop and update both the DLCD Strategic Framework Plan and OCMP Strategic Plan to reflect Diversity, Equity, and Inclusion principles. As noted in our comments on the CCAF, CEB, and HB 2488, this effort is long overdue, and we appreciate the Department's evident commitment to advancing equity through an ongoing process based on best practices. Oregon Shore is also encouraged that agency work on both strategic plans will include community engagement efforts, and hopes that the Department will offer several opportunities for public education and comment on both plans in the biennium prior to Commission review. As discussed throughout this comment, Oregon Shores strongly believes that community engagement should be inclusive and transparent. Public education opportunities should be offered via traditional (e.g., public hearings) and non-traditional (e.g., social media, YouTube videos, infographics, virtual) means, and public participation opportunities should be available at each phase of the process (including amendments following final decision-making). Both should be made available in a manner that removes barriers to access for non-English speaking community members. Additional comments are provided below.

DLCD Strategic Framework Plan

Oregon Shores strongly supports DLCD's intention to begin developing a new equity-based strategic framework to help guide the agency's work over the next eight years. Authorities and resources that may help inform the Department's process include, but are not limited to:

- The most up-to-date version of the CCAF and CEB, as amended following the completion of tribal consultation (which was ongoing as of the writing of this comment).⁴
- The Oregon Global Warming Commission’s Natural and Working Lands Proposal 2021.⁵

Oregon Shores also hopes that the 2022-2030 Strategic Plan will include specific metrics to measure progress on stated goals, with a plan to collect, disaggregate, and publicly share data on the same.

Ocean and Coastal Management Program Strategic Plan

Oregon Shores supports the update to the existing Oregon Coastal Management Program five-year strategic plan to include Diversity, Equity, and Inclusion as well as to better address climate change. As part of this policy item, the Department states its intent to “identify funding priorities if increased federal funding becomes available.” Oregon Shores is encouraged that the Draft Agenda emphasizes identifying funding priorities, which would ensure DLCD is ready to effectively leverage federal funding when it becomes available.

With respect to funding, Oregon Shores strongly urges DLCD, in coordination with the Oregon Department of Forestry, to develop a plan and schedule to bring Oregon’s Nonpoint Pollution Control Program (CNPCP) into compliance with the Coastal Zone Management Act Reauthorization Amendments of 1990 (CZARA). In January 2015, NOAA-OCM and EPA determined that, because of an unmet condition related to forestry practices, Oregon had not submitted an approvable coastal nonpoint pollution program, which by statute resulted in the annual withholding of 30 percent of CZMA Section 306 and CWA Section 319.⁶ The impacts of the withheld grants, which totaled about \$2.6 million as of spring 2019, have been considerable. Specifically, the reduction of funding for the OCMP has resulted in the suspension of planning assistance grants for local governments in the coastal zone and the loss of two staff positions. Per the Department’s website, “no formal assessment has been completed since 2015” and “[i]t is not known when the state will seek a reassessment from EPA and NOAA.” Bringing the OCMP into compliance would be one way to ensure that the state is better leveraging all available federal funds to support OCMP strategies and objectives in the biennium.

Finally, Oregon Shores strongly supports DLCD’s efforts, alongside partner agencies, to develop recommendations to update the existing State Agency Coordination Program.

V. Conclusion

⁴ Oregon's Climate Change Adaptation Framework and Climate Equity Blueprint, (last visited Oct. 13, 2021), available at <https://www.oregon.gov/lcd/CL/Pages/Adaptation-Framework.aspx>.

⁵ OGWC, *Natural and Working Lands Proposal 2021*, (Sept. 27, 2021), <https://static1.squarespace.com/static/59c554e0f09ca40655ea6eb0/t/6148a9d36431174181e05c7c/1632152029009/2021+OGWC+Natural+and+Working+Lands+Proposal.pdf>, Press Release, (Sept. 27, 2021), <https://energyinfo.oregon.gov/blog/2021/9/27/oregon-global-warming-commission-proposes-new-state-goals-for-carbon-sequestration>.

⁶ See 16 U.S.C. §1455b(c)(3)(D). The funds withheld from OCMP under this rule are made available to other coastal States with approved (i.e., compliant) programs.

Oregon Shores would welcome the opportunity to engage further with DLCD and LCDC on these important policy matters. Please do not hesitate to contact us if we can be of assistance. Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip", followed by a long horizontal flourish line.

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