



## Agency Feasibility and Completeness Analysis

This guide is intended to facilitate the agency review of rocky habitat site management designation proposals during the Initial Proposal Period of the Territorial Sea Plan – Part Three (TSP3) amendment process. Proposals will be assessed for completeness to determine if all necessary information has been included in the proposal, and that it is sufficient in nature to conduct agency review. Agency representatives (e.g. ODFW, OPRD, DSL, DLCDC, or others based on the details of individual proposals) will then provide analyses of the practical feasibility of implementing the proposal under relevant agency authority and jurisdiction, including alignment with the goals and policies of the Rocky Habitat Management Strategy.<sup>1</sup> Oregon Coastal Management Program staff will also forward proposals to federally-recognized Oregon Tribal Nations with interests in the coastal zone<sup>2</sup>, and may engage in consultation as necessary.

### Questions

Please fill in information and answer the questions below for *each* rocky habitat site designation proposal, and provide a brief summary report at the end. Please provide additional information, interpretation, concerns, or context where necessary. Some of the information may be duplicative with the Working Group evaluation to ensure consistent interpretation, transparency, accountability, and historic preservation.

### Evaluator Information

**Evaluator name(s):** Andy Lanier, Michael Moses, David Fox, Laurel Hillmann, Andrea Celentano, Shawn Stephensen

**Evaluator role/position(s):** Rocky Habitat Working Group Agency Staff

**Evaluator affiliation(s):** DLCDC, ODFW, OPRD, ODSL, USFWS

**Date of evaluation:** January, 2021

<sup>1</sup> TSP3 Sections E. 3. & 4. Step 2 – Agency Feasibility & Completeness Analysis

<sup>2</sup> Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Coquille Indian Tribe, Confederated Tribes of Siletz Indians, Confederated Tribes of Grand Ronde, and Cow Creek Band of Umpqua Tribe of Indians



## Site Information

**Proposed site location:** Cape Foulweather Complex

**Designation category:**

Marine Research Area

Marine Garden/Education Area

Marine Conservation Area

**Is this a proposal to add, delete, or modify a rocky habitat site designation?**

New Site Designation (addition)

Existing Site Removal (deletion)

Alteration to Existing Site

**Name of principal contact:** Dawn Villaescusa, President

**Affiliated organization(s):** Audubon Society of Lincoln City (ASLC)

**Date of proposal submission:** December 31, 2020

## Proposal Completeness

*Please answer each of the following questions as it relates to the completeness of the proposal.*

1. *Is the proposal complete? Have sufficient responses been provided for all questions, including indications or explanations for those questions which are not relevant or applicable? If not, please indicate which question(s) are of concern.*

Yes

2. *Have sufficient data, information, and/or other relevant materials been provided in order to facilitate proper review and evaluation of the proposed designation?*

Yes

3. *Is a rationale provided for any incomplete or missing information?*

N/A

4. *Does the proposal consist of one place-based submission? (A small network of designated sites is acceptable, provided they are all the same designation category.)*

Yes

## Feasibility Analyses

*Please provide a brief analysis of the feasibility of proposal implementation as it relates to each of the following areas within the scope of your agency's mission.*

**Agency Jurisdiction.** *Consider broadly how the proposal fits in with factors such as your agency goals, strategic plan, management/regulatory authority, etc.*

Commercial and recreational take of invertebrates would be closed with some exceptions (clams, Dungeness crab, red rock crab, mussels, piddocks, scallops, squid, shrimp, sand crab, and other invertebrate species that ODFW determines are appropriate to be taken), and also allows for commercial harvest of sea urchins. This provision does not differentiate between intertidal or subtidal harvest, but ODFW recommends not allowing intertidal urchin harvest if this proposal is moved forward. Also, the list of invertebrates that could be harvested was developed many years ago to specifically apply to rocky intertidal habitat. It hasn't been applied to the subtidal at any existing sites, although it is possible to do so. Maintenance of the kelp beds would presumably involve urchin culling, but it is unclear upon whom this expectation would fall.

The landward boundary of the proposed MCA was requested at the statutory vegetation line (SVL), however, the proposed site abuts Rocky Creek State Scenic Viewpoint, as well as Otter Crest State Park, along a portion of its length. OPRD does not define an SVL for state parks. The request for the site to begin at the SVL would require survey for the correct location of the ocean shore boundary. Site boundaries would also potentially need to be reconciled with ODOT and some private land owners, where appropriate.

**Implementation.** *What are the practical and logistical implications or limitations of your agency implementing the proposed site management?*

It is unclear who will conduct the proposed monitoring and research in practice, and what the role of agencies will be. OPRD and ODFW are listed as potential cooperators in these efforts, as well as several other organizations. At this time, there is concern from the agencies over lack of agency funding and staff capacity to engage in monitoring activities.

Recommendation #10 (coastwide monitoring of invasive species), is not site-specific and would be problematic for implementation. It is unclear who would conduct this work, the roles of the entities involved, who will develop it and what it would look like in practice, and how it would be implemented at a coastwide scale. It would also place an unfunded mandate on agencies to complete this work in the given time period. The role of agencies in this work and other broader long-term objectives in the proposal, is unclear.

**Programmatic and Budgetary Impacts.** *How will implementing this proposal affect your agency's programmatic work? What are the estimated costs or budgetary impacts as you see them (approximately)?*

Baseline costs will be staff time associated with rulemaking and site implementation activities. Additional costs will also be associated with installation of informational signage at site access points. There may also be initial increases in enforcement and permitting related costs if new harvest restrictions are implemented, and monitoring activities increased.

Determining agency roles and level of involvement in volunteer interpretive and monitoring programs is necessary to understand the impacts on agency activities and budgets. Staff and budget capacity for these activities are presently not available.

Installation of interpretive signs are typically ~\$5,000/ea. – OPRD is unlikely to have the resources to cover these costs at this time.

**Landscape Management.** *How would designating this site fit into the broader context of coastwide management, such as the currently designated rocky habitat sites or the Marine Reserves Program?*

The proposed site is adjacent to three other managed areas: Whale Cove Habitat Refuge, Otter Rock Marine Garden, and Otter Rock Marine Reserve. Implementation of a new designation raises concerns regarding public confusion of variable site management on a section of the coast which already has many different designations and limitations nearby. This may also present potential issues with equity of access to harvest along this portion of the coast for those species which would be restricted from harvest.

The large subtidal area included at this site raises concerns about it being perceived as a Marine Reserve. While harvest of commonly-harvested species would be allowed at the site, it is likely that some members of the public would be concerned about future restrictions once the site is designated. In addition, the site overlaps with a marine reserves comparison area, which is a research site used to compare an area with harvest with the area closed to harvest (in this case, Otter Rock Marine Reserve). Because the site allows harvest of commonly harvested animals, the site as proposed is unlikely to affect the current marine reserve comparison studies. However, the perception of this being a closed area could affect public trust in Marine Reserves Program science. Additionally, if future regulations were to create additional harvest restrictions, the comparison studies would be adversely impacted.

**Administrative Rule and Enforcement.** *What are the implications as you see them for any requisite changes to rules and regulations, and the ability of your agency to enforce them at the proposed site?*

Requisite changes to harvest and other proposed rules would need to be adopted through the standard agency rulemaking process if implemented.

Enforcement may be challenging in some areas as many of the intertidal areas are difficult to observe from easily accessible areas. The seaward boundary would also be difficult and problematic to enforce, however, it is unlikely to be an issue given the proposed harvest regulations.

**Territorial Sea Plan.** *In what ways does the proposal align with the goals and policies of the Rocky Habitat Management Strategy?*

The proposal strives to maintain TSP3 objectives of continued access and use, and long-term sustainability. It also recognizes the value of the Marine Reserve comparison areas for coastwide management by proposing no additional harvest restrictions on fish or commonly-harvested invertebrates.

The proposed viewshed protections are outside the scope of the TSP3, but recognized in broader Statewide Land Use Planning Goal 19 policies. Support for maintenance or enhancements to scenic viewsheds would need to come from volunteer and outreach efforts proposed in Recommendations #3 and #4.



**Other Considerations.** *Are there additional site considerations that should be noted? (e.g. size, shape, placement, or designation category of the proposed site; historical or institutional context; established relationships with communities, organizations, the public at large, or Tribal Nations; etc.)*

N/A

DRAFT

## Reviewer Comments and Feedback

*In the space below, please provide a (brief) summary of the feasibility of this proposal, and a rationale for recommendation. If more space is required, please attach additional pages.*

The proposal is complete, and includes sufficient information and rationale to facilitate agency review. Concerns remain about the volunteer and monitoring programs. If these programs are not sufficiently supported, it will be problematic for site implementation, and challenging for the agencies to fill those gaps.

At this time, the state agency representatives agree that this proposal warrants additional, merit-based evaluation by the Rocky Habitat Working Group, with the understanding that any further evaluation and potential recommendation should consider the following:

- Clarity is needed for expectations of volunteer groups and agencies to fully understand implications on programs and budgets
- Recommendation #10 (coastwide monitoring of invasive species), is problematic for agency implementation
- Who develops, funds, and installs signs where, needs to be clearer, and suited for current agency capacity
- Potential equity of access to harvest issues by implementation of additional managed area with restrictions on this section of coastline
- Enforcement of off-shore boundary would be difficult, given the lack of visual boundary references
- Maintenance of scenic viewsheds is outside the scope of TSP3
- The size and extent of the designated area are potentially problematic for the marine reserves program, given the comparison area overlaps the site

The agencies participating in the rocky habitat site management designation process (DLCD, OPRD, ODFW, DSL, USFWS), acknowledge the significant effort made by the Audubon Society of Lincoln City to develop this proposal, and thank them for their careful efforts to highlight the needs and concerns at this site.