

Rocky Habitat Site Proposal Final Recommendation

The Rocky Habitat Management Strategy Initial Proposal Process (2020-2021)

Proposed Site

Site Name: Cape Foulweather Complex Marine Conservation Area

Site Map: http://seasket.ch/y0uvvr4X_7

Proposal Materials: <https://bit.ly/3sG03CS>



Final Recommendation

This document summarizes the site proposal evaluations conducted by the Rocky Habitat Working Group. The summary below represents an evaluation and recommendation synopsis for Cape Foulweather Complex Marine Conservation Area. During evaluations, the agencies and Working Group identified considerations for potential recommendation by the Ocean Policy Advisory Council (OPAC). Consideration are those aspects of a proposal, identified through the evaluation process, which the Working Group believes should be addressed to facilitate implementation of the designation as proposed. These considerations were outlined in draft initial recommendation summaries, which were made available for a 30-day public comment period. Proposers were invited to submit written responses to the initial recommendations, and present their proposals and responses in the April 29, 2021 Working Group meeting. Following discussion with proposal presenters, the Working Group deliberated and crafted their final recommendations.

Final Recommendation: *Not Recommended, Continuing Consultation (10:2)*

Summary of Considerations

The Rocky Habitat Working Group identified the implementation considerations listed below for the proposed Cape Foulweather Complex Marine Conservation Area. Any potential recommendation from OPAC should address these considerations as outlined in the following summary to ensure that implementation of the proposed site is a) consistent with state agency authority and coastal policy, b) appropriately inclusive and representative of stakeholder interests, c) reasonably achievable within the existing framework of rocky habitat site management, and d) in balance with the merits and goals of the proposed site.

Any potential recommendation for implementation of this site should address the following considerations:

- Clarifications on management effectiveness with respect to status quo, site monitoring, enforcement issues, agency coordination
- Level of support with respect to agency and partner roles and expectations, monitoring, signage
- Concerns about equity of access to harvest, marine reserves perceptions
- Site boundaries with respect to size, extent, enforcement

The area surrounding Cape Foulweather is defined by stretches of high rocky cliffs interrupted by small embayments. The original 1994 Territorial Sea Plan does not list Cape Foulweather for a management recommendation, but does identify other areas nearby such as Whale Cove Habitat Refuge and Otter Rock Marine Garden. The views in the area are well-known and consequently the upland area can experience high visitation and use. While the views are stunning and the rocky habitats notable, access to the site remains challenging for much of the rocky intertidal area, which can be hazardous to access, limiting human impacts associated with trampling or harvest.

The concerns expressed in the proposal are primarily focused on the ecological integrity of the kelp beds and maintaining the quality of habitats to provide a suitable comparison site for the nearby marine reserves. The primary goal aims to conserve the natural character of the site to provide long-term benefits. The proposal emphasizes education and stewardship as means of protecting rocky habitats and ecological communities while allowing for use and enjoyment to enhance appreciation and foster personal stewardship of rocky habitats. The recommendations and metrics are clear and well-outlined, and highlight current site management well. There is also a strong focus on protection of kelp beds, and promoting community science efforts.

The proposal maintains status quo management at the site and does not place any restrictions on commercial or recreational fish harvest. Invertebrate harvest would be closed except clams, Dungeness crab, red rock crab, piddocks, scallops, squid, shrimp, and sand crab, which could be harvested under normal coastwide regulations. In addition, the proposal states that ODFW could allow harvest of other invertebrate species as appropriate. Preservation and conservation of existing site conditions is a stated goal, and also aligns with TSP-3 goals. While the Cape Foulweather Complex may be likely to benefit from site-specific management, some of the proposed regulatory standards and management practices may be in conflict with preservation and conservation of existing site conditions. Clarifications and expectations for allowable invertebrate harvest and how it would be used to measure site success would need to be made prior to any designation. Success of this change in site management will also be

dependent on community and state investments and capacity to engage in the proposed monitoring and management actions.

Enforcement of management changes may be logistically challenged by capacity, safety, and costs. The inaccessibility of the rocky habitat would be challenging and potentially dangerous to ensure consistent and effective enforcement. Volunteer programs could aid with enforcement if implemented, but firm support and expectations would need to be established up front. Initial and long-term enforcement costs will vary depending on which organisms are being regulated.

The non-regulatory management measures were excellently outlined, but may very well be too ambitious or benefit from revision through agency coordination. Long-term monitoring will be required to determine efficacy of these measures, however, they are measurable and achievable. Some of the proposed management measures will require time and monitoring to fully understand how effective they will be at achieving site goals (e.g. drone and boater education). Recommendations may need to be scaled back and managed adaptively to meet expectations and the intended goals.

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. Note: the proposer has requested withdrawal of this recommendation from the proposal.

The proposal relies heavily on community organizations and other groups to develop and execute the proposed education, outreach, and other stewardship activities. It is unclear who will conduct the proposed monitoring and research in practice, and what the role of agencies will be. At this time, there is concern from the agencies over lack of agency funding and staff capacity to engage in monitoring activities or other forms of site support (e.g. development of signage).

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 (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.

The proposal recommends consideration of the landward site boundary to be the Statutory Vegetation Line (SVL), rather than the Oregon mean high water shoreline (MHW), which the site polygon is automatically clipped to by the Rocky Habitat Web Mapping Tool. While a landward boundary above MHW may be considered for a rocky habitat site designation, the proposed site abuts State Parks lands along a portion of its landward boundary, including Rocky Creek and Otter Crest State Scenic Viewpoints. OPRD does not define an SVL for designated State Parks lands, so any consideration for a landward boundary above MHW would need to be sufficiently justified and reconciled with the agency. Currently, the MHW boundary appears sufficient to meet site goals. Inclusion of the subtidal habitat as proposed would extend management protections in the area, but would be more comprehensive than most other existing rocky habitat designations and require strong justification for implementation. Enforcement of invertebrate and algae harvest regulations, if applied to the subtidal area, would be challenging offshore. Final site boundaries will need to be reconciled with the involved agencies for additional clarification or refinement, particularly with respect to choices made on the north side of the cape. Clarification on site boundaries may also need to be reconciled with private landowners and other agencies outside this process (e.g. ODOT).

Where possible, the Working Group supports addressing the considerations and concerns above through statewide and site-specific non-regulatory management plans, where appropriate, with a focus on volunteer monitoring, interpretation, education, and awareness efforts. Additional considerations for potential recommendation include the other merits and perspectives identified above and in the full packet of evaluation materials, in balance with the proposed site goals.