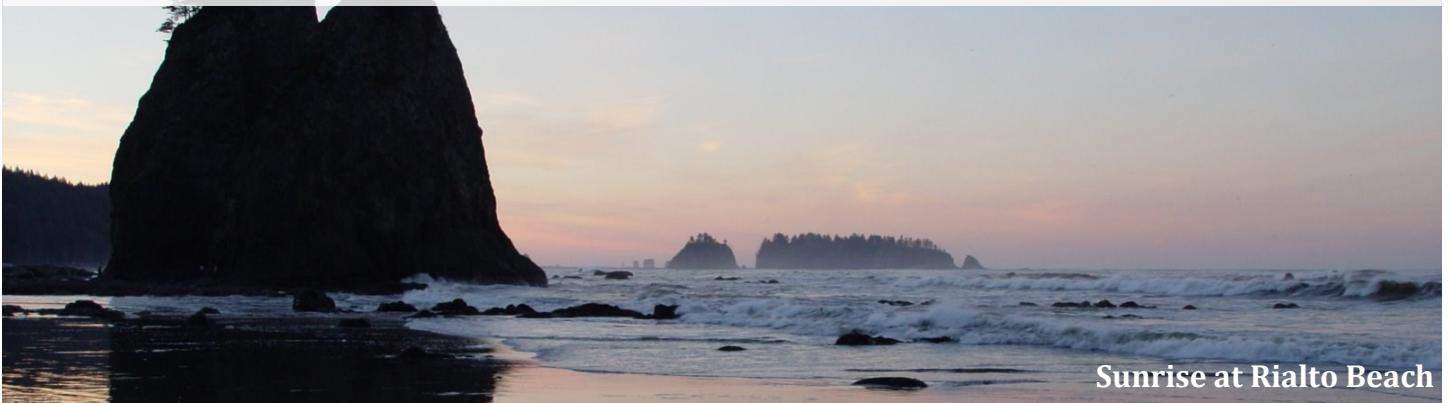


Preliminary Draft Marine Spatial Plan



Sunrise at Rialto Beach

An interagency team of state agencies, including Washington departments of Ecology, Natural Resources and Fish and Wildlife, developed the preliminary draft Marine Spatial Plan with input from local, federal and tribal governments, and stakeholders including the Washington Coastal Marine Advisory Council.

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Comments on the preliminary draft Marine Spatial Plan by **March 17, 2017.**

Email to:
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Marine Spatial Plan for Washington's Pacific Coast

A Marine Spatial Plan (MSP) is currently under development for Washington's Pacific Ocean coast. The MSP provides:

- Guidance for new ocean uses along Washington's Pacific coast, such as renewable energy projects and offshore aquaculture.
- Baseline data on coastal uses and resources to capture current conditions and future trends.
- Requirements and recommendations for evaluating new ocean uses through the different phases of project review consistent with existing laws and regulations.
- Recommendations to protect important and sensitive ecological areas and existing uses like fishing.

Preliminary Review

A preliminary draft is now available for review by key stakeholders and tribes. A more formal draft plan is targeted for release for public comment in May 2017. While not required, a preliminary draft:

- Assists state agencies by getting early input from groups that have been engaged in the process for several years.
- Helps better prepare the draft plan for public comment by refining how plans and regulations fit together, identifying missing information and addressing concerns about recommendations.
- Enables the state meet a target for completing the MSP by June 2017.

Please see instructions for commenting on the preliminary draft MSP in the box at left.

Marine Spatial Plan for Washington's Pacific Coast

Section 1: Introduction

- 1.1. Purpose and need for the Marine Spatial Plan
- 1.2. Marine Waters Management and Planning Act requirements
- 1.3. Plan Goals and Objectives
- 1.4. Planning Process Summary
- 1.5. MSP Study Area
- 1.6. Pacific Coast Indian Tribes and Treaty Rights
- 1.7. Olympic Coast National Marine Sanctuary

1 **Part I: Introduction**

2 **1.1 Purpose and Need for the Marine Spatial Plan**

3 Washington State's marine waters have abundant natural resources, important biological diversity,
4 and are a source of multiple public uses supporting the economies of nearby communities as well as the
5 entire state. The citizens of Washington, as well as the Native American tribes whom have rich histories
6 along the coast, strongly depend upon marine resources and will continue to do so into the future.
7 Washington's Pacific Coast may be adversely affected by increasing pressures on the resources in this
8 area, conflicts among uses, and proposed new uses. In addition, multiple, overlapping jurisdictions and
9 authorities create challenges for coordinated decision-making and proactive planning.

10
11 Washington State recognizes the value of a coordinated, ecosystem-based approach to planning in
12 marine waters. In March 2010, the Washington State legislature enacted a marine spatial planning law
13 [RCW 43.372] to support integrated coastal decision making and ecosystem-based management. Marine
14 spatial planning is a comprehensive, place-based and ecosystem-based planning tool. It can improve
15 coastal management by creating a plan that reduces conflict, increases certainty, and allows us to
16 balance and maximize the social, economic, and ecological benefits we receive from ocean resources.

17
18 Specifically, the MSP for Washington's Pacific Coast provides the following:

- 19 • Guidance for new ocean uses along Washington's Pacific coast, such as renewable energy
20 projects and offshore aquaculture.
- 21 • Baseline data on coastal uses and resources to capture current conditions and future trends.
- 22 • Requirements and recommendations for evaluating new ocean uses through the different
23 phases of project review consistent with existing laws and regulations.
- 24 • Recommendations to protect important and sensitive ecological areas and existing uses like
25 fishing.
- 26 • A framework and analyses for increased coordination and guidance for decision-making.
- 27 • Activities that enable plan monitoring, evaluation and adaptation.

28
29 With the support of state agencies and the involvement of key stakeholders and the public,
30 Washington created a comprehensive Marine Spatial Plan (MSP) for the Pacific coast. The planning
31 process was led by the State Ocean Caucus, an interagency team. Interagency team members included:
32 Washington Departments of Ecology, Natural Resources, Fish and Wildlife, the Governor's office, State
33 Parks, and Washington Sea Grant.¹ The Washington Coastal Marine Advisory Council (WCMAC), a
34 Governor appointed stakeholder group, created recommendations for the MSP. The plan provides
35 recommendations for a resilient and healthy marine ecosystem on Washington's coast that supports
36 sustainable economic, recreational, and cultural opportunities for coastal communities, visitors, and
37 future generations.

38
39 The Washington State legislature directed that this MSP be submitted to the National Oceanic and
40 Atmospheric Administration (NOAA) for review and approval for incorporation into the State's federally
41 approved coastal zone management program [RCW 43.372.040 (12)]. Washington will benefit from

¹ Governor Gregoire designated Department of Ecology as the overall lead for coordinating the planning process.

42 incorporating the MSP into Washington’s Coastal Program. Once approved, this will improve the state’s
43 ability to review federal actions that have reasonably foreseeable effects on Washington’s coastal
44 resources and uses through federal consistency under the Coastal Zone Management Act (more details
45 are provided in the Management Framework, Section 4.2). In addition, by developing its own plan for
46 the Pacific Coast, Washington will be well positioned to influence and participate in West Coast regional
47 marine spatial planning coordination with other states and the federal government.
48

49 This MSP is a non-regulatory plan. The state law indicates “No authority is created under this
50 chapter to affect in any way any project, use or activity in the state’s marine waters existing prior to or
51 during the development and review of the marine management plan. No authority is created under this
52 chapter to supersede the current authority of any state agency or local government” [RCW 43.372.060].
53 The law also requires the MSP to develop “(a)n implementation strategy describing how the plan’s
54 management measures and other provisions will be considered and implemented through existing state
55 and local authorities” [RCW 43.372.040(6)(f)]. Thus, the MSP creates a framework for integrating
56 existing authorities. It does not supersede existing state laws and must rely on existing state and local
57 authorities to be implemented.
58

59 1.2 Marine Waters Management and Planning Act requirements

60
61 The Marine Waters Management and Planning Act (RCW 43.372) provides the overall intent,
62 purpose, principles and elements for development of a Marine Spatial Plan. For details on specific
63 requirements, please see the full language in RCW 43.372. This section summarizes some of the key
64 principles and requirements of a Marine Spatial Plan from the state law.
65

66 **Key Planning Principles**

67 RCW 43.372.040(4) “The marine management plan must be developed and implemented in a manner
68 that:

- 69 a) Recognizes and respects existing uses and tribal treaty rights;
- 70 b) Promotes protection and restoration of ecosystem processes to a level that will enable long-
71 term sustainable production of ecosystem goods and services;
- 72 c) Addresses potential impacts of climate change and sea level rise upon current and projected
73 marine waters uses and shoreline and coastal impacts;
- 74 d) Fosters and encourages sustainable uses that provide economic opportunity without significant
75 adverse environmental impacts;
- 76 e) Preserves and enhances public access;
- 77 f) Protects and encourages working waterfronts and supports the infrastructure necessary to
78 sustain marine industry, commercial shipping, shellfish aquaculture, and other water-dependent
79 uses;
- 80 g) Fosters public participation in decision making and significant involvement of communities
81 adjacent to the state's marine waters; and
- 82 h) Integrates existing management plans and authorities and makes recommendations for aligning
83 plans to the extent practicable.

84
85 (5) To ensure the effective stewardship of the state's marine waters held in trust for the benefit of
86 the people, the marine management plan must rely upon existing data and resources, but also
87 identify data gaps and, as possible, procure missing data necessary for planning.”

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Requirements

- RCW 43.372.040(6) “The marine management plan must include but not be limited to:
- (a) An ecosystem assessment that analyzes the health and status of Washington marine waters including key social, economic, and ecological characteristics and incorporates the best available scientific information, including relevant marine data. This assessment should seek to identify key threats to plan goals, analyze risk and management scenarios, and develop key ecosystem indicators. In addition, the plan should incorporate existing adaptive management strategies underway by local, state, or federal entities and provide an adaptive management element to incorporate new information and consider revisions to the plan based upon research, monitoring, and evaluation;
 - (b) Using and relying upon existing plans and processes and additional management measures to guide decisions among uses proposed for specific geographic areas of the state's marine and estuarine waters consistent with applicable state laws and programs that control or address developments in the state's marine waters;
 - (c) A series of maps that, at a minimum, summarize available data on: The key ecological aspects of the marine ecosystem, including physical and biological characteristics, as well as areas that are environmentally sensitive or contain unique or sensitive species or biological communities that must be conserved and warrant protective measures; human uses of marine waters, particularly areas with high value for fishing, shellfish aquaculture, recreation, and maritime commerce; and appropriate locations with high potential for renewable energy production with minimal potential for conflicts with other existing uses or sensitive environments;
 - (d) An element that sets forth the state's recommendations to the federal government for use priorities and limitations, siting criteria, and protection of unique and sensitive biota and ocean floor features within the exclusive economic zone waters consistent with the policies and management criteria contained in this chapter and chapter [43.143](#) RCW;
 - (e) An implementation strategy describing how the plan's management measures and other provisions will be considered and implemented through existing state and local authorities; and
 - (f) A framework for coordinating state agency and local government review of proposed renewable energy development uses requiring multiple permits and other approvals that provide for the timely review and action upon renewable energy development proposals while ensuring protection of sensitive resources and minimizing impacts to other existing or projected uses in the area.
- (7) If the director of the department of fish and wildlife determines that a fisheries management element is appropriate for inclusion in the marine management plan, this element may include the incorporation of existing management plans and procedures and standards for consideration in adopting and revising fisheries management plans in cooperation with the appropriate federal agencies and tribal governments.
- (8) Any provision of the marine management plan that does not have as its primary purpose the management of commercial or recreational fishing but that has an impact on this fishing must minimize the negative impacts on the fishing. The team must accord substantial weight to recommendations from the director of the department of fish and wildlife for plan revisions to minimize the negative impacts.

136
137 (9) The marine management plan must recognize and value existing uses. All actions taken to implement
138 this section must be consistent with RCW [43.372.060](#).

139
140 (10) The marine management plan must identify any provisions of existing management plans that are
141 substantially inconsistent with the plan.

142
143 (11)(a) In developing the marine management plan, the team shall implement a strong public
144 participation strategy that seeks input from throughout the state and particularly from communities
145 adjacent to marine waters. Public review and comment must be sought and incorporated with regard to
146 planning the scope of work as well as in regard to significant drafts of the plan and plan elements.

147
148 (b) The team must engage tribes and marine resources committees in its activities throughout the
149 planning process. In particular, prior to finalizing the plan, the team must provide each tribe and marine
150 resources committee with a draft of the plan and invite them to review and comment on the plan.

151
152 (12) The director of the department of ecology shall submit the completed marine management plan to
153 the appropriate federal agency for its review and approval for incorporation into the State's federally
154 approved coastal zone management program.

155
156 (13) Subsequent to the adoption of the marine management plan, the team may periodically review and
157 adopt revisions to the plan to incorporate new information and to recognize and incorporate provisions
158 in other marine management plans. The team must afford the public an opportunity to review and
159 comment upon significant proposed revisions to the marine management plan.”

160

161 1.3 Plan goals and objectives

162 To assist with the marine spatial planning process, Washington Sea Grant and the State Ocean
163 Caucus convened a series of workshops in 2013 to develop draft goals and objectives for Washington
164 Coast's Marine Spatial Plan (MSP) and to improve communication and coordination among the groups
165 involved in the MSP planning process. These workshops brought together government officials and local
166 stakeholders with a vested interest or management authority over Washington's marine resources and
167 waters. Representatives from local government, state and federal agencies, tribes and the Washington
168 Coastal Marine Advisory Council (WCMAC) attended. WCMAC is a diverse coastal stakeholder group
169 established by Ecology to provide recommendations to state agencies on ocean policy, including marine
170 spatial planning.

171

172 The draft goals and objectives resulting from the workshops went through a public comment period
173 to give individuals and organizations the opportunity to engage with the plan development process.
174 Comments provided during the public comment period were considered in developing the final goals
175 and objectives for the Marine Spatial Plan. The goals and objectives to guide the Marine Spatial Plan as a
176 result from this process are as follows:

177

178 **Overarching Goal:**

179

180 To ensure a resilient and healthy marine ecosystem on Washington's coast that supports sustainable
181 economic, recreational, and cultural opportunities for coastal communities, visitors and future
182 generations.

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Goal 1: Protect and preserve existing sustainable uses to ensure economic vibrancy and resource access for coastal communities.

Objective 1: Protect and preserve healthy existing natural resource- based economic activity on the Washington Coast.

- Better understand, define and document all existing marine activities taking place in the study area (commercial, recreational, cultural, ecological) through scientific research and traditional knowledge research. Document context for existing uses and current and future trends of existing uses, including information on present conflicts and potential future conflicts for existing uses.
- Assess economic contributions of existing marine uses to the local and state economy.
- Identify and assess indicators of economic health.
- Following existing laws protect and preserve existing uses by first avoiding and then minimizing significant adverse impacts from potential future activities, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing. Identify policies and recommended actions that enable the implementation of the plan.
- Involve individuals and organizations representing existing uses in planning process such as documenting current and future trends of existing uses, reviewing data and maps of their use, understanding potential impacts and evaluating scenarios and plan recommendations.

Goal 2: Maintain maritime coastal communities from now into perpetuity.

Objective 2: Sustain diverse traditional uses and experiences to ensure continuity of WA’s coastal identity, culture, and high quality of life.

- Understand culturally important uses of the marine environment, including documenting areas and uses of historical and cultural significance and current visual resources.
- Provide recommendations for uses that protect and enhance the aesthetic quality of marine environment, maritime activities, marine culture and sense of place.
- Document vulnerability of coastal communities to coastal hazards as they relate to proposed future activities.
- Identify and assess indicators of social well-being within coastal communities.

Goal 3: Ensure that our marine ecosystem is preserved for future generations.

Objective 3: Foster healthy and resilient marine ecosystem functions, biodiversity and habitats.

- Understand current status of the natural resources, ecosystem conditions, and impacts of natural variability and natural stressors on the marine ecosystem over the short and long-term. Where possible, document information on ecosystem services and values.

- 229 • Understand the implications of various human activities to the marine ecosystem including
230 documenting species and habitats that face higher potential risk or impact from proposed
231 activities.
- 232 • Identify and assess areas of ecological importance or particular sensitivity.
- 233 • Identify and assess ecological indicators of ecosystem health on Washington’s Coast.
- 234 • Following existing laws seek to avoid first and then minimize adverse environmental impacts,
235 with special protection provided for the marine life and resources of the Columbia River, Willapa
236 Bay and Grays Harbor estuaries, and coastal areas of Olympic National Park.

237
238
239 **Goal 4:** Develop an integrated decision making process which supports proactive, adaptive and
240 efficient spatial planning.

241
242 **Objective 4:** Develop a locally supported and collaborative process that is coordinated with
243 existing authorities for aligning management decisions.

- 244
- 245 • Synthesize information on climate change and predicted impacts to marine resources and
246 existing uses in the study area. Address how climate change may influence plan scenarios and
247 potential impacts of new uses.
- 248 • Engage local, state, federal and tribal governments in all phases of the marine spatial planning
249 process to ensure relevant management information and requirements are integrated into the
250 process. The use or activity must comply with all applicable local, state, and federal laws and
251 regulations.
- 252 • Coordinate with neighboring states and provinces to share technical information across all
253 sectors, enhance management of coastal ecosystems.
- 254 • Recommend approaches for improving the efficiency of the permitting process, where and if
255 appropriate.
- 256 • Involve individuals and organizations representing existing uses and proposed new uses as well
257 as individuals working elsewhere on similar issues in all phases of the planning process.
- 258 • Describe the management and implementation framework, including existing state laws,
259 policies and regulations and how they address existing and proposed uses. The plan will
260 articulate a strategy for ongoing interagency communication, adaptation, implementation and
261 review of the Marine Spatial Plan, including aligning MSP with other state management plans
262 and goals and incorporating it into state plans and processes.
- 263 • Provide opportunities for public engagement and input throughout the planning process
264 including public education, workshops and meetings. Identify barriers to participation and work
265 with local stakeholders to address and reduce barriers to public participation. Document
266 comments and provide responses, as appropriate.
- 267 • Engage scientific experts in review of data and methods. Develop data standards for data
268 collection and analysis.
- 269 • Use best available science and information throughout the planning process and drafting of the
270 plan. Provide a common information base to assist management decisions, including through
271 the use of Geographic Information Systems.

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274 **Goal 5:** Encourage economic development that recognizes the aspirations of local communities and
275 protects coastal resources.

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Objective 5: Enhance sustainable economic opportunities to achieve a resilient economy and improved quality of life.

- Understand potential new uses and their potential benefits and potential significant adverse impacts on existing uses and the environment. Evaluate direct, indirect and cumulative impacts in environmental review documents for the plan.
- Develop coastal decision-making tools, analyses & recommendations to determine appropriate and compatible roles for future activities within the study area, including siting of offshore renewable energy, new locations for dredge disposal or aquaculture, and other potential new activities such as mining and bioextraction.
- Identify appropriate mitigation measures to address significant adverse impacts posed by proposed future uses of Washington’s coastal waters. Develop mitigation measures in accordance with state laws and regulations.

291 **1.4 Planning process summary**

292 [This section summarizes outreach, engagement and coordination efforts and will be revised with
293 additional planning process efforts currently underway.]

294
295 As described in the introduction, the interagency team coordinated the planning process to develop
296 the MSP. The following describes some of the key activities and groups that the interagency team
297 engaged in the development of the MSP.

298
299 **Plan Scoping**

300 Scoping Workshops (Spring 2013): Washington Sea Grant and state agencies convened a series of
301 marine spatial planning scoping workshops in Aberdeen, WA. Over 50 people attended the workshops
302 representing local government, state and federal agencies, tribes and the Washington Coast Marine
303 Advisory Council. Participants worked together to develop draft goals, objectives and a planning
304 boundary for the Marine Spatial Plan (MSP) for Washington’s Pacific Coast.

305
306 SEPA Scoping: Using the draft language developed by the scoping workshops, Ecology, as lead for
307 developing the plan, issued a scoping notice and comment period for the plan under the State
308 Environmental Policy Act (SEPA). The public comment period ran from July 16, 2013 through September
309 23, 2013, and allowed for broader input and review from interested parties and the public. Ecology
310 received and considered 17 unique comment letters and 28 signed form letters. Based on these
311 comments, Ecology revised the scope of the proposed marine spatial plan and released a summary of
312 SEPA scoping and response document (January 2014).

313
314 **Coastal Marine Resource Committees (MRCs)**

315 From the very initial steps, the Marine Resource Committees have been actively involved in the
316 state’s marine spatial planning process. Some key activities have included:

- Funding priorities and projects (Summer 2012 and Sumer 2013) – State planning staff attended meetings of each of the coastal MRCs in Summer 2012 and Summer 2013 to gather input on their priorities for marine spatial planning.
- Coastal Voices Workshops (Spring 2013) – MRCs worked with the Surfrider Foundation and The Nature Conservancy to host five workshops with over 100 participants to gather input from

321

322 coastal residents and stakeholders on interests and goals and inform scoping for the marine
323 spatial plan.

- 324 • MRC Summit (November 2013) – State planning staff presented to MRCs on Marine Spatial
325 Planning at this annual meeting of all the coastal MRCs.
- 326 • Input on MSP Actions (Spring 2014) – Each MRC reviewed a list of draft actions for each of the
327 Marine Spatial Plan goals and provided input. State planning staff used MRC input to further
328 revise the actions, which WCMAC then recommended the state adopt in July 2014.
- 329 • Input on Social Indicators (Spring 2015) – At their regular meetings, coastal MRCs each received
330 a presentation on social indicators work and provided feedback on draft indicators.
- 331 • Each MRC has a representative on the Washington Coastal Marine Advisory Council (WCMAC) to
332 ensure regular communication of their interests and input to the process.

333

334 **Washington Coastal Marine Advisory Council (WCMAC)**

335 This is a diverse group of representatives from coastal stakeholder interest groups, coastal MRCs,
336 and state agencies providing ongoing advice on the marine spatial planning process. This has included
337 participating in scoping workshops; reviewing and recommending actions to carry out goals and
338 objectives; identifying data, project and funding priorities; providing input on approaches and
339 deliverables for projects; sharing interests and concerns; and providing recommendations for the
340 analyses and plan development. WCMAC members have also served as liaisons with the interest groups
341 they represent and have identified additional experts for MSP projects consultants to interview for
342 information. The group has met about 5-6 times per year, since the beginning of the planning process.
343 Additionally, a Technical Committee and Steering Committee meet approximately monthly to assist the
344 group with tasks. A contracted facilitator assists the Committees and Council with developing agendas
345 and other meeting materials, facilitating meetings, consensus-building, and tracking and recording
346 discussions and recommendations. More information is available on the Advisory Council website
347 at: <http://www.ecy.wa.gov/programs/sea/ocean/advisorycouncil.html>

348

349 Initially formed by Ecology in December 2011, legislation prompted the reformation of this advisory
350 council under the Governor's office in September 2013, but still staffed by Ecology. A total of 23 advisory
351 council meetings have been held between March 2012 and November 2016.

352

353 **Local Governments**

354 State agency staff have met with coastal planning staff, presented at quarterly Shoreline Planner's
355 meetings and provided updates at work sessions for county commissioners to convey information on
356 Marine Spatial Planning (Spring 2013 – Clallam and Jefferson). Local governments were invited to attend
357 the scoping workshops held in Spring 2013. In addition, Ecology distributed a comprehensive white
358 paper with information on ocean management guidelines, Shoreline Master Programs (SMPs), and
359 Marine Spatial Planning targeted for local planners. More recently, Ecology provided a shorter
360 Frequently Asked Questions to answer specific questions about the relationship among SMPs, Marine
361 Spatial Planning, and the state's Coastal Zone Management Program.

362

363 **MSP 101**

364 Planning staff have provided presentations and workshops providing introductory information on
365 marine planning to a variety of other audiences, including to community members (Forks, summer
366 2012), at conferences (Working Waterfronts Symposium, Tacoma, March 2013) and through learning
367 exchange workshops (Neah Bay and Aberdeen, spring 2012). Washington Sea Grant has provided
368 introductory and update presentations on Marine Spatial Planning to a number of community
369 organizations across the Washington Coast, including economic development councils, council of

370 governments, chambers of commerce, non-profit organizations, and other similar groups. Since fall of
371 2012, Washington Sea Grant has presented to 15 community groups and reached over 230 people.

372

373 **Coastal Events and General Outreach**

374 Washington Sea Grant is attending numerous local events around Washington's coast to raise
375 awareness and engage the broader public on marine spatial planning, including distributing brochures.
376 Washington Sea Grant and the local MRCs co-hosted two local film showings of *Ocean Frontiers* – a film
377 about marine planning in the United States. These efforts reached over 500 people between Summer
378 2014 and June 2015. Washington Sea Grant also distributed Frequently Asked Questions on marine
379 spatial planning to local libraries and community centers across the coast.

380

381 **MSP Project Engagement**

382 Washington Sea Grant organized presentations on specific projects or topics of high interest to
383 target audiences, such as the providing draft results on ecological models and indicators to the Grays
384 Harbor Coalition for Infrastructure and Citizens for a Clean Harbor. Planning staff also organized
385 workshops on the coastal economic analysis to assist contractors in scoping the project and getting
386 input on draft results from a range of stakeholders and agencies. Over 110 people participated in these
387 various events.

388

389 **Tribes**

390 State agency staff have met with technical and policy staff of coastal tribes throughout the planning
391 process. The state and the four coastal treaty tribes – the Hoh, Makah, Quileute tribes and the Quinault
392 Indian Nation have had between 2-4 joint technical and policy staff meetings per year. Depending on the
393 tribe, various tribal staff have participated in workshops, meetings, and forums; reviewed and provided
394 input on MSP project priorities, deliverables, and draft products; provided technical and scientific
395 information and feedback; met with consultants; and partnered on data collection and field work.

396

397 **Federal agencies**

398 State agencies have also involved federal agencies in many ways, such as including them in scoping
399 and technical workshops and meetings; contacting them for specific data and information and to gather
400 input on priorities, needs, and interests; and partnering with them on a number of specific projects (see
401 below for examples). State staff have provided several presentations to the Olympic Coast National
402 Marine Sanctuary's Advisory Council.

403

404 Federal agency staff have also played an important technical and scientific support role in the state's
405 marine spatial planning process. This includes coordinating the science-based development of and
406 assessment of conceptual models and ecological indicators for Washington's coast, creating ecological
407 models for distribution of seabirds and marine mammals, conducting an inventory of and prioritization
408 of seafloor mapping data, creating a seafloor atlas from existing data, and providing GIS data and other
409 information such as satellite vessel traffic data provided by Olympic Coast National Marine Sanctuary.

410

411 **Scientists**

412 In 2013, Washington Sea Grant facilitated a graduate level class that used graduate students and
413 engaged a diverse group of research professors to review available marine spatial planning data and
414 identify data gaps. Washington Sea Grant subsequently set up a Science Advisory Panel with these and
415 other researchers and scientists from academic, state, and federal entities to provide independent
416 review of and feedback on particular data sources, project methods, and data analyses.

417

418 **Data and Tool Development**

419 Throughout the planning process, state agencies have sought input on data and tool development.
420 This included working with The Nature Conservancy and EcoTrust to host a number of training and input
421 sessions on the online data mapping tool with MRCs, planners and other audiences as it was being
422 developed to improve functionality and ease-of-use. Washington also partnered with federal agencies to
423 host participatory human use mapping workshops to map ocean use areas based on expert user
424 knowledge. The 4 workshops involved 65 participants representing all ocean use sectors such as ocean
425 industries, marine operators, and federal, tribal and state resource managers (April 2013). Planning staff
426 have continued to engage representatives from ocean uses and the WCMAC to identify available data,
427 data priorities and projects to fill gaps; and to understand how best to analyze the data on their use to
428 understand potential conflicts with new uses.

429
430

431 **1.5 MSP Study Area**

432 The Marine Spatial Plan Study Area consists of marine state and federal waters along the Pacific
433 Ocean². The Study Area extends from ordinary high water on the shoreward side out to 700 fathoms
434 (4,200 feet) depth offshore and from Cape Flattery on the north of the Olympic Peninsula south to Cape
435 Disappointment at the Mouth of the Columbia River (Map 1). The Study Area encompasses estuaries
436 along the coast, including two large estuaries: Grays Harbor and Willapa Bay. This area was chosen
437 because it is where the highest intensity and density of existing coastal uses exist, is ecologically
438 meaningful in terms of connections to Washington’s coastal zone, and maximizes the use of existing
439 data and available information (SEPA scoping document). The area was also chosen based on expected
440 locations for potential new federal activities and this area is where effects from those new uses or
441 activities are reasonably foreseeable on the state’s coastal uses or resources (SEPA scoping document).

442

443 The Study Area covers 7,732 square miles and includes the intertidal, nearshore, continental shelf,
444 and continental slope areas of Washington’s Pacific waters. Adjacent upland areas include the Olympic
445 Peninsula and the southwestern portion of the state. Four counties: Clallam, Jefferson, Grays Harbor,
446 and Pacific Counties border the Study Area, along with five federally recognized American Indian tribes:
447 Makah, Quileute, Hoh and Shoalwater Bay Tribes, and the Quinault Indian Nation (Map 2). At the Study
448 Area’s southern boundary is the Mouth of the Columbia River, the largest river in the PNW with source
449 waters from the Rocky Mountains, and at the northern boundary is the Strait of Juan de Fuca with
450 source waters from Puget Sound and the Fraser River (Canada). A large portion of the Study Area marine
451 environment is a part of the Olympic Coast National Marine Sanctuary. There are also five national
452 wildlife refuges within the Study Area. The Study Area also includes the Washington State Seashore
453 Conservation Area and several state parks, which are managed by the Washington State Parks and
454 Recreation Commission for public recreational use (Map 1).

455

456 The northern coastal portion of the Study Area consists of a mostly rocky coast with several coastal
457 rivers, rocky outcrops, and pocket beaches. Adjacent uplands are rural, consisting mostly of Olympic
458 National Park land and Indian Reservation Land. The southern coastal portion of the Study Area has
459 generally sandy beaches and includes Willapa Bay and Grays Harbor. Several small cities and towns are
460 located along the southern coast. Uplands in the southern area are largely managed private and public
461 timber lands and agriculture.

² Marine Spatial Plans for other marine waters of Washington including the Columbia River, Strait of Juan de Fuca, and Puget Sound is dependent on funding.

462

463 1.6 Pacific Coast Indian Tribes and Treaty Rights

464 The Washington coast has been home to native peoples for at least 6,000 years. These peoples
465 traditionally lived at the water's edge, thriving on the riches of the ocean plants, fish, shellfish, seabirds,
466 and marine mammals. With the settlement of Euro-Americans, native peoples formed into federally
467 recognized sovereign nations with their own governments, procedures, and citizens and maintained
468 their rights to fish, hunt, and exercise their sovereign rights (Olympic Coast National Marine Sanctuary,
469 2011). These sovereign nations were formed prior to Washington statehood and their rights are
470 protected by the United States federal government. Some are recognized by Executive Order and some
471 by treaties with the United States. On the Washington coast, the Makah, Quileute, and Hoh Tribes, and
472 the Quinault Indian Nation are signatories to treaties (Treaty of Neah Bay, Treaty of Olympia). The
473 Shoalwater Bay Tribe is recognized by Executive Order (Map 2).

474 The Washington tribes and tribal citizens continue to live, manage, and rely upon coastal resources.
475 The treaty rights to harvest extend beyond reservation boundaries into the tribes' "usual and
476 accustomed" fishing grounds. Federal courts have ruled that the treaty tribes have the right to 50% of
477 the harvestable ocean resources passing through their respective ocean treaty areas, and that they co-
478 manage the resources with the state of Washington where the state also has jurisdiction (*U.S. v.*
479 *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), *U.S. v Washington*, 873 F. Supp. 1422 (W.D. Wash.
480 1994)) (0-3 miles; beyond that the tribes work with NOAA). More detail is provided below.

481 The actions of the state of Washington on marine resources affect the tribes and their members just
482 as the actions within the tribal governments affect the state and its citizens (Washington State
483 Department of Ecology, n.d.). The management of the marine environment is crucial to the tribes, as the
484 marine environment is integral to their history, culture, identity, and future; marine resource
485 management as a matter of law is shared with the state. The MSP provides an opportunity for the state
486 of Washington to progressively plan for new ocean uses, while protecting the current uses,
487 environment, and identity of coastal Washington, including respecting the interests of the five federally
488 recognized Indian Tribes adjacent to the Study Area. The state relationship with the tribes is of high
489 importance in the MSP process and for future new use decisions.

490

491 Coastal Tribes

492 The state invited each of the coastal tribes to provide a description of their tribe, including
493 information such as:

- 494 • Uses of marine resources, reliance upon these resources (what it means to them)
- 495 • General insights to their management of these resources; what future activities are
496 important to them...
- 497 • Any main concerns or opportunities, including related to new uses

498

499 To-date, one participating tribe has provided a description, including their main concerns and
500 interests in the Marine Spatial Planning process. Additional descriptions will be added when they are
501 available from tribes. Following individual tribal descriptions is information that describes tribal treaty
502 rights, fishing co-management procedures, government-to-government relationships, and consultation
503 procedures.

504

505 *Makah Tribe*

506

507 *Quileute Tribe*

508 The Quileute Tribe is part of the Treaty of Olympia of January, 1856, with the Quinault Indian Nation
509 and the Hoh Tribe. It is headquartered at La Push, at the mouth of the Quillayute River, but its usual and
510 accustomed fishing grounds under the Treaty of Olympia include marine waters from Cape Alava south
511 to the Queets River and 40 nautical miles west. The Tribe also has freshwater fishing rights to the entire
512 Quillayute River Basin, and north to Lake Ozette (shared with Makah) and south to Goodman Creek
513 (shared with Hoh). Quileute has defined its presence on the Washington Coast as “since time
514 immemorial”. It has been actively fishing for marine mammals, groundfish, salmonids, and shellfish
515 throughout its history. While commercial use of these fisheries—initially through trade and later
516 through more conventional commercial compensation—has long been their tradition, the fisheries are
517 critical to subsistence of their members, and special attention is given to assuring food for elders or
518 other needy persons in the community. Many traditional ceremonies derive from the ancient fishing
519 practices and the appreciation of nature’s bounty and ceremonial events celebrating the fisheries are
520 also part of the tribe’s culture, related in potlatches, traditional songs, and dances. Recent recognition of
521 the full scope of the Quileute’s ocean fishery was provided by the federal court decision in *United States*
522 *v. Washington*, subproceeding 2009-01, of July 9th and September 3rd, 2015.

523 The Quileute Tribe was recognized officially as having self-regulatory capacity by the state, under
524 provisions of the *U.S. v. Washington* court for demonstrated government capacity. The tribe has a
525 modern fleet, with emphasis on the crab, halibut, black cod, and salmon fisheries at present. Tribal
526 representatives participate in intergovernmental processes to determine appropriate harvest levels for
527 the fisheries, such as the Pacific Fisheries Management Council, North of Falcon, Pacific Salmon Treaty,
528 and numerous meetings with NOAA Fisheries, WDFW, and coastal treaty tribe representatives. The Tribe
529 has a commissioner to the Northwest Indian Fisheries Commission.

530 Immediate future concerns are reductions in allowable harvest that may derive from climate, severe
531 weather, harmful algal blooms, or anthropogenic causes such as fishing practices. The tribe is also
532 concerned about access that may be interrupted by naval operations, shipping lanes, or conservation
533 measures, and engages fully in intergovernmental meetings and review of publications on all matters
534 that can impact its fishery operations.

535 The tribe is open to exploring opportunities for energy generation that can be done with respect for
536 the ecosystem and fishing rights, and treaty rights in general.

537 *Hoh Tribe*

538

539 *Quinault Indian Nation*

540

541 *Shoalwater Bay Tribe*

542

543 Treaty Tribes and Treaty Rights

544 Four of the five tribes adjacent to the MSP Study area are Treaty Tribes and include the Makah,
545 Quileute, and Hoh Tribes, and the Quinault Indian Nation.³ The Stevens Treaties were negotiated in the
546 mid-1850s throughout the state of Washington with the Governor of the Washington Territory, Isaac
547 Stevens. The 1855 Treaty of Neah Bay with the Makah Tribe and the 1856 Treaty of Olympia with the
548 Hoh Tribe, Quileute Tribe, and the Quinault Indian Nation govern the relationships between the federal
549 government and the coastal Treaty Tribes. Through signing those treaties, the tribes agreed to allow the
550 peaceful settlement of much of western Washington and provided land to do so, in exchange for their
551 continued right to fish, gather shellfish, hunt, and exercise other sovereign rights off-reservation, to
552 assure access to food after the signing of the treaties. Therefore, the treaties established the right to fish
553 in “usual and accustomed areas” well beyond the reservation’ boundaries. The *United States v.*
554 *Washington* courts have been continuously defining the exact scope of these fishing areas since 1974.

555 Fishing treaty rights co-management

556 In the 1970s the American Indian tribes in the State of Washington sought to have greater access to
557 their treaty resources and uphold their treaty rights in federal court. This arduous process resulted in
558 the seminal case of *United States v. Washington*, written by Judge George Boldt and often referred to as
559 the Boldt decision (*U.S. v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974)). Judge Boldt upheld the
560 treaty rights, establishing the treaty tribes as resource co-managers and affirming the tribal right to 50%
561 of the harvestable salmon returning to their historic fishing sites. In 1979, the United States Supreme
562 Court upheld the Boldt decision. A court decision in 1994 (*U.S. v Washington*, 873 F. Supp. 1422 (W.D.
563 Wash. 1994)), also known as the Rafeedie decision (named for the judge), recognized the treaty right of
564 Washington treaty tribes to take 50% of all naturally occurring shellfish at all usual and accustomed
565 areas. This decision also established the tribal right to harvest not just shellfish, but also any species of
566 aquatic animal, finned or not finned, in the usual and accustomed area of a tribe. The *United States v.*
567 *Washington* court in subproceeding 09-1 affirmed again in 2015 that “fish” as understood by the parties
568 to the treaties included any aquatic animal, including marine mammals.

569 Because the coastal treaty tribes’ right to fish is held “in common with” the non-Indian citizens of
570 present-day Washington and Oregon, Judge Boldt in 1974 determined the tribes are “co-managers” of
571 the fishery resource (*U.S. v. Washington*, 384 F. Supp. 312, 403 (W.D. Wash. 1974)) and have the right to
572 50% of the harvestable resource passing through their respective treaty areas. Thus, each treaty tribe
573 regulates and controls tribal fishing at its usual and accustomed grounds in accordance with tribal law
574 and judicially prescribed fishery management responsibilities, maintains its own fisheries management
575 and enforcement staff, enters into management agreements with other co-managers, and engages in a
576 wide variety of research, restoration, and enhancement activities to improve the scientific basis for
577 resource stewardship (Olympic Coast National Marine Sanctuary, 2011).

578 The treaty tribes, the state of Washington, specifically the Washington State Department of Fish and
579 Wildlife (WDFW), and United States government (NOAA Fisheries) are co-managers of fisheries
580 resources in Washington. The Pacific Fishery Management Council (PFMC) is the multiparty body that is
581 responsible for implementing the Magnuson Stevens Fishery Conservation Act (Magnuson Stevens Act;
582 16 U.S. 1801 et seq.) and facilitating co-management of fisheries within the Economic Exclusive Zone
583 (out 200 nautical miles, beyond state jurisdictional limits of 0-3 miles) off of Washington, Oregon, and
584 California. Tribal, federal, and state representatives sit on the PFMC and its technical committees, and
585 the PFMC sets annual harvest numbers for salmon, groundfish, coastal pelagic species, and highly

³ The Shoalwater Bay Tribe is a federally recognized tribe but is not party to the Stevens treaties.

586 migratory species fisheries for non-treaty fisheries. Treaty tribes through their co-management role with
587 NOAA Fisheries identify annual harvest needs for treaty fisheries, the result of these discussions are
588 then communicated with PFMC. The PFMC is also involved in international fisheries management, such
589 as negotiating pacific halibut conservation and catch limit with Canada through the International Pacific
590 Halibut Commission (Industrial Economics, Inc., 2014).

591 This tribal/federal/state co-management framework has evolved as a reliable planning forum for
592 multiple aspects of fishery management, including planning harvest time, place, and manner, and
593 constraining fish mortality. The co-managers are charged with the responsibility for managing certain
594 aspects of fishery resources and for coordinating their efforts through the development, adoption, and
595 implementation of fishery management plans under the Magnuson Stevens Act (Olympic Coast National
596 Marine Sanctuary, 2011).

597 The Marine Spatial Plan does not address or attempt to influence the fisheries co-management
598 process or relationship. Fisheries co-management is outlined here to recognize its importance within the
599 Study Area and provide context for fishing and shellfishing industry descriptions provided later within
600 the Plan.

601 Government-to-government relationship

602 Washington state agencies and tribes have government-to-government relationships, meaning that
603 each tribe has an independent relationship with each other and the State and that these relationships
604 recognize and respect the sovereign rights of each party. The State of Washington and the federally
605 recognized tribes created government-to-government agreements through the Centennial Accord and
606 subsequent Millennium Agreement to consult with each other on matters that may affect one another
607 (Governor's Office of Indian Affairs, 2015). In 2012, a state law established state agency procedure
608 requirements for the government-to-government relationship (RCW 43.376).

609 The federal government has a federal trust responsibility to federally recognized tribes, through this
610 obligation, the federal government works directly with tribes as independent governments. The exact
611 implementing procedures may vary between the federal agencies, but the federal trust obligation
612 includes consulting with tribal governments prior to taking actions that may affect federally recognized
613 tribes and treaty rights (The White House, 1994).

614 Consultation procedures

615 Formal consultation in a government-to-government relationship is key and the establishment of
616 the Centennial Accord and Millennial Agreement set the foundation for consultation procedures
617 between the State and the tribes. Consultation goes beyond informing tribes about what the state
618 agencies are planning to do. Consultation between the state and tribe(s) is an agreed upon process by
619 both parties that creates a forum that is respectful, provides effective communication environment and
620 that works toward a consensus before a decision is made or an action is taken, while recognizing that
621 agreement on an outcome is not always possible.

622 The state seeks to cooperatively establish the manner and timeframe for consultation with tribal
623 governments on issues of tribal interest or when the implication of a policy or action has tribal
624 implications as determined by the tribe(s). The state attempts to provide early notification and an
625 invitation for open consultation with affected and interested tribes. The state government-to-
626 government consultations with tribes take place independently and often parallel from the public
627 participation process (e.g., public comment for SEPA) but representatives of tribal governments and
628 tribal members have equal access to public participation processes as well. Communication (less formal

629 than consultation) is also integral to the government-to-government state and tribal relationship. The
630 state attempts to provide regular, informal communication with the tribes on issues and upcoming
631 decisions that may be of interest to the tribes. State agencies maintain the government-to-government
632 communications and consultations by interacting through officials with appropriate stature and
633 authority (Washington State Department of Ecology, n.d.).

634 A description of the State's coordination and consultation process with the five tribes adjacent to
635 the Study Area for the development of the Marine Spatial Plan is provided below. The procedures for
636 tribal and state consultation, coordination, and communication to address specific new use proposals
637 within the MSP Study Area are provided in Section 4: Management Framework.

638 Description of Coordination with Tribes for development of the Plan

639 [This section to be written closer to the completion of the Plan and consultations.]

640

641 1.7 Olympic Coast National Marine Sanctuary

642 Designated in 1994, the Olympic Coast National Marine Sanctuary (Sanctuary) is a place of regional,
643 national, and global significance. The Sanctuary encompasses much of the northern half of the Marine
644 Spatial Plan Study Area (Map 1) and is one of North America's most productive marine regions and
645 pristine, undeveloped shorelines. The Sanctuary is a part of a system of 14 marine protected areas
646 coordinated and administered by National Oceanic and Atmospheric Administration (NOAA).

647 The Sanctuary spans 2,408 square nautical miles of marine waters off of Washington's Olympic
648 Peninsula coast. It extends seaward 32 to 64 kilometers (20 to 40 miles) and to depths of over 1,400
649 meters (4,500 feet). The Sanctuary is located within the northern portion of the California Current Large
650 Marine Ecosystem, is connected to the Big Eddy Ecosystem, and supports high primary productivity. The
651 Sanctuary is home to some of the largest U.S. seabird colonies, at least twenty-nine species of marine
652 mammals, commercially important fish species, deep sea corals, and one of the most diverse seaweed
653 communities in the world.

654 The Sanctuary borders the Olympic National Park and lies within the usual and accustomed areas of
655 four federally recognized American Indian tribes: the Hoh, Makah, and Quileute Tribes, and the Quinault
656 Indian Nation (the four coastal treaty tribes). The Sanctuary also enhances protection of the Washington
657 Maritime National Wildlife Refuge Complex, which includes more than 600 offshore islands and
658 emergent rocks within the Sanctuary. Major ocean activities occur within the Sanctuary, including
659 shipping, tribal and non-tribal commercial fisheries, and research activities.

660 The mission of the Sanctuary is "to protect the Olympic Coast's natural and cultural resources
661 through responsible stewardship, to conduct and apply research to preserve the area's ecological
662 integrity and maritime heritage, and to promote understanding through public outreach and education".
663 The Sanctuary is managed using a unique collaborative framework. In 2007, the four coastal treaty
664 tribes, the state of Washington, and the ONMS created the Olympic Coast Intergovernmental Policy
665 Council (IPC) to provide a regional forum for resource managers to exchange information, coordinate
666 policies, and develop recommendations for resource management within the Sanctuary.

667 In addition, the Sanctuary also works with a Sanctuary Advisory Council (SAC), a stakeholder group
668 with representatives from the coastal treaty tribes, state and federal agencies, local governments, and a
669 variety of local interest groups. The SAC advises the Sanctuary Superintendent on the management and
670 protection of the Sanctuary; and deliberates and provides recommendations on Sanctuary operations,

671 education and outreach programs, regulations and enforcement efforts, and marine policy and
672 management plans.

673 The Sanctuary has several goals and objectives aimed at protecting the ecological resources and
674 cultural uses within the Sanctuary. Examples of their goals and programs include: investigating and
675 enhancing the understanding of ecosystem processes through research, enhancing ocean literacy,
676 conserving natural resources within the Sanctuary, enhancing understanding and appreciation of the
677 Olympic Coast's maritime heritage, and facilitating wise and sustainable uses within the Sanctuary. The
678 2011 Olympic Coast National Marine Sanctuary Management Plan outlines several Action Plans involving
679 topics such as oil spills prevention and preparedness, marine debris, education and outreach, research
680 coordination, and community involvement (Olympic Coast National Marine Sanctuary, 2011).

681 For more information about the Olympic Coast National Marine Sanctuary, please see the 2011 Final
682 Management Plan (Olympic Coast National Marine Sanctuary, 2011) or the Sanctuary website:
683 <http://olympiccoast.noaa.gov/>

684 Authority and Legal Framework

685 Under the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.), sanctuaries have the authority
686 to prohibit particular activities and permit certain activities if the proposal will not substantially injure
687 Sanctuary resources and qualities and is found to satisfy the Sanctuary's criteria for permitted activities.
688 Activities that would disturb or place a constructed object on the seafloor within the Olympic National
689 Marine Sanctuary would require a Sanctuary permit. The Sanctuary could also consider an application to
690 authorize, and potentially condition, other federal or state authorizations (15 CFR Part 922).

691 The Sanctuary requires a permit when an individual or organization wishes to conduct an activity
692 within the Sanctuary that is prohibited by Sanctuary regulations. Prohibited activities include low
693 altitude overflights, seafloor disturbances, constructing or placing any structure on the seafloor, and
694 discharging or depositing any material. However, whether the Sanctuary chooses to issue a permit or
695 authorization is dependent upon a number of project-specific factors including:

- 696 • Assessment of the potential injury to the Sanctuary resources and qualities
- 697 • Professional qualifications and finances of the applicant
- 698 • Duration of the project
- 699 • Cumulative effects
- 700 • Impacts of the activity on adjacent tribes

701 Permits may be issued for projects that will not substantially injure Sanctuary resources and
702 qualities and will further one of the following:

- 703 • Research related to Sanctuary resources and qualities
- 704 • Education, natural or historical resource value of the Sanctuary
- 705 • Salvage and recovery operations
- 706 • Archeological understanding
- 707 • Tribal self-determination and government functions, exercise of treaty rights, economic
708 development, or other tribal activities

709 The Sanctuary includes conditions in permits and authorizations to ensure that an approved project
710 has minimal negative impacts to the marine environment.

711 Of the potential future uses addressed within the Marine Spatial Plan, mining (methane hydrate
712 mining and sand/gravel mining) as well as new dredge disposal locations⁴ are prohibited activities and
713 may not be permitted by the Sanctuary (15 CFR Part 922.152). Marine renewable energy, offshore
714 aquaculture, and marine product extraction⁵ would require Sanctuary authorization and the Sanctuary
715 may choose to permit these activities if they meet the criteria discussed above.

716 Olympic Coast National Marine Sanctuary Involvement with WA Marine Spatial Planning

717 The Sanctuary has been directly involved with the Marine Spatial Planning process and will continue
718 to be engaged during Plan implementation. The Sanctuary staff recommended that the Olympic
719 National Marine Sanctuary be included within the MSP Study Area and that the Marine Spatial Plan
720 integrate the Sanctuary Management Plan. The Sanctuary staff has assisted the MSP process by
721 participating as technical advisors in projects such as seafloor mapping prioritization and ecological
722 indicator development, assisting in several data gathering and mapping projects, and providing input on
723 overall plan development.

724

⁴ Emergency dredge disposal may be permitted by the Sanctuary.

⁵ Marine product extraction will require permits if benthic organisms were extracted (seafloor disturbance)

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