

**City/County Planner Group recommendations on Nooksack Tribal Council's proposed amendments to Countywide Planning Policies (April 10, 2025 email with March 4, 2025 letter attached)**

**C. Urban Growth Areas**

3a: We request that the Nooksack Tribe be consulted on growth projections and associated allocations to UGAs, as amount and distribution of population growth impacts treaty resources.

Planning Commission version of Policy C.3a:

The County and Cities will work together to develop countywide population and housing need projections, and associated allocations to Urban Growth Areas, that are within the range of the Washington State Office of Financial Management projections. The County and Cities will also work together to develop countywide employment projections and associated allocations to Urban Growth Areas.~~The most current, accurate population projections based on a range provided for Whatcom County by the Office of Financial Management shall. These allocations will be used to determine whether as the basis for determining that~~ Urban Growth Areas ~~shall~~ include sufficient land capacity~~area~~ to permit the urban growth that is projected to occur in the ~~e~~County for the succeeding twenty-year period.

City/County Planner Group Comment/Recommendation: No change to the above Policy. However, the City/County Planner Group recommends adding the Lummi Nation and Nooksack Tribe to Policy M.1 below, which relates to convening a Growth Management Planning Committee to discuss growth management planning issues including the location of population, housing and employment growth.

3b: Please incorporate consideration of water availability, i.e.

- *The County and Cities shall develop a Land Capacity Analysis Methodology, which is a consistent approach to calculating the land and water supply needed within an urban growth area. The Land Capacity Analysis Methodology will consider limitations imposed by critical area regulations, legal and physical water availability, infrastructure needs, open space, existing uses, local market factors and the ability of the jurisdiction to provide services. It is recognized that the above limitations may vary by jurisdiction, but the method for applying them shall be consistent. Urban growth areas shall permit a range of densities and uses; however, these uses and densities may vary among jurisdictions.*

City/County Planner Group Comment/Recommendation: No change to the above Policy. Physical availability of water is addressed through capital facility planning, including water system plans. Legal availability of water is addressed through other processes.

4: Please incorporate consideration of water availability, i.e.

- *Urban Growth Areas shall be evaluated in the timeframes set forth in the Growth Management Act to determine if they contain sufficient land capacity and water availability to accommodate the urban growth that is projected for the succeeding twenty-year period. The market factor for each Urban Growth Area shall also be evaluated. The Land Capacity Analysis will be used to determine whether the land supply is adequate to meet the needs of the community or whether the land supply is excessive.*

City/County Planner Group Comment/Recommendation: Change the proposed policy to reference adequate capital facility planning as shown below (instead of water availability as suggested). Capital facility planning is required under the Growth Management for water and a variety of other public facilities (RCW 36.70A.070(3)).

*Urban Growth Areas shall be evaluated in the timeframes set forth in the Growth Management Act to determine if they contain sufficient land capacity and adequate capital facility planning has been completed to accommodate the urban growth that is projected for the succeeding twenty-year period. The market factor for each Urban Growth Area shall also be evaluated. The Land Capacity Analysis will be used to determine whether the land supply is adequate to meet the needs of the community or whether the land supply is excessive*

5: Please incorporate consideration of tribal resources, i.e.

- *Urban Growth Areas should be established in a way that preserves agricultural land, forestry, mineral resources, treaty natural resources (e.g. salmon, wildlife, traditional foods), tribal cultural resources, water resources, and critical areas. Urban growth shall maintain proper buffers from natural resource areas to minimize conflicts with natural resources and industries based on them.*

City/County Planner Group Comment/Recommendation: No change to the above Policy. City and County critical area regulations have been adopted, and must be updated periodically. These regulations address, among other things, fish and wildlife habitat. Tribal Cultural Resources are address under new Countywide Planning Policies S 1-4. Cultural resources are also protected under state and federal law.

## D. City Urban Growth Areas

1: We are concerned with the bias towards growth and economic development over environmental protection implicit in this statement. We suggest the following:

- *The Urban Growth Areas for the small cities shall be of an adequate size to allow them to ~~become viable-maintain viability~~ as economic centers with a balance of jobs and housing and quality of life. The small cities shall do appropriate planning to ensure adequate distribution of land uses and services at a range of urban densities and zoning classifications.*

City/County Planner Group Comment/Recommendation: Retain existing “become viable” language (do not insert “maintain viability”). The intent of the existing Policy is allow small cities to establish additional areas for economic development, to create an economic base to support planned population growth. This would allow people who live in the small cities to have jobs and services in their local communities in proximity to housing. Support adding the proposed “quality of life” language as shown below.

- *The Urban Growth Areas for the small cities shall be of an adequate size to allow them to become viable as economic centers with a balance of jobs, ~~and~~ housing and quality of life. The small cities shall do appropriate planning to ensure adequate distribution of land uses and services at a range of urban densities and zoning classifications.*

2: From our perspective, the Nooksack River floodplain and Sumas Overflow Corridor should be included as another area where additional urban development is not desirable. We are opposed to expansion of UGAs, upzones or subplats in the Nooksack River floodplain and strongly support targeting these areas for density reductions to allow natural flood control.

City/County Planner Group Comment/Recommendation: No change to the Policy D-2. The Growth Management Act already includes restrictions on expanding UGAs into the floodplain (RCW 36.70A.110(10)).

4: The Nooksack Tribe has suffered the environmental injustice of over a century of growth that has degraded and otherwise negatively impacted tribal treaty resources. We are concerned that “achieving the desired vision of the city” is acceptable as a reason to further degrade treaty resources. We request stronger protection of treaty resources when determining how to balance infill with expansion.

## Planning Commission version of Policy D.4:

Existing cities should ~~accommodate~~~~absorb~~ additional ~~housing~~~~population~~ at a range of densities appropriately responsive to the city's community vision before extending city Urban Growth Areas into areas where growth would adversely impact critical areas and resource lands. In those small cities entirely ~~or almost entirely~~ surrounded by flood plains, critical area and resource lands or within Shellfish Protection Districts, the ~~County~~ and ~~cities~~~~the city~~ shall seek to negotiate a balance between protection of resources and the allocation of adequate land area to meet the growth needs ~~and achieve the desired vision~~ of the city ~~and to maintain the desired character of the community~~.

City/County Planner Group Comment/Recommendation: Support deleting “and achieve the desired vision” in bold above.

12: We request that growth allocations ensure consistency with estimates of amount and distribution of new domestic permit-exempt wells that are presented in [Table 4.2](#) of the *Chapter 173-501 WAC (IRPP – WRIA 1) Final Rule Supporting Doc*<sup>1</sup>. We note that the Tribe did not agree with the assertion that there was a net ecological benefit of proposed offset projects and projected new permit-exempt groundwater withdrawals.

City/County Planner Group Comment/Recommendation: Do not support including this as a new Countywide Planning Policy, because it is more appropriately addressed in the County's own planning process.

## K. Siting of Public Facilities

Siting of public facilities should incorporate consideration of current and future climate risk.

City/County Planner Group Comment/Recommendation: Insert new Policy K.6, as shown below:

The County and cities will consider impacts from climate change when planning for public facilities.

## M. Intergovernmental Cooperation

1: Please add Nooksack Tribe to the list of jurisdictions participating on the Growth Management Planning Committee.

Planning Commission version of Policy M.1 (with City/County Planner Group proposed changes in bold):

The County and the cities will coordinate and cooperate throughout the comprehensive plan, development regulations and urban growth area reviews and updates undertaken pursuant to the Growth Management Act, RCW 36.70A. This coordination and cooperation will address topics including but not limited to amount and location of population, housing, and employment growth, capital facilities, transportation, climate change and community resilience. As a component of this coordination and cooperation, the County Executive may convene a Growth Management Planning Committee comprised of elected officials from the County and the cities, **representatives of the Lummi Nation and Nooksack Tribe** and, where deemed appropriate, representatives from other agencies **and Tribes**.

City/County Planner Group Comment/Recommendation: Support changes in bold above.

2: Please add consultation with the Nooksack Tribe to this statement, i.e.

- *To adequately plan for growth and implement the policies of the Growth Management Act, the County and Cities will consult with the Lummi Nation and Nooksack Tribe and work with other governmental jurisdictions in Whatcom County, including the ~~Lummi Nation, and Nooksack Tribe~~, Port of Bellingham to establish on- going mechanisms to improve communication, information sharing and coordinated approaches to common issues and concerns.*

City/County Planner Group Comment/Recommendation: The Policy, as recommended by the Planning Commission, includes working with the Lummi Nation and Nooksack Tribe. Consultation is a term used in federal law and the City/County Planner Group is unclear on the implications of using this term in a Countywide Planning Policy. We suggest the County Council seek guidance from their legal counsel on this issue.

## **N. Water Quality and Quantity**

1 or 5: Please add a statement about working through the WRIA 1 Watershed Management Board (or successor entity) to offset negative impacts of growth on instream flow.

Planning Commission version of Policy N.5:

~~All jurisdictions should~~ To inform Growth Management Act planning efforts, water resources management should be coordinated through participation ~~participate~~ in the Water Resources Inventory Area (WRIA) 1 Watershed Management Board process ~~to establish a countywide water resource management body and~~ in accordance with ~~the Watershed Management Act and other~~ applicable federal, state and local regulations ~~to inform GMA planning efforts.~~

City/County Planner Group Comment/Recommendation: No change, as Policy N.5 already addresses this issue.

3: Please acknowledge the importance of protecting treaty natural resources, i.e.

- *Jurisdictions shall cooperate to protect and restore water resources and fish habitat within UGA's and across jurisdictional boundaries to maintain quality of life and economic health and protect treaty natural resources in Whatcom County.*

City/County Planner Group Comment/Recommendation: Support changes. It should be noted that City and County critical area regulations have been adopted, and must be updated periodically. These local regulations and state laws address, water quality, water quantity, fish and wildlife habitat. The County Council may want to seek guidance from their legal counsel to review the implications of adding a reference to treaty rights in this Policy.

## **S. Tribal Cultural Resources**

Please add the following statement:

- *Nooksack Tribal Cultural Resources include sites, features, places, cultural landscapes, sacred places and objects with cultural value to past, present, and future members of the Nooksack Tribe.*

City/County Planner Group Comment/Recommendation: Modify proposed Policy S.4 as follows:

The County and cities will work with the Washington State Department of Archaeology and Historic Preservation (DAHP) and affected tribes to identify, protect and manage historic, archaeological, and cultural sites as well as sites and structures of significance in compliance with federal, state, and local laws. Tribal cultural resources include sites, features, places, cultural landscapes, sacred places and objects with cultural value.

We support and encourage you to accept the revisions proposed by the Lummi Nation Tribal Historic Preservation Office, specifically:

- *The County and cities shall work individually and cooperatively with ~~participating the~~ affected tribe(s) to protect natural and cultural resources through individual and joint efforts. Opportunities for open communication and early government-to-government consultation regarding resource identification, management and protection protocols should be established.*
- *Federal, state, and local laws pertaining to cultural resources and human remains should be followed.*
- *The County and cities should establish a clear and fair process for resolving any disagreements regarding the identification, protection, or management of tribal cultural resources. This process should involve mediation and conflict resolution techniques that respect and affirm tribal sovereignty, treaty rights and traditional practices.*
- *The County and cities will work with the Washington State Department of Archaeology and Historic Preservation (DAHP) and the ~~affected tribes, Lummi Nation and Nooksack Tribe~~ to identify, protect and manage ~~the presence of~~ historic, archaeological, and cultural sites, as well as sites and structures of significance within their boundaries consistent with in compliance with applicable federal, state, and local, state, and federal laws.*

City/County Planner Group Comment/Recommendation: Planning Commission version includes the language proposed by the Lummi Nation, with minor changes by the City/County Planner Group.

*Please add the following policy:*

*Recreation will be managed to avoid areas of cultural use.*

City/County Planner Group Comment/Recommendation: Alternative language as follows:

Planning related to recreation should consider potential impacts to cultural resources.