MASTER BUILDERS ASSOCIATION
of King and Snohomish Counties

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Gerry O'Keefe
Executive Director
Puget Sound Partnership
326 E D Street
Tacoma, WA 98421.

Re: Draft Action Agenda Update

Dear Gerry:

On behalf of the 3,000 member companies of the Master Builders Association of King and Snohomish Counties ("MBA"), I am writing to submit comments on the Draft Action Agenda Update now out for public review. Thank you for this opportunity to provide our input.

While I appreciate all the time and effort that has gone into producing this draft and identifying an exhaustive list of new near-term actions ("NTAs") aimed at protecting and restoring Puget Sound, the MBA shares many of the broader concerns raised about the draft by the Association of Washington Business ("AWB"). Namely, we are concerned that the draft update does not adequately address the full range of actions already being undertaken, and funds already being spent, on Puget Sound. We believe it would be far more appropriate to review ongoing programs on the front end of the process, not after. In its current form, the NTA list appears to be an environmental community and state regulatory agency "we won the lottery" wish list, without regard to necessary funding, consequence to local government planning and implementation or to our local economy.

Given the economic reality of declining revenues at all levels of government and ongoing economic challenges in the private sector, it is unclear to me how the Partnership intends to pay for this cornucopia of new actions. Even if the Partnership were able to identify new funding sources, it is still unrealistic to expect we can successfully implement so many new activities in several decades, much less two years. As the Government Accountability Office emphasized in its 2006 report on other ecosystem recovery programs around the country, which it presented to the Puget Sound Partnership (Blue Ribbon Panel), the ability to prioritize the most important actions is key to successfully implementing such an effort. In other words, producing a long list of needed actions will not get us to Sound recovery.

I understand the Partnership intends to engage in a process to prioritize the list of near-term actions, and I look forward to participating in these discussions. However, given the size of the current list – with over 150 new NTAs being proposed by my last count – it is evident that a great deal of discipline will be needed to narrow these actions down to a manageable size. Furthermore, in order to be most effective, I believe that any prioritization process must consider the full range of programs and activities already being undertaken by numerous non-governmental organizations, businesses, federal/state/local governments and agencies, tribes and citizen groups to protect and restore Puget Sound. However, our ability to consider fully the realm of current private and regulatory actions and spending will be made all the more difficult, when presented with such a large menu of proposed NTAs.

We are also concerned about the fast timeframe the Partnership has established for adopting this Action Agenda update, even with the additional time that has already been granted. With so many new actions being proposed, we believe more time is needed to: 1) review ongoing programs, and 2) vet fully this update and narrow down the list of NTAs with stakeholders. This concern was expressed by several members of the Ecosystem Coordination Board.

Finally, the MBA shares the AWB's long-standing concern about the Puget Sound ecosystem recovery targets and strongly agrees that the targets and the Action Agenda cannot be considered regulatory. I greatly appreciate the fact that you have listened to our concerns regarding this issue and have expressed your willingness to help clarify that the recovery targets and the Action Agenda are not meant to be implemented by local governments and state agencies through regulatory processes. I trust that this issue will be resolved to the business community's satisfaction, so that we can find a path forward on Puget Sound recovery and Action Agenda support.

In addition to these broader concerns, the MBA has specific comments on several of the near-term actions proposed in the draft Action Agenda update.

**Strategy A.1.2, NTA 2:**

We are very concerned about the notion that Ecology and Commerce would develop a set of local model planning land development and growth policies related to the Growth Management Act ("GMA"), Shoreline Management Act ("SMA") and other statutes and planning processes. While I understand the desire to create some consistency across jurisdictions, the reality is that conditions vary from city to city and across the Puget Sound region. We believe that local governments should maintain their ability to implement these laws in a way that is protective of Puget Sound, but also gives them the flexibility to address local needs. We do not agree that a "one-size-fits-all" model regulation or policy approach to land use and growth policies is the answer, and GMA and SMA were legislated based on a "bottom up," not a "top down" land use policy philosophy. Moreover, this proposed action pre-supposes that current regulations, many of which are continually being updated, are not working. This NTA must be rejected.

**Strategy A.1.4, NTA 1:**

We do not agree that a "cumulative affects assessment" should be integrated into existing land use programs, because this NTA assumes that new development poses the greatest threat to the health of Puget Sound. We strongly disagree. The Partnership should focus most of its attention on the existing built environment, especially all development that was built prior to roughly 1990, before today's regulatory regime for growth management and stormwater controls were put in place.

However, if the Partnership does adopt this NTA, then we believe it must also include a cumulative affects assessment on the supply of housing in the region as more and more restrictive land use, stormwater and floodplain regulations are implemented. We believe such an assessment is not only appropriate, but necessary given the Partnership's charge to protect and restore Puget Sound, while maintaining a strong economy and accommodating future population growth.

If the Partnership believes that model land use regulations and cumulative affects assessment requirements are necessary to protect Puget Sound, then go to the Legislature and get it to amend the GMA, SMA and other land use and environmental regulatory statutes. Don't try to reverse decades of Washington land use practice and regulation by labeling such changes as necessary actions within the Action Plan.

**Strategy A.5.1, NTA 3:**

Any legislative change, rule amendment and/or administrative change put in place to achieve the floodplain pressure reduction target must include a strategy for replacing lost buildable land supply. This strategy could include such steps as establishing minimum urban densities in our high-population counties, eliminating building height restrictions and encouraging cluster development flexibility in rural areas, to name a few. Just as we must protect our fully functioning floodplains and restore them where it makes sense, it is critical that we ensure our ability to accommodate future population growth and housing demand.

**Strategy A.5.5, NTA 2:**

Similar to the above comment, as we work to identify potential land swaps to expand agriculture outside of priority floodplain areas, we should also engage in a process to designate land for housing and rural cluster development. It is required by the enabling PSP statute that the Partnership addresses economic viability and projected population growth as part of any plan.

**Strategy B.1.1, NTA 2:**

This NTA should be eliminated, or at a minimum, clarify that marine spatial planning shall not supersede local control over land use decisions.

**Strategy B.2.6, NTA 1:**

We would have major concerns with this particular action were it to result in a slower permitting process for shoreline substantial development permits. We also question whether this action is feasible from a staffing standpoint. Do local governments have the capacity to engage in this additional review process with DNR? There are already too many redundant regulatory requirements in permitting processes. Don't create another hurdle, which only increases cost and encourages delay.

**Strategy C.1.4, NTA 1:**

We are very concerned about the proposal to establish a landscaper certification program; especially, if this certification is to be required. Landscapers must already comply with a myriad rules and regulations governing the application of fertilizers and pesticides, and furthermore, a water auditor certification program is already in place. We believe creating a brand new certification program would be duplicative and place an unnecessary, added burden on the landscaping industry. In lieu of creating a new certification requirement, we believe the Partnership should emphasize public and private sector education on green landscaping practices and lawn maintenance.

**Strategy C.2.2, NTA 4:**

We strongly disagree with expending any resources on a study of current state vesting laws. Vesting rights are well established in Washington law, and our limited resources for protecting and restoring Puget Sound would be far better spent elsewhere, such as advancing priority retrofit projects. This topic has no place in the Action Agenda. This NTA should be eliminated.

**NTAs we support:**

- In MBA's view, the highest priority for stormwater should be fixing problems caused by existing development built before today's stormwater rules and flow control standards were in place. The first step is identifying priority retrofit projects; therefore, we support **Strategy C.2.3, NTA 1**.

- With regard to shorelines, we would support the use of incentives to encourage removal of armoring and use of soft armoring techniques when bulkheads fail, need repair, and during redevelopment. **Strategy B.3.2, NTAs 1 & 2** appear to be reasonable approaches to incentivize these types of actions, assuming a funding source can be found for the loan program. In general, we believe the use of incentives, along with education and outreach to shoreline property owners, is the preferred way to address concerns about shoreline armoring, as opposed to new regulations. Increasing regulations on shoreline property owners will only serve to alienate this group, when we should be working to find common ground.

- We support the concept of conducting a cost/benefit analysis of key actions undertaken in the Action Agenda. In fact, this step is critical given our limited resources for Puget Sound recovery and the need to prioritize actions. As such, **Strategy D.3.2, NTA 2** (developing an approach for collaborative analysis of data on the cost/benefit of key actions undertaken in the Action Agenda) appears to move us in the right direction.

**More work needed:**

In addition to our specific suggestions related to housing and buildable land supply (see comments above), we believe more work is needed in two key areas:

- **Regulatory Reform** – For as long as I have been involved in the Puget Sound Partnership, the business community has raised the need to streamline laws and regulations, especially those related to the environmental review process. The Partnership needs to address the issue of review processes that are long, cumbersome and costly, and ultimately are counter-productive to our goals for protecting and restoring Puget Sound. While several of the NTAs touch on regulatory reform, none of them does so in any kind of comprehensive or meaningful way. We would urge the Partnership to commit to working with key stakeholders to find and promote specific solutions to this issue.

- **Economic Impacts** – We would like to strongly encourage the Partnership to continue its ongoing dialogue with the business community on finding ways to ensure a healthy Puget Sound goes hand-in-hand with a strong economy. For example, it is absolutely critical that we find an adequate target (or set of targets) measuring the health of our economy, just as the Partnership has done with the ecosystem recovery targets.

Thank you for considering these points.

Sincerely,

Samuel L. Anderson
Executive Officer

Cc: Leadership Council
Dave Somers, ECB Chair
Dave Herrera, ECB Co-chair
Martha Neuman, Puget Sound Partnership
Chris Townsend, Puget Sound Partnership