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JOHN R. WEINGART  
Chairman

EILEEN SWAN  
Executive Director

## **MEETING AGENDA**

***Thursday, April 24, 2008 - 4:00 p.m.***

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES – April 10, 2008
6. CHAIRMAN'S REPORT (and Council Member Reports)
7. EXECUTIVE DIRECTOR'S REPORT
8. COMMITTEE REPORTS
  - a. Audit Committee
9. CONSIDERATION OF RESOLUTION – *Approval of Contract for Auditing Services* - (voting matter with public comment)
10. CONSIDERATION OF RESOLUTION – *Approval of Certain Planning Assistance Grants* - (voting matter with public comment)
11. REGIONAL MASTER PLAN DISCUSSION
  - a. Critical Habitat
  - b. Lake Management
  - c. Steep Slopes
  - d. RMP Updates
  - e. Housing Program
  - f. Water Quality Management Planning
12. PUBLIC COMMENTS
13. EXECUTIVE SESSION (if deemed necessary)
14. ADJOURN

NEW JERSEY HIGHLANDS WATER PROTECTION  
AND PLANNING COUNCIL  
MINUTES OF THE MEETING OF APRIL 24, 2008

**PRESENT**

JOHN WEINGART	)	CHAIRMAN
KURT ALSTEDE	)	COUNCIL MEMBERS
TRACY CARLUCCIO	)	
BILL COGGER	)	
MIMI LETTS	)	
ERIK PETERSON	)	
JACK SCHRIER	)	
TAHESHA WAY	)	
ELIZABETH CALABRESE	)	
TIM DILLINGHAM	)	
DEBBIE PASQUARELLI	)	
JANICE KOVACH	)	
SCOTT WHITENACK	)	
	)	
<b>ABSENT</b>	)	
GLEN VETRANO	)	

**CALL TO ORDER**

The Chairman of the Council, John Weingart, called the 66th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:08 pm.

**ROLL CALL**

The members introduced themselves.

**OPEN PUBLIC MEETINGS ACT**

Chairman Weingart announced that the meeting was called in accordance with the Open Public meetings Act, N.J.S.A. 10:4-6 and that the Highlands Council had sent written notice of the time, date, and location of this meeting to pertinent newspapers or circulation throughout the State and posted on the Highlands Council website.

**PLEDGE OF ALLEGIANCE** was then recited.

**APPROVAL OF MINUTES OF APRIL 10, 2008**

*Mr. Schrier introduced the motion to approve the minutes. Mr. Cogger seconded it. All members present voted to approve. The minutes were APPROVED.*

**CHAIRMAN'S REPORT**

Chairman Weingart stated that the proposed discussion of a resolution addressing the issue of closing State parks was not on the agenda due to recent budget discussions. He stated that he had directed staff to draft a letter supporting the need to keep the Highlands Region parks open to the public. He also commented that the staff is drafting a letter to the State Ethics Commission regarding conflicts of interest in order to seek clarification on that issue.

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**EXECUTIVE DIRECTOR'S REPORT**

Ms. Swan reported that since the meeting, the Voorhees contract for transportation planning had been executed. She also stated that the staff has received numerous inquiries from Highlands municipalities regarding the available grants for the Initial Assessment program for Plan Conformance and the TDR feasibility grant program. Grant information has been sent to all municipalities regarding these programs via mail. Ms. Swan then listed towns that have contacted the Highlands Council regarding their interest including: Bedminster, Tewksbury, Hampton Borough, Sparta, Mount Olive, Morris Township, Bethlehem, Greenwich, Oakland, Town of Clinton, Holland, Bloomsbury, Washington Township, and Washington Borough.

Ms. Swan then reviewed the informational meetings that have taken place with the Township of Morris, Oakland Borough, Holland Township, and Washington Borough. There was also a meeting with Green Acres regarding priority property acquisition methodology, and a meeting with the Department of Agriculture and State Agricultural Development Committee in which they offered suggestions and supported the staff's methodology. On April 18<sup>th</sup>, the Regional Plan Association had a conference and the staff did a presentation on the Regional Master Plan with an emphasis on the use of technology and the sharing of information.

**COMMITTEE REPORTS**

Audit Committee – The Chair of the Audit Committee, Ms. Calabrese, announced that the Committee met immediately before the Council meeting and agreed that the bid for Audit services be awarded to Mercadian, the bidder that had been recommended by the Audit Evaluation Committee. It was discussed that the recommended bid was \$28,000. The Budget would reflect this amount.

**CONSIDERATION OF RESOLUTION – APPROVAL OF CONTRACT FOR AUDITING SERVICES**

*The motion to approve was introduced by Ms. Calabrese and seconded by Mr. Dillingham. There was no public comment. All members present voted to approve. The resolution was APPROVED.*

**REGIONAL MASTER PLAN DISCUSSION**

Ms. Swan began the discussion with a PowerPoint presentation highlighting revisions and clarifications in the Regional Master Plan.

**a. Critical Habitat**

Ms. Swan noted changes to Chapters II, IV, and V which clarify and add concepts, as well as address technical issues. She explained that in Chapter II, the Analysis of the Highlands Region, there were changes for consistency with the introduction to Chapter IV as well as a clarified section on the delineation of Critical Habitat.

She went on to discuss the Critical Habitat Goals, Policies, and Objectives (GPOs) and the clarifications that were made to this section. Specifically, she highlighted the definition of Significant Natural Areas, the use of Critical Habitat Conservation and Management Plans, the goal of developing a Critical Habitat Conservation and Management Plan, as well as the requirement of site-

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by-site development applications in municipalities with unapproved Critical Habitat Conservation and Management Plans. There were also clarifications on the policies regarding guidance documents, low impact management practices, and periodic monitoring of conservation easements, and the definition for habitat value.

Ms. Swan then discussed the Critical Habitat Program and the use of Critical Habitat Conservation and Management Plans within this program. She explained how the Highlands Council will be providing guidance to municipalities during this process. The use of standards set forth by the Council-approved Critical Habitat Conservation and Management Plan will be a condition of local approval and all development must employ low impact best management practices if any disturbance is allowed.

Mr. Dillingham stated that the provision regarding scientific knowledge needs to reflect stated science in the literature. He also commented that any protocols which are in place should be utilized in the Critical Habitat Program. He recommended that the Council use local knowledge and that parameters be set for the science that is used in this program. Ms. Carluccio would like to see an example of a completed plan and Ms. Swan stated that this would be available after July 17<sup>th</sup>.

**b. Lake Management**

Ms. Swan continued her presentation with a discussion on Lake Management GPO changes. There was clarification regarding the distinction between Lake Community Sub-zones and the undeveloped Lake Management Areas which allows for different standards. She explained that the Council will be coordinating with lake commissions and associations. Within the changes to the Lake Management GPOs, the importance of historic and cultural resources within lake communities will be highlighted. In order to avoid harmful secondary impacts, clarification was provided regarding failing septic systems and the need for updated treatment.

**c. Steep Slopes**

Ms. Swan then presented information on Steep Slope GPOs and how they have been amended and clarified. Specifically, there was language added regarding exceptions for linear development within some steep slopes. She continued to discuss that language regarding waivers was deleted in this section but that there will be a cross-reference to the new consolidated waiver language.

Mr. Alstede questioned the Landscape Version 3 Map that is being used. Dr. Van Abs and Ms. Lynam clarified the details of the Landscape Version 3 Map. Then Mr. Borden explained the legal basis for the use of the Landscape Project.

Ms. Letts asked whether the Council will be providing model ordinances to municipalities and Ms. Swan explained that they will provide standards that can be used in existing ordinances and will also provide some sample ordinances.

Mr. Alstede mentioned that the requirements under Critical Habitat may be an issue when towns consider Plan Conformance.

*Deborah Pasquarelli joined the meeting.*



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Mr. Dillingham stated that the methodology and science are accurate and he also clarified, as did Ms. Carluccio, that it is the Council's charge to protect habitat and endangered species. Chairman Weingart stated that the Council should be focused on specific language and concept changes rather than just making broad comments. Ms. Swan pointed out, in response to Council comments, that Critical Habitat areas can be adjusted with sufficient documentation and support.

**d. RMP Updates**

Ms. Swan continued her presentation with a discussion on the RMP Updates program in the Regional Master Plan. She explained that the RMP Updates Program has been separated from the Adjustments Program for clarification. There are new objectives added regarding the exchange of factual information. She stated that all RMP Updates will be publicly available.

There was Council discussion about how this process will be developed and who will be reviewing and approving that process.

*Erik Peterson joined the meeting.*

**e. Housing Program**

Ms. Swan then presented on Housing and Community Facilities GPO changes. She discussed the clarification on the goal for affordable housing, the concept of preferred locations for development, and the community facilities policy discussion. She then outlined the affordable housing policies and the provision requiring that municipalities meet their constitutional obligation regarding affordable housing. The Housing GPOs require that conforming municipalities adopt a housing element, a fair share plan, and necessary implementation ordinances to meet the resource protection requirements of the RMP and the constitutional obligation. She explained that the Affordable Housing Program has been updated to reflect any changes or clarifications. Information on available assistance for eligible projects has been added as well.

Ms. Pasquarelli questioned where in the program it is clarified how the RMP and related resource protection standards may affect municipal obligations. She also stated that she doesn't understand what municipalities are supposed to do when they cannot meet both COAH requirements and requirements in the Highlands Regional Master Plan.

Ms. Swan explained that Council packets contained an updated paper on this issue as a result of Council briefing calls.

Mr. Borden clarified that COAH has not yet considered the implications of the Highlands Regional Master Plan, as it has not yet been adopted, but that the Highlands Act requires that COAH consider the RMP. He explained that COAH's proposed regulations allow for adjustments for resource protection and utility capacity. He stated that the New Jersey Supreme Court has made it clear that believes that environmental protection can be met along with the provision of affordable housing. Mr. Borden then explained that the Council staff will assist municipalities with doing a local analysis.

Ms. Pasquarelli stated that she believes the process in determining the fair share obligations as stated in COAH rules is inconsistent with what Mr. Borden has stated. She explained that she believes that COAH's rules only allow projection to be adjusted upward and may not be lower than COAH's

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projections and she asked for Mr. Borden and the staff to look into this issue. She then expressed her concern that this issue may go to court at the cost of local residents. Ms. Pasquarelli then asked about the timing of the release of the buildout analysis and Ms. Swan stated it will be completed in June and emphasized that it will be a regional analysis. Ms. Pasquarelli added that the buildout analysis is essential.

Chairman Weingart stated that his understanding was that towns, if they believe that the COAH projections are too high, have the ability to go to COAH to request an adjustment. Ms. Swan explained that the municipal buildout analyses will be done with the towns during Plan Conformance to assist conforming towns with any adjustments.

**f. Water Quality Management Planning (WQMP)**

Ms. Swan then presented the issues regarding consistency determinations for WQMP amendments. A staff recommendation was presented that the Council continue to apply the standards in the RMP to limit the use or expansion of wastewater or water supply infrastructure for non-conforming municipalities and to specify that the septic density thresholds in the RMP will not be used for consistency determinations for non-conforming municipalities. It was then clarified that where the NJDEP requires adoptions of municipal ordinances for resource protection, the RMP resource protection standards will be applied and all other relevant RMP requirements would be provided as recommendations.

Mr. Borden discussed the background regarding WQMP amendments as contained in his legal memo to Council. He stated that the septic density requirements in the RMP are more stringent than the NJDEP requirements based upon the more detailed analysis of nitrate concentrations in the Highlands Region. He then stated that this issue is a policy choice and that the Council's direction regarding the staff recommendation was needed. He stated that the Council has previously used the RMP to limit the use and expansion of wastewater and water supply infrastructure in non-conforming municipalities. However, the Council had yet to confront the issue of how the septic density thresholds in the RMP will be used for consistency determinations for non-conforming municipalities. He explained that the staff recommendation was based upon the voluntary nature of Plan Conformance for municipalities in the Planning Area. Dr. Van Abs explained that there are significant differences in the septic densities between NJDEP's rules based on 2 mg/L and the more stringent thresholds used in the Protection Zone and the Conservation Zone within the Highlands Region.

Ms. Pasquarelli asked if the Council members could receive a copy of the PowerPoint presentation and Ms. Swan stated that this will be done and added that the presentations are routinely posted on the Council website after the meeting..

Mr. Borden clarified that the Council has the authority to use the septic densities in the RMP in their consistency determinations for WQMP amendments. Mr. Dillingham discussed the authority of the Council and stated that he did not agree with the memo or the recommendations of the staff. He believes that the Council should use the more strict standards because they are based on a sound scientific analysis. He stated that lessening the septic system requirements will cause more damage to the groundwater and that will be going against what the Council has been directed to do by the

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Highlands Act. He recommended that the septic requirements in the RMP be included for all municipalities.

Ms. Carluccio stated her concerns about the water quality rules. She brought up the concern that there will be pressure on towns to adopt weaker protections. She believes that the Council is starting to go against itself on some of its policies. She thinks it will allow more nitrate pollution. Ms. Pasquarelli pointed out that the Highlands Act directs the Council to protect resources, not to focus on Plan Conformance and while the Council would like to have the towns conform, the Council needs to protect the resources in the Highlands Region.

Chairman Weingart questioned the timing of adopting this recommendation and if it would cause an issue with towns who had already created a plan. Ms. Swan explained that this has already been discussed and will not be an issue. There was discussion on how adopting this recommendation would affect the towns and their decisions on Plan Conformance. It was brought up that the Council needs to protect water and other resources and not focus solely on Plan Conformance.

After a straw vote on the issue, Mr. Weingart stated that there was not a consensus on the staff recommendations. Mr. Weingart then stated that, given the lack of consensus, that counties such as Somerset County be advised that they should analyze the issue using both the septic density requirements in the RMP as well as the standards in NJDEP's rules. Chairman Weingart stated that the Council will return to this issue in the future and would like to be presented with more information from the staff.

Ms. Letts questioned the phrase "growth area" in the Housing program and Mr. Borden explained that the term was used by the New Jersey Supreme Court. Ms. Letts asked for clarification on growth areas in the RMP and agreed to Ms. Swans's suggestion that it be specifically stated in the RMP that this term comes from the Supreme Court's Mount *Laurel* decisions.

**PUBLIC COMMENT:**

**JULIA SOMERS, NJ Highlands Coalition** – Ms. Somers recognized and congratulated Ms. Pasquarelli for her recent planning award. She discussed the importance of standards in the RMP and pointed out that they are hard to find within the document. She also brought up the concern that it is hard to see the proposed changes in the documents presented. Ms. Somers expressed her disappointment in the weakening of the septic standards and believes that it is abandoning the Planning Area. She stated that this will have a profound effect on what happens with COAH and will send a mixed message to the public. She supported the effort of having NJDEP harmonize with the Highlands' rules, but also stated she believes this will be difficult. Lastly, she discussed a property in Harding that is habitat for wood turtles.

**DAVID SHOPE, Lebanon Twp** – Mr. Shope stated that he wants to see the peer reviewed study with health hazards of nitrate standards. He discussed Peregrine falcons and where they have nested. He stated that he thinks that exemptions are being removed from the plan. He explained that the Highlands Act speaks of economic viability, just compensation, and agricultural viability but none of this is being discussed.

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**MONIQUE PURCELL, Department of Agriculture** – She has concerns about critical habitat; for example Objective W, and the fact that there will be no way to meet requirements except through waivers. She explained that there needs to be some flexibility in the RMP. She is concerned with some of the objectives as they will tie the hands of the Council, and they will not be able to allow projects that may be beneficial.

**WILMA FREY, NJ Conservation Foundation** – Ms. Frey stated her support for Council questioning the staff recommendation on septic density standards to be applied in the WQMP. She pointed out that the Highlands Act was passed to protect the critical water supply for the whole region, not just in the Preservation Area.

**DAVID PEIFER, ANJEC** – Mr. Peifer expressed his interest in the septic density issue and urged the Council to use their power for greater protection of water resources. Regarding COAH issues, he believes that with the process of the 3<sup>rd</sup> round rules, it is going to be hard to get municipalities to focus on Plan Conformance. He expressed that the Council needs to take an advocacy roll to protect natural resources and that going through the courts is not the proper way. He then spoke about the section on Clusters and stated that he was unable to understand these provisions and recommended that the staff use the readability and grade tests in the word processing program. He had run some passages with this program and found problems with the reading ease. He recommended working to make the plan easier to read.

**HELEN HEINRICH, NJ Farm Bureau** – Ms. Heinrich commented that if the Council insists that Somerset County recommend its towns to use the septic density, they will be automatically down-zoning those areas. She explained that the Act is about water but also calls for better municipal planning. She recommended that the public be able to contribute at the time an issue is raised during a Council meeting. She also stated that changes should be highlighted to make them easier to understand. In regards to Critical Habitat, she mentioned that they disagree that it has a scientific process and proper support and believes that the maps are incorrect.

**MARIANNE HARRIS – Morris County Trust for Historic Preservation** – Ms. Harris expressed concern that the cultural resource issues haven't been handled or even brought up. She did note that there seem to be more additions of references to historic preservation in regards to the comments they submitted. She stated that the history section is very weak and so is the plan to protect cultural resources. She said that there needs to be a rewrite of these sections by someone who is experienced in these areas.

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Mr. Weingart stated that the next meeting will be in on May 1<sup>st</sup> at 10 am. A motion was made to adjourn and the meeting was adjourned.

**CERTIFICATION**

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Water Protection and Planning Council.

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Laura Forrest, Administrative Assistant

**Vote on the Approval of  
these Minutes**

	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Abstain</u></b>	<b><u>Absent</u></b>
Councilmember Alstede	_____	_____	_____	✓ _____
Councilmember Calabrese	_____	_____	_____	✓ _____
Councilmember Carluccio	✓ _____	_____	_____	_____
Councilmember Cogger	_____	_____	_____	✓ _____
Councilmember Dillingham	_____	_____	_____	✓ _____
Councilmember Kovach	✓ _____	_____	_____	_____
Councilmember Letts	✓ _____	_____	_____	_____
Councilmember Pasquarelli	✓ _____	_____	_____	_____
Councilmember Peterson	_____	_____	_____	✓ _____
Councilmember Schrier	✓ _____	_____	_____	_____
Councilmember Vetrano	_____	_____	✓ _____	_____
Councilmember Way	✓ _____	_____	_____	_____
Councilmember Whitenack	✓ _____	_____	_____	_____
Councilmember Weingart	✓ _____	_____	_____	_____

**PUBLIC COMMENTS SUBMITTED**



ASSOCIATION OF NEW JERSEY  
ENVIRONMENTAL COMMISSIONS

Comments submitted at Highlands Council  
Meeting on April 24, 2008 by Dave Peifer,  
ANJEC Page 1 of 8

## **ANJEC Advisory Notes**

### **“Issues for Further Council Discussion”**

**Prepared by: David Peifer**  
**Highlands Project director**  
**April 2008**

ANJEC has prepared the following “Advisory Notes” to assist the Council in its task of finalizing the Highlands Regional Master Plan. ANJEC provides these notes in the spirit of constructive criticism. ANJEC has prepared this information on its own volition to assist the Council with the “Issues for further Discussion” that the Council has identified. The Association owns no land in the Highlands Region. Preparation of this document is a general part of the Association’s Smart Growth Planning Project, funded in part, by the Victoria Foundation.

#### **Purpose and Intent**

ANJEC is primarily concerned with the implementation of the RMP at the municipal level. With this focus in mind, issues of clarity, acceptability, equity, and efficient administration were primary considerations. Although substantive or factual issues are also treated, the overall objective is to assist the Council in its preparation of an effective RMP that has local “buy-in”, is well received and that will provide local municipalities with the tools needed to achieve the goals of the Act.



I. **Clarity:**

- *The RMP is full of imprecise, confusing and misleading language, exclusive of the content.*
- *Clarity of expression is a minimum requirement of the RMP.*
- *Use of the commonly available readability tests provided in Microsoft Word can identify difficult to understand sections and display the grade level needed for comprehension.*

The RMP is primarily a communications document that must serve the needs of the public, municipalities, and the Council itself. Thus, the language used must be clear, not only to expert users but to a variety of users. Most reviewers that have struggled with the massive RMP document and the Technical Reports have come away with a rather poor understanding of exactly what municipalities should do. Many readers have reported after making a good faith effort to understand the documents they cannot tell what the RMP says, let alone what it means.

Investigating these problems has led to the following observations.

1. At many points, the text does not contain complete sentences, has poor sentence structure or improper use of grammar.
2. Complicated concepts, sometimes unrelated to one another, are “conflated” in critical passages, especially in the Goals, Policies and Objectives.
3. The writing is generally not easy to read.
4. The writing level is well above the expected audiences’ levels of comprehension.

Item one is a traditional writing problem that can be cured by careful editing. Item 2 is more difficult to address in that the document is massive and interrelated. However addressing items 3 and 4 yields some interesting observations.

Microsoft Word contains two widely used and accepted tests to evaluate readability of a document. These tests are widely used in the communications industry and by government agencies, including the Department of Defense. They can readily be applied to text under development.

The first is the “Flesch Reading Ease Test”. The writer can easily run the test and obtain a readability score number. Higher numbers indicate that the document is easier to read. A document with a score of 90-100 could be understood by an 11 year old. A score of 60-70 could be understood by 13-15 year olds. The Reader’s Digest generally has a score of 65, Time Magazine, 52 while the Harvard Law Review scores in the low 30’s.

The second test is the “Flesch-Kincaid Grade Level Test”. The writer can easily run the test and obtain a number, which indicates the grade level to which the document is written. For example, a result of 12 indicates that the reader would need to have a high school education to comprehend the document.

To this point, this document has a Flesch Reading Ease rating of 42.9 and a Flesch Grade Level rating of 11.4. This means that the document is somewhat more difficult to read than Time magazine and could be understood by a high school junior.

ANJEC tested a portion of the RMP selected at random from the Program Summary section of the RMP Program: Cluster Technical Paper. This section appears on p. 246 of the RMP in the Program Summary section. The tested text is:

***“The use of clustering for new development and particularly residential development, is a key mechanism for development siting that can reduce the environmental impacts of development and minimize the potential for conflict between the development and neighboring agricultural activities”.***

The test results for this passage were a reading ease number of 0.0(!) and a grade level of 25.9, more than twice that of a high school graduate. When ANJEC re-wrote the passage attempting to keep the meaning intact the scores improved:

***Clustering development, particularly when applied to residential projects, can reduce environmental impacts and minimize conflicts with farming”.***  
Scores: 0.0-19.4. Still too difficult

***Arranging new buildings in clusters, especially residences, can reduce environmental impacts and minimize conflicts with nearby farms.***  
Scores: 10.4-16.0. Better, but still difficult, requiring a college education

***Arranging buildings in a cluster on a building site can reduce harmful environmental impacts and prevent conflicts with farming.***

Scores: 36.1-12.9. Readable by a high school graduate

***Placing buildings in a cluster on a site can reduce harmful environmental impacts and prevent conflicts with farming”.***

Scores: 42.8-11.7. Most readable, approaching Time Magazine and can be understood by a high school graduate.

The same problems extend to the Goals, Policies and Objectives where clarity of expression is even more critical. For example, Policy 6D3:

***To encourage owners of lands which are eligible for exemptions under the Highlands Act to voluntarily offer their land for acquisition, participate in the TDR program or engage in contiguous or non-contiguous clustering in cooperation with exempt landowners, and comply with standards and criteria which protect the land and water resources of the Highlands Region from any adverse impacts.***

Scores: 0.0-29

Several re-write attempts resulted in a best score of 26.5-13.1, still quite difficult to read. We would observe that the Policy appears to relate primarily to the treatment of exempt lands, involves the TDR program, land acquisition and clustering although it is contained in the section on Cluster Development. This illustrates the “conflation” of issues problem. The Council could reassign all the policies on exempt properties to the Landowner Fairness section or break down the ideas into their appropriate subject areas, for example:

***Owners of exempt properties are encouraged to voluntarily preserve their land by sale or the sale of a conservation easement.*** (Land Preservation policy)

Scores: 34.2-13.4

***Owners of exempt properties are encouraged to sell their development rights by participation in the TDR Program.*** (TDR policy)

Scores: 35.3-12.5



***Owners of exempt properties are encouraged to participate in contiguous or non-contiguous clustering with owners of other exempt properties.***

(Clustering)

Scores: 9.4-16.6

**Conclusion:** The RMP is full of imprecise, confusing and misleading language, exclusive of the content. Municipalities must address content during conformance. Clarity of expression is a minimum requirement of the RMP. Use of the commonly available readability tests provided in Microsoft Word can identify difficult to understand sections and display the grade level needed for comprehension. Use of these test will call out areas needing re-write and guide the approach taken.

## **II. Acceptability:**

- ***Municipalities will continue to assert their home rule authority during conformance.***
- ***Some approaches, such as clustering, advocated in the RMP have been previously tried and rejected by municipalities.***
- ***The Council must avoid “loaded terms” that elicit unwanted responses from municipalities and clearly explain “terms of art” used in the RMP.***
- ***The Council should anticipate considerable difficulty in gaining acceptance of key RMP programs that exceed municipal boundaries, increase perceived government intrusion” of have been outside of the traditional planning process.***
- ***Other key concepts of the RMP such a capacity allocation must be carefully controlled by clear language and stringent policies.***
- ***Concepts such as using HUC 14 areas a planning units will cause initial confusion and resistance.***
- ***Unless the Council clearly articulates what the public trust doctrine means in the context of the Highlands Act and the RMP, important advantage will be lost.***

The existing planning and zoning framework in the region is highly variable. This variability results from the tradition of local control and the manner in which elected and appointed officials create regulations over time. Local control is a jealously guarded tradition among the region’s municipalities. Despite the fact that the power to control land use resides with the state legislature, delegated through the MLUL and recently modified by the

Highlands Act, municipalities will continue to assert their home rule authority. Changing this tradition will continue to prove difficult during conformance.

Importantly many municipalities have explored or tried various techniques that are recommended in the RMP, such as clustering. In some cases, the experience has not been positive and the technique was discredited and dropped. Municipal responses will vary, based on experience. Requiring or strongly encouraging these techniques will result in considerable resistance.

Because of these various histories, the language used in Council publications has the potential to trigger unwanted emotional reactions. Many terms used in the RMP have become “labels” and “code words” over the years of political process during which municipalities developed their ordinances and master plans. Conversely, professional planners and other policy makers, including the Council have developed various “terms of art” with specific and complicated meanings. When these words are used in the RMP, care must be taken to not only trigger unwanted response but to adequately and plainly explain the concept, in a manner acceptable to the municipality.

Overall, the “allowable reach” of government authority will be a background issue in all conformance negotiations. Because of the conservative social, economic, political and cultural traditions in the region, difficulties can be expected on issues that exceed a municipal jurisdiction or those that are unfamiliar to local officials.

Some examples include: contiguous forest protection, groundwater recharge protection, wildlife habitat protection, and watershed protection. These key RMP concerns commonly exceed municipal borders and are poorly developed in municipal planning practice. Some issues, such as the protection of scenic character and aesthetics have traditionally been viewed as being outside the reach of legitimate government control. “You can’t legislate esthetics” is a common refrain throughout the region. Overall, this resistance is ideological in nature. Attempting to address ideological objections which hide behind a mass of “rational” responses by the use of grant funding will probably not work.

Some success can be anticipated in the preservation area where conformance is mandatory. However, even in these situations, municipalities do not clearly perceive the “down side” of not conforming. Explaining the



consequences of not conforming while negotiating conformance and explaining its advantages will place Council staff in a very difficult position.

Other key concepts in the RMP, such as water allocation or capacity allocation will prove unfamiliar or unpopular with the public and local officials. Concepts such as using HUC 14 areas as planning units will cause initial confusion and resistance. Where programs call for allocation decision making, specific "bright line" objectives are called for, not only to guide municipalities but to control Council actions. The current "first come first served" allocation system will need to be controlled and redirected strenuously. It is precisely this existing allocation system that has resulted in the failure of municipal planning to protect the public trust.

The entire concept of the public trust, a fundamental underpinning of the Act, is poorly understood among municipal officials who have, in many cases, viewed the role of planning as the facilitation and management of development. Unless the Council clearly articulates what the public trust doctrine means in the context of the Highlands Act and the RMP, important advantage will be lost.

### **III. Equity:**

- ***The Council must take a clear and proper position on the so-called equity issue and the takings question.***

Perhaps no term has been so distorted by public comment and inaction or lack of response by the Council than the term "equity". It is important to remember that the Act does not use the term but rather speaks to fairness by the creation of a highly questionable (from a policy perspective) appraisal process, numerous exemptions, waivers, the TDR Program, and a land acquisition program.

What the council must establish is the meaning of the term in the context of the Act and the RMP. Is equity, as advocated by numerous commenter's responses: "The money value of a property or an interest in the property in excess of claims or leans against it" or is it rather "Justice according to natural law or right; specifically; freedom from bias or favoritism." The allegations of "taking" and the Council's seeming fear of it have distorted the goals, policies, objectives, and programs of the RMP. The Council must take a clear position on the so-called equity issue and the takings question.

#### **IV. Efficient Administration:**

- *It is difficult to envision how the “re-aligned” planning framework engendered by the conformance process will function at the municipal level.*
- *Changes in the existing pattern of interaction resulting from conformance between municipalities and the Council, DCA, DOT, Green Acres and DOA must be specified.*
- *The Council must provide much more specific information about the resulting configurations of authority desired in the RMP.*
- *Prior to initiating the conformance process, the Council should identify those elements of RMP that are the initial and on-going responsibilities of the municipalities.*
- *Mandatory and optional conformance elements should contain standards and it should be clear what these standards are.*

An overall lack of clarity concerning municipal administration and inter-governmental relationships that would result from conformance is conditioning municipal responses. It remain unclear how the partnership between the Council and local government will work in practice. In addition, it remains unclear to most municipalities how conformance will influence their relations with COAH, (and other elements of DCA, such as the State Planning Commission), the NJ DEP, the NJ DOT, NJ DOA and Green Acres.

ANJEC recognizes that to some degree a period of “muddling” will be needed to establish clear relationships between and among these various entities. However, the Council must provide much more specific information about the resulting configurations of authority desired in the RMP.

Specific program element and the goals, policies and objectives of the RMP may require institutional and business management changes at the local level. The Council should identify those elements of RMP that are the initial and on-going responsibilities of the municipalities, prior to initiating the conformance process.

Although the Council has produced some guidance for municipal conformance, the actual quality and contents of required elements such as ERI's and Master Plans remain unexpressed. It should be clear that standards will be applied and what these standards are.



**DRAFT - FOR CONSIDERATION AT THE APRIL 24, 2008  
MEETING OF THE HIGHLANDS COUNCIL**

**RESOLUTION 2008-  
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS**

**WHEREAS**, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

**WHEREAS**, the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

**WHEREAS**, Section 18 of the Highlands Act authorizes the Highlands Council to make available grants and other financial and technical assistance to municipalities and counties in furtherance of the Regional Master Plan; and

**WHEREAS**, on February 28, 2008 the Highlands Council by Resolution 2008-4 authorized the initiation of a grant application process for Initial Assessment grants to municipalities within the seven Highlands counties in furtherance of Plan Conformance, in an annual amount not to exceed \$1,500,000; and

**WHEREAS**, the Highlands Council staff has reviewed the following grant application and recommends approval by the Highlands Council; and

**NOW, THEREFORE, BE IT RESOLVED** by the Highlands Council that the Executive Director, or her designees, is hereby authorized to enter into a grant agreement with the following municipalities for an Initial Assessment Grant in an amount not to exceed \$15,000:

**CERTIFICATION**

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 24th day of April, 2008.

\_\_\_\_\_  
John Weingart, Chairman

**Vote on the Approval of  
this Resolution**

	✓	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede		_____	_____	_____	_____
Councilmember Calabrese		_____	_____	_____	_____
Councilmember Carluccio		_____	_____	_____	_____
Councilmember Cogger		_____	_____	_____	_____
Councilmember Dillingham		_____	_____	_____	_____
Councilmember Kovach		_____	_____	_____	_____
Councilmember Letts		_____	_____	_____	_____
Councilmember Pasquarelli		_____	_____	_____	_____

**DRAFT - FOR CONSIDERATION AT THE APRIL 24, 2008  
MEETING OF THE HIGHLANDS COUNCIL**

**RESOLUTION 2008-  
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS**

**Vote on the Approval of  
this Resolution**

<b>✓</b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Abstain</u></b>	<b><u>Absent</u></b>
Councilmember Peterson	_____	_____	_____	_____
Councilmember Schrier	_____	_____	_____	_____
Councilmember Vetrano	_____	_____	_____	_____
Councilmember Way	_____	_____	_____	_____
Councilmember Whitenack	_____	_____	_____	_____
Councilmember Weingart	_____	_____	_____	_____

## CHAPTER IV. GOALS, POLICIES, AND OBJECTIVES

### Part 1. Natural Resources

#### Subpart d. Critical Habitat

Biodiversity is the variety of plant species, animal species, and all other organisms found in a particular environment and is a critical indicator of ecological integrity. The protection of habitats that are critical to maintaining biodiversity contributes to the protection of rare, threatened, and endangered plant and animal species of the Highlands Region. As discussed in Chapter II, there are three categories of Critical Habitat in the Highlands Region: 1) Critical Wildlife Habitat (habitat for rare, threatened or endangered species); 2) Significant Natural Areas (regionally significant ecological communities, including habitat for documented threatened and endangered plant species); and 3) Vernal Pools (confined, ephemeral wet depressions that support distinctive, and often endangered, species that are specially adapted to periodic extremes in water pool levels). Critical Wildlife Habitat and Significant Natural Areas are designated based on the presence of, and associated habitat required for the survival and propagation of, species of concern. Vernal pools are certified by the NJDEP, and to protect and promote the biodiversity of vernal pools, the Highlands Council has determined that a terrestrial habitat protection buffer of 1,000 feet around vernal pools will generally address the habitat requirements of vernal pool-breeding wildlife. The Critical Habitat Area for each is established based on mapped information but may be modified based on site-specific field information that disproves the mapped information.

Protection of Critical Habitat will depend heavily on two approaches. A high priority is for municipalities to develop and implement a Council-approved Critical Habitat Conservation and Management Plan that achieves the standards and criteria below, as refined using local scientific knowledge, with incorporation of local planning goals where they do not conflict with the standards and criteria. The Critical Habitat Conservation and Management Plan will be used for both development review and restoration activities. Where a Critical Habitat Conservation and Management Plan has not been approved by Council, site-by-site development applications in municipalities will be required to adhere to the RMP goals, policies and objectives below.

GOAL 1F	PROTECTION AND ENHANCEMENT OF CRITICAL HABITAT.
<b>Policy 1F1</b>	To prohibit through Plan Conformance, local development review and Highlands Project Review the direct impact of new human development or expansion or increased intensity of existing development within Critical Habitat.
<b>Policy 1F2</b>	To assign land within Critical Habitat a high priority for fee simple and/or easement acquisition with periodic monitoring of easement restrictions protecting Critical Habitat, species, and ecological communities from any changes in land use or management practices that would impair these resources.
<b>Policy 1F3</b>	To promote the restoration and enhancement of impaired lands in Critical Habitat.
<b>Policy 1F4</b>	To establish a Habitat Conservation and Management Program, including minimum performance standards and criteria for the protection, enhancement, and restoration of lands within Critical Habitat.
<b>Objective 1F4a</b>	Implement the Habitat Conservation and Management Program through a Critical Habitat Conservation and Management Plan to include performance standards to be required through local development review and Highlands Project Review.
<b>Objective W</b>	Establish performance standards such that all development shall employ low impact

	<p>development best management practices to, in this order, 1) avoid the disturbance of Critical Habitat, 2) minimize impacts to Critical Habitat, and 3) mitigate all adverse modification to Critical Habitat so that there is no net loss of habitat value.</p> <p>Habitat value is quantity (e.g. acreage), quality (e.g. core forest vs. edge forest), type (e.g. scrub-shrub), and function (e.g. winter hibernacula for timber rattlesnakes). The mitigation requirement of no net loss of habitat value shall ensure that all four elements are accounted for and included in the mitigation design. Mitigation must meet the habitat and life-cycle requirements of the specific impacted species.</p>
<b>Objective 1F4b</b>	Establish performance standards that include a requirement and criteria for mitigation of disturbed Critical Habitat. Mitigation shall be required for all adverse modification to Critical Habitat so that there is no net loss of habitat value based on the criteria in Objective 1F4a and Objective W.
<b>Objective 1F4c</b>	Establish performance standards that include criteria for the enhancement or restoration of historically disturbed Critical Habitat.
<b>Objective X</b>	<p>The Critical Habitat Conservation and Management Plan shall include a GIS or map-series Critical Habitat Overlay District for inclusion in municipal master plans to identify Critical Habitat that highlights:</p> <ul style="list-style-type: none"> <li>• Habitat in need of protection from fragmentation and other anthropogenic impacts;</li> <li>• Habitat critical to maintaining wildlife and plant populations; and</li> <li>• Habitat that serves other essential ecosystem functions, including, but not limited to, carbon sequestration and ground water recharge.</li> </ul>
<b>Objective Y</b>	The Critical Habitat Conservation and Management Plan shall include guidelines for a municipal habitat stewardship program, including, but not limited to prevention of habitat fragmentation through open space preservation and corporate, non-profit, and community involvement in creating, protecting, and restoring habitat.
<b>Policy 1F5</b>	To require that applications for any local development review and Highlands Project Review for lands within Critical Habitat be subject to minimum standards and criteria outlined in the Critical Habitat Conservation and Management Plan.
<b>Objective 1F5a</b>	Prohibit direct impacts from new development or expansion or increased intensity of existing development that will jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of Critical Habitat, except as permitted through the issuance of a waiver.
<b>Objective Z</b>	Prohibit indirect impacts from activity that is off-site, adjacent to, or within Critical Habitat that will jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of Critical Habitat, except as permitted through the issuance of a waiver.
<b>Objective 1F5b</b>	Waiver applications for local development in a municipality with a Council-approved Critical Habitat Conservation and Management Plan shall be subject to the minimum standards and criteria for waiver provisions as set forth in the plan, to the maximum extent practicable.
<b>Objective 1F5c</b>	Waiver applications for development in a municipality without a Council-approved Critical Habitat Conservation and Management Plan shall be subject to the low impact development best management practices required in Objective W.
<b>Objective 1F5d</b>	A Vernal Pools buffer may be modified, decreasing vernal pool protection buffers, to the minimum decrease feasible, if an applicant can demonstrate, to the satisfaction of the Highlands Council in coordination with NJDEP's Endangered and Nongame

<b>Objective 1F5e</b>	<p>Species Program, that:</p> <ul style="list-style-type: none"> <li>• In an undisturbed vernal pool, documented and field-determined vernal pool-breeding wildlife require a smaller protective buffer, as documented in scientific literature; or</li> <li>• Existing land uses present a significant, insurmountable and permanent barrier to the migration or viability of vernal pool-breeding wildlife that is infeasible to mitigate.</li> </ul> <p>Requirements for demonstrating the above criteria shall be included in the Critical Habitat Conservation and Management Plan.</p> <p>A Critical Wildlife Habitat area or Significant Natural Area delineation may be modified if an applicant can demonstrate, to the satisfaction of the Highlands Council in coordination with NJDEP's Endangered and Nongame Species Program or Natural Heritage Program, that:</p> <ul style="list-style-type: none"> <li>• The nature of the site is such that it does not provide habitat for species of concern;</li> <li>• The species of concern are not present on the site during any critical part of their life cycle, nor depend upon the site for food, shelter or breeding; or</li> <li>• Existing land uses present a significant, insurmountable and permanent barrier to the use of the site by species of concern that is infeasible to mitigate.</li> </ul> <p>Requirements for demonstrating the above criteria shall be included in the Critical Habitat Conservation and Management Plan.</p>
<b>Policy 1F7</b>	<p>To establish standards and procedures, in coordination with NJDEP's Endangered and Nongame Species Program or Natural Heritage Program, for the identification of lands where it is necessary that Critical Wildlife Areas, Significant Natural Areas, or Vernal Pool buffers be expanded in order to protect a species or ecological community in the event that it is determined that a larger area is required to protect the functional integrity of the habitat.</p>
<b>Policy 1F8</b>	<p>To establish standards and criteria for the identification of critical habitat features in coordination with NJDEP's Endangered and Nongame Species Program or Natural Heritage Program.</p>
<b>GOAL 1G</b>	<p><b>INCLUSION OF CRITICAL HABITAT AREA MANAGEMENT PROGRAMS IN THE MASTER PLANS AND DEVELOPMENT REGULATIONS FOR CONFORMING MUNICIPALITIES AND COUNTIES.</b></p>
<b>Policy 1G1</b>	<p>To require that conforming municipalities and counties identify Critical Habitat and management programs in their master plans and development regulations.</p>
<b>Policy 1G2</b>	<p>To require that conforming municipalities and counties include approved Critical Habitat Conservation and Management Plans in master plans and development regulations.</p>

## CHAPTER V. PROGRAMS

### Part 1. Natural Resources

#### **Critical Habitat Conservation and Management**

##### **Issue Overview**

Biodiversity is the variety of plant species, animal species, and all other organisms found in a particular environment and is a critical indicator of ecological integrity. The protection of habitats that are critical to maintaining biodiversity contributes to the protection of rare, threatened, or endangered plant and animal species of the Highlands Region.

It is important that Highlands Region critical habitat be protected and, where disturbed, be restored in quality, quantity, type, and function. The Highland Act provides for the protection of the Region's critical habitat for fauna and flora. To meet this goal of the Act, several RMP policies and objectives address the requirement for protecting this resource element of the Highlands Region ecosystem.

##### **RMP Policies and Objectives Addressed**

**Policy 1F1.** To prohibit through Plan Conformance, local development review and Highlands Project Review the direct impact of new human development or expansion or increased intensity of existing development within Critical Habitat.

**Policy 1F2.** To assign land within Critical Habitat a high priority for fee simple and/or easement acquisition with periodic monitoring of easement restrictions protecting the Critical Habitat, species, and ecological communities from any changes in land use or management practices that would impair these resources

**Policy 1F3.** To promote the restoration and enhancement of impaired lands within Critical Habitat.

**Policy 1F4.** To establish a Habitat Conservation and Management Program, including minimum performance standards and criteria for the protection, enhancement, and restoration of lands within Critical Habitat.

**Objective 1F4a.** Implement the Habitat Conservation and Management Program through a Habitat Conservation and Management Plan to include performance standards to be required through local development review and Highlands Project Review.

**Objective W.** Establish performance standards such that all development shall employ low impact development best management practices to, in this order, 1) avoid the disturbance of Critical Habitat, 2) minimize impacts to Critical Habitat, and 3) mitigate all adverse modification to Critical Habitat so that there is no net loss of habitat value.

Habitat value is quantity (e.g. acreage), quality (e.g. core forest vs. edge forest), type (e.g. scrub-shrub), and function (e.g. winter hibernacula for timber rattlesnakes). The mitigation requirement of no net loss of habitat value shall ensure that all four elements are accounted for and included in the mitigation design. Mitigation must meet the habitat and life-cycle requirements of the specific impacted species.

**Obiective 1F4b.** Establish performance standards that include a requirement and

criteria for mitigation of disturbed Critical Habitat. Mitigation shall be required for all adverse modification to Critical Habitat so that there is no net loss of habitat value based on the criteria in Objective 1F4a and Objective W.

**Objective 1F4c.** Establish performance standards that include criteria for the enhancement or restoration of historically disturbed Critical Habitat.

**Objective X.** The Habitat Conservation and Management Plan shall include a GIS or map-series Critical Habitat Overlay District for inclusion in municipal master plans to identify Critical Habitat that highlights:

- Habitat in need of protection from fragmentation and other anthropogenic impacts;
- Habitat critical to maintaining wildlife and plant populations; and
- Habitat that serves other essential ecosystem functions, including, but not limited to, carbon sequestration and ground water recharge.

**Objective Y.** The Habitat Conservation and Management Plan shall include guidelines for a municipal habitat stewardship program, including, but not limited to prevention of habitat fragmentation through open space preservation and corporate, non-profit, and community involvement in creating, protecting, and restoring habitat.

**Policy 1F5.** To require that applications for any local development review and Highlands Project Review for lands within Critical Habitat be subject to minimum standards and criteria outlined in the Critical Habitat Conservation and Management Plan.

**Objective 1F5a.** Prohibit direct impacts from new development or expansion or increased intensity of existing development that will jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of Critical Habitat, except as permitted through the issuance of a waiver.

**Objective Z.** Prohibit indirect impacts from activity that is off-site, adjacent to, or within Critical Habitat that will jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of Critical Habitat, except as permitted through the issuance of a waiver.

**Objective 1F5b.** Waiver applications for local development in a municipality with a Council-approved Critical Habitat Conservation and Management Plan shall be subject to the minimum standards and criteria for waiver provisions as set forth in that plan, to the maximum extent practicable.

**Objective 1F5c.** Waiver applications for development in a municipality without a Council-approved Critical Habitat Conservation and Management Plan shall be subject to the low impact development best management practices required in Objective W.

**Objective 1F5d.** A Vernal Pools buffer may be modified, decreasing vernal pool protection buffers, to the minimum decrease feasible, if an applicant can demonstrate, to the satisfaction of the Highlands Council in coordination with NJDEP's Endangered and Nongame Species Program, that:

- In an undisturbed vernal pool, documented and field-determined vernal pool-breeding wildlife require a smaller protective buffer, as documented in scientific literature; or
- Existing land uses present a significant insurmountable and permanent



barrier to the migration or viability of vernal pool-breeding wildlife that is infeasible to mitigate.

- Requirements for demonstrating the above criteria shall be included in the Critical Habitat Conservation and Management Plan.

**Objective 1F5e.** A Critical Wildlife Habitat area or Significant Natural Area delineation may be modified if an applicant can demonstrate, to the satisfaction of the Highlands Council in coordination with NJDEP's Endangered and Nongame Species Program or Natural Heritage Program, that:

- The nature of the site is such that it does not provide habitat for species of concern;
- The species of concern are not present on the site during any critical part of their life cycle, nor depend upon the site for food, shelter or breeding;
- Existing land uses present a significant, insurmountable and permanent barrier to the use of the site by species of concern that is infeasible to mitigate.

Requirements for demonstrating the above criteria shall be included in the Critical Habitat Conservation and Management Plan.

**Policy 1F7.** To establish standards and procedures, in coordination with NJDEP's Endangered and Nongame Species Program or Natural Heritage Program, for the identification of lands where it is necessary that Critical Wildlife Areas, Significant Natural Areas, or Vernal Pool buffers be expanded in order to protect a species or ecological community in the event that it is determined that a larger area is required to protect the functional integrity of the habitat.

**Policy 1F8.** To establish standards and criteria for the identification of critical habitat features in coordination with NJDEP's Endangered and Nongame Species Program or Natural Heritage Program.

**Policy 1G1.** To require that conforming municipalities and counties identify Critical Habitat and management programs in their master plans and development regulations.

**Policy 1G2.** To require that conforming municipalities and counties include approved Critical Habitat Conservation and Management Plans in master plans and development regulations.

## **Program Summary**

The RMP focuses on several areas of action to address the need to protect critical habitat. The *Critical Habitat Conservation and Management Program* will be implemented through a Critical Habitat Conservation and Management Plan to promote consistent standards for the protection, restoration and acquisition of the three categories of critical habitat in the Highlands Region: 1) Critical Wildlife Habitat (habitat for rare, threatened or endangered species); 2) Significant Natural Areas (regionally significant ecological communities, including habitat for documented threatened and endangered plant species)); and 3) NJDEP-certified Vernal Pools (confined, ephemeral wet depressions that support distinctive, and often endangered, species that are specially adapted to periodic extremes in water pool levels).

Protection of Critical Habitat will depend heavily on two approaches. A high priority is for municipalities to develop and implement a Council-approved Critical Habitat Conservation and Management Plan that achieves the standards and criteria below, as refined using local scientific knowledge, with incorporation

**Development of  
Municipal Conservation  
and Management  
Overlay District**

of local planning goals where they do not conflict with the standards and criteria. The Critical Habitat Conservation and Management Plan will be used for both development review and restoration activities. Where a Critical Habitat Conservation and Management Plan has not been approved by Council, site-by-site development applications in municipalities will be required to adhere to the RMP goals, policies and objectives. The Critical Habitat Conservation and Management Plan will include performance standards to be required through local development review and Highlands Project Review.

**Development of Critical  
Habitat Conservation  
and Management  
Guidance**

To protect the Highlands Region Critical Habitat, the Highlands Council will develop or adapt a conservation and management overlay district for use by municipalities for inclusion in municipal master plans. The purpose of the overlay district is to identify Critical Habitat within each municipality, highlighting: habitat in need of protection from fragmentation and other anthropogenic impacts; habitat critical to maintaining wildlife and plant populations; and habitat that serves other essential ecosystem functions such as carbon sequestration and ground water recharge.

The Highlands Council will develop a Critical Habitat Conservation and Management Plan Guidance to be used by municipalities for the inclusion and implementation of protection, conservation and management of Critical Habitat in municipal master plans.

Highlands Council guidance for habitat conservation and management will include, but not be limited to, requirements to avoid Critical Habitat unless allowed by a waiver based on the Highlands Act or for projects that are in conformance with the Critical Habitat Conservation and Management Plan, and low impact development best management practices for such development to, in order of preference: 1) avoid disturbance of Critical Habitat, 2) minimize impacts, and 3) mitigate adverse modification to Critical Habitat; performance and design standards for direct and indirect impacts from development within or adjacent to Critical Habitat; mitigation standards for no net loss of Critical Habitat; restoration of the ecological functions and processes of impaired or disturbed Critical Habitat; procedures for modifications to vernal pool boundaries; procedures for modifications to Critical Wildlife Area and Significant Natural Areas; prevention of habitat fragmentation through open space preservation; corporate, non-profit, and community involvement in creating, protecting, and restoring habitat.

**Ensuring  
Implementation of  
Critical Habitat  
Conservation and  
Management Plan**

Where a development project is proposed, a conforming municipality will require implementation of standards and criteria in the Critical Habitat Conservation and Management Plan as a condition of local approval.

**Implementation of  
Critical Habitat  
Conservation,  
Restoration and  
Management Projects**

The Highlands Council will encourage critical habitat conservation, restoration, and management by public and private landowners, government agencies, non-profit organizations and other interested parties. Opportunities for conservation, restoration, and management include, but are not limited to:

- Redevelopment projects in areas containing previously degraded habitat;
- Stewardship projects of undeveloped land on large corporate campuses;

- Park development capital projects, where restoration of prior damage can be cost-effectively incorporated into the capital project;
- As components of Natural Resources Damage Assessment settlements.

## Subpart g. Lake Management

The management of lands surrounding lakes is an important issue for the Highlands Region. Overdeveloped, damaged and poorly managed shoreland areas can result in the degradation of water quality, harm the lake ecosystem, decrease natural aesthetic values, and cause an overall loss of property values for lake communities. Lakes can be harmed by pollutant sources in the watershed area draining to them. Polluted lakes can, in turn, damage downstream streams and rivers. Most existing lake communities are fully built out, predate modern environmental protection requirements, and have limited potential for major land use changes. Some have sewer systems, but many rely on septic systems (or even cesspools) on inadequately sized lots, where direct contamination of the lakes is possible. Past NJDEP studies indicate that nearly every public lake (privately-owned lakes were not evaluated) is experiencing unacceptable contamination, often including excessive bacteria and nutrients. In addition, many lake communities have been evolving from summer communities to year-round communities, and many are experiencing greatly intensified land uses as the original buildings are torn down and replaced by much larger structures. Addressing land uses within lake communities allows for potential opportunities to improve community value, to protect the cultural and historic resources often associated with lake communities, to protect natural resources and enhance and restore the quality of lake environments in the Region, and in some cases, to allow for in-fill development where appropriate.

GOAL 1L	PROTECTION OF HIGHLANDS REGION LAKES FROM THE IMPACTS OF PRESENT AND FUTURE DEVELOPMENT
<b>Policy 1L1</b>	To establish a Lake Management Area around all Highlands Region lakes of greater than 10 acres in size.
<b>Policy 1L2</b>	To establish tiers of lake management appropriate to management strategies that help protect lake water quality and community value from the impacts of present and future development.
<b>Objective 1L2a</b>	<p>Lake management programs shall use the following management tiers around all Highlands Region lakes of greater than 10 acres in size:</p> <ul style="list-style-type: none"> <li>• A Shoreland Protection Tier consisting of an area measured 300-foot or the first property line perpendicular from the shoreline of the lake;</li> <li>• A Water Quality Management Tier consisting of an area measured 1,000-foot perpendicular from the shoreline of the lake, including the shoreland protection tier;</li> <li>• A Scenic Resources Tier consisting of an area measured 300 to 1,000-foot perpendicular from the shoreline of the lake, scaled based upon the view distance from the opposite shoreline, and determined through the size and layout of the lake, with wider portions of lakes having longer view distances; and</li> <li>• A Lake Watershed Tier consisting of the entire land area draining to the lake, through the evaluation of drainage areas using LiDAR topographic analyses or other topographic data where LiDAR data are not available.</li> </ul>
<b>Policy 1L3</b>	To establish unique standards (as compared to lakes within the Protection and Conservation Zones) for the Lake Community Sub-Zone within the Existing Community Zone within 1,000 feet of lakes, particularly with respect to the Shoreline Protection Tier, to prevent degradation of water quality, harm to lake ecosystems, and promote aesthetic values within the Existing Community Zone.
<b>Policy 1L4</b>	To establish and implement management strategies to help protect lake water quality and ecosystem values from the impacts of present and future development for all lakes.

<b>Objective 1L4a</b>	Implementation of standards through local development review and Highlands Project Review regarding lake ecosystem and water quality in the Shoreland Protection Tier to address direct and proximate impacts upon the lake, including but not limited to shoreline modification and development (including limits to the hardscaping of shorelines using bulkheads, rip-rap and walls), docks, piers, boathouses, dredging, vegetation removal, and increased impervious cover. Pollutant discharges shall also be addressed, including the potential for contamination from septic systems, cesspools and other wastewater management systems within the tier that are failing or are inadequately designed and constructed. As such systems fail, landowners should be required to provide upgraded treatment (whether on-site or through public or community systems) to minimize pollutant movement to the lake. Standards for the Lake Community Sub-Zone and for the Protection and Conservation Zones may be distinct to the extent necessary to recognize the existence of significant development within the Lake Community Sub-Zone.
<b>Objective 1L4b</b>	Implementation of standards through local development review and Highlands Project Review regarding land use compatibility and water quality in the Water Quality Management Tier, to prevent or minimize continuous pollutant sources that can contribute pollutants overland or through ground water to the lake from greater distances than the Shoreland Protection Tier.
<b>Objective 1L4c</b>	Implementation of standards through local development review and Highlands Project Review regarding the protection of visual and scenic resources in the Scenic Resources Tier, including but not limited to requirements for vegetative screening of buildings, building height limitations, and limits on tree and understory removal for reasons other than public health and safety or as the minimum necessary to make reasonable use of the designated building envelope for the parcel proposed for development. Standards for the Lake Community Sub-Zone and for the Protection and Conservation Zones may be distinct to the extent necessary to recognize the existence of significant development within the Lake Community Sub-Zone.
<b>Objective 1L4d</b>	Implementation of lake restoration plans to restore, protect and, where possible, enhance lake water quality through management of pollutant sources in the Lake Watershed Tier, including but not limited to the development, adoption and implementation of TMDLs by NJDEP pursuant to the Water Quality Management Planning Rules, N.J.A.C. 7:15. On-going coordination will be undertaken with the Greenwood Lake and Lake Hopatcong Commissions as well as individual lake associations, as appropriate, regarding lake management issues.
<b>Policy 1L5</b>	To require that conforming municipalities adopt and implement for all lakes the standards applicable to the Shoreland Protection and Water Quality Management Tiers; the standards applicable to the scenic resources tier shall be adopted and implemented for all public lakes (i.e., with shorelines that are not entirely privately-held and managed through a lake association), and for privately-held lakes to the extent feasible under law, recognizing the existence of previously approved lake community development plans.
<b>Objective 1L5a</b>	Shoreland Protection and Water Quality Management Tier requirements shall apply to all new development, regardless of lake ownership.
<b>Objective 1L5b</b>	Scenic Resource Tier requirements shall apply to all lakes with public access and to lakes with no public access that are not entirely managed by a single homeowner or lake community association. For lakes that are privately-held and managed by a single homeowner or lake community association, the scenic resource tier requirements shall be voluntary.

<b>Policy 1L6</b>	To require that conforming municipalities develop and adopt lake restoration plans, with sufficient input from lake community residents and landowners, for each of the municipality's developed lakes that has been identified as water quality impaired, to include watershed delineation, description of point and nonpoint sources of pollution in the watershed, lake monitoring schedules, existing and proposed in-lake management techniques, and recommended watershed best management practices. TMDLs adopted by the NJDEP to address known pollution problems may be used as lake restoration plans. For lakes that are privately-held and managed by a single homeowners or lake community association, the municipality may require that the association share in or assume the costs of developing such plans.
<b>Objective 1L6a</b>	Provide Lake Management Plan guidance to municipalities that includes watershed delineation mapping methodology, point and nonpoint source pollution references, example lake monitoring schedule with monitoring goals and methods, existing successful in-lake management techniques, and best management practices.
<b>Objective 1L6b</b>	Septic systems and cesspools on small lots in close proximity to lakes shall be replaced with upgraded individual treatment systems, communal septic systems or community-based wastewater systems wherever feasible and cost-effective, with the selection of replacement technology to ensure minimal secondary impacts, including potential reductions in net water availability, maximum environmental benefit, and financial viability. Community-based systems should not provide for additional land development capacity except for exempt lots within that existing lake community that are not environmentally constrained, or for areas that are otherwise permitted to have wastewater service under the goals, policies and objectives in Part 2, Subpart d, Sustainable Development and Water Resources.

<b>GOAL 1M</b>	<b>PROTECT THE UNIQUE CHARACTER OF HIGHLANDS LAKE COMMUNITIES</b>
<b>Policy 1M1</b>	To provide guidance regarding evaluation of and standards for lake character and aesthetics that shall be adopted by municipal ordinance for application to public lakes, or that may be voluntarily adopted by privately-owned lake communities within their by-laws and regulations.
<b>Policy 1M2</b>	To encourage increased public access to publicly-owned lakes, within the lake's carrying capacity and while maintaining the lake character.
<b>Policy 1M3</b>	To discourage or control teardowns that result in altered lake community character, and the potential loss of historic and cultural values, and to encourage community-supported limitations in lot coverage and building height for new construction.
<b>Policy 1M4</b>	To establish and implement performance and development standards through local development review and Highlands Project Review for shoreline uses which achieve compatibility among shoreline activities and nearby neighborhoods.
<b>Policy 1M5</b>	To encourage municipalities to utilize recreational sites as opportunities to educate the public regarding the ecological value of lake environs.
<b>Policy 1M6</b>	To encourage municipalities to explore appropriate means to provide public recreation at the shoreline and on the water while ensuring retention of opportunities for passive recreation (e.g., natural areas, open space).

<b>GOAL 1N</b>	<b>MAINTAIN PUBLIC AND PRIVATE LAKES, OR RESTORE LAKE BEDS AND DOWNSTREAM AREAS WHEN LAKES ARE DRAINED</b>
<b>Policy 1N1</b>	To develop innovative financing and administrative mechanisms for the maintenance and operation of public and private dams and lakes, where those dams and lakes provide a continuing public or private purpose.
<b>Policy 1N2</b>	To restore appropriate habitats in the lake beds and to prevent, mitigate or restore downstream habitats from damages due to lake drainage, when dams are allowed to fail or are deliberately breached or removed.



### Subpart c. Steep Slopes

Steep slopes within the Highlands Region play an important ecological, recreational, scenic and functional role. Steep slopes and rocky ridgelines provide specialized habitats that are home to rare plant and animal species. Areas of steep slope provide popular recreational opportunities including hiking, climbing and wildlife observation. Ridgelines, hillsides and steep slopes provide scenic views and vistas, which contribute to the rural character of the Highlands Region and help to define the landscape. Disturbance of areas containing steep slopes can trigger erosion and sedimentation, resulting in the loss of topsoil. Silting of wetlands, lakes, ponds and streams damages and degrades wetland and aquatic habitats, especially trout streams that are found throughout the Highlands and receive the State's highest water quality protections. Steep slope disturbance can also result in the loss of habitat quality, degradation of surface water quality, silting of wetlands, and alteration of drainage patterns. These processes, when severe, can also result in land slumping and landslides that can damage both developed property and ecosystems. The severity and extent of slopes, soil characteristics and land cover all affect the potential for damages from the disturbance of steep slopes. The identification and classification of steep slopes is important in order to effectively manage critical natural resources in the Highlands Region.

<b>GOAL 1E</b>	<b>PROTECTION AND ENHANCEMENT OF THE NATURAL, SCENIC AND OTHER RESOURCES OF THE HIGHLANDS REGION BY PROTECTION OF STEEP SLOPES FROM INAPPROPRIATE DEVELOPMENT AND DISTURBANCE</b>
<b>Policy 1E1</b>	To develop, maintain and improve a mapped inventory of steep slope areas in the Highlands Region.
<b>Objective 1E1a</b>	A mapped inventory of the Steep Slope Protection Area in the Highlands Region showing areas that are a minimum of 5,000 square feet for any combination of the following categories of steep slopes: a) 10% to less than 15%, b) 15% to less than 20%, and c) 20% and greater.
<b>Objective 1E1b</b>	Periodic updates and refinements to the Steep Slope Protection Area.
<b>Objective 1E1c</b>	Apply LiDAR to develop a 2-foot interval contour topographic map as a basis for refining the identification of the Steep Slope Protection Area.
<b>Policy 1E2</b>	All lands with slopes of 20% or greater and lands within Riparian Areas with slopes of 10% and greater shall be considered as Severely Constrained Slopes.
<b>Policy 1E3</b>	All non-Riparian Area lands having a slope of 15% to less than 20% which are forested shall be considered Moderately Constrained Slopes.
<b>Policy 1E4</b>	All non-Riparian Area lands having a slope of 15% to less than 20% which are non-forested with one or more of the following characteristics shall be considered Constrained Slopes: a) highly susceptible to erosion; b) shallow depth to bedrock; or c) a Soil Capability Class indicative of wet or stony soils.
<b>Policy 1E5</b>	All non-Riparian Area lands having a slope of 15% to less than 20%, which are non-forested, are not highly susceptible to erosion, and do not have a shallow depth to bedrock or a Soil Capability Class indicative of wet or stony soils, shall be considered Limited Constrained Slopes.

<b>Policy 1E6</b>	To require through local development review and Highlands Project Review that applications for development include topographic information identifying the location of any Steep Slope Protection Areas located on the parcel proposed for development.
<b>Policy 1E7</b>	To require through local development review and Highlands Project Review that applications for development involving parcels of land with slopes of 10% or greater include identification of forested lands, areas which are highly susceptible to erosion, depth to bedrock and Soil Capability Classes.
<b>Policy 1E8</b>	To prohibit through local development review and Highlands Project Review land disturbance within areas which are Severely Constrained Slopes and Moderately Constrained Slopes, except for linear development in both the Preservation and Planning Areas that meets the requirements of N.J.A.C. 7:38-3.8(c)1-4.
<b>Policy 1E9</b>	To require through local development review and Highlands Project Review the use of low impact best development practices for any land disturbance or human development within areas which are Constrained or Limited Constrained Slopes, or that involves an approved disturbance of a Severely Constrained or Moderately Constrained Slope.
<b>Policy 1E10</b>	To require that conforming municipalities and counties implement the steep slope protection provisions of Policies 1E2 through 1E9 through master plans and development regulations.
<b>Policy 1E11</b>	To provide technical guidelines and assistance in support of Plan Conformance activities.

## **Subpart b. RMP Updates**

### **Issue Overview**

The RMP addresses the requirements of the Highlands Act to provide guidance to municipalities and counties for the implementation of the resource protection and smart growth policies during Plan Conformance. The Highlands Council recognizes that the RMP was created at a regional scale and that new, updated or additional information available at the federal, State, county, municipal or public level may become available. The *RMP Updates Program* outlines the processes for making RMP Updates to the numerous components of the RMP including the Land Use Capability Map Series (LUCM Series), other RMP maps, and supporting base data layers, and the tracking of these changes.

### **RMP Policies and Objectives Addressed**

Policy 6A1. To use the Land Use Capability Map Series (LUCM Series) as a geographic framework for land use planning and management within the Highlands Region.

Objective 6A1a. A Highlands Land Use Capability Map Series based on the most current and available data.

Policy 6A2. To develop a program for RMP Updates for all substantive components of the RMP based upon the receipt of new, corrected or updated factual information and verification by the Highlands Council, when and where necessary to improve the accuracy of the RMP.

Objective 6A2a. The facilitation and coordination of the exchange of factual information for the purpose of updating municipal and county planning elements and the RMP.

Objective 6A2b. An ongoing update process to accept factual updates, verify the information and use it, when and where necessary, to improve the accuracy of the RMP.

Objective 6A2c. A centralized repository for verified and approved factual updates which can be administered locally and shared regionally.

### **Program Summary**

The RMP Updates Program is designed to facilitate and coordinate the exchange and verification of updated, relevant factual information. As a result the RMP will reflect the most current data for use during Plan Conformance. The RMP Updates Program is an iterative process with the exchange, verification and administration of factual information between the Council and local government units. It is intended to enhance existing data necessary for local planning which results in up to date, reliable information to be used in municipal and county master plan elements and the RMP.

The Council has developed numerous spatial data layers in support of the RMP. Some were used directly to develop the LUCM Series, while others will be used primarily for Plan Conformance or Project Review. The Historic and Cultural Sites data layer is an example of a base data layer that was not used in the development of the LUCM Series, but will be used during Plan Conformance and Highlands Project Review. Some of the base data layers are updated

regionally or statewide on a periodic basis by State or Federal agencies or updated by the Council. Where a base layer is updated on a regional or statewide scale, such as NJDEP Land Use Land Cover, the Council will periodically evaluate the extent to which RMP Updates are appropriate using the new information.

## **RMP Updates Process**

The RMP Update Program will begin immediately upon Plan Adoption and will provide conforming municipalities and counties with an opportunity to review and confirm factual information and data. Much like an inventory, the existing land, resource and infrastructure conditions serve as the basis for municipal and county planning elements and the RMP.

With guidance from the Council, municipalities and counties are encouraged to evaluate and update the factual information used in the development of the RMP with local and site-specific data. This program has been developed to ensure that RMP Updates are delivered with consistent standards, supported with appropriate documentation, is coordinated and verified with administrative agencies, to support existing land and resource conditions.

Since land use and resources conditions change over time, the RMP Updates Program is an on-going and iterative process. The Council supports the review and confirmation of existing land and resource conditions during Plan Conformance until such time that a municipality or county has successfully conformed to the RMP. For conforming municipalities and counties, the RMP Update Program serves to encourage future updates so that changing land conditions and resources are tracked over time in an efficient and transparent manner through Highlands Project Review or as part of scheduled RMP Updates performed by the Council.

Non-conforming municipalities are equally encouraged to submit RMP Updates; however, processing priority will be given to those municipalities and counties who have achieved Plan Conformance or who have filed a letter of intent to pursue Plan Conformance. The Council will also develop RMP Update procedures that will provide additional details such as the use of web based RMP Update applications, a list of base layers, administrative agencies, and digital submission standards.

There are numerous Council data layers that may be improved with input from municipal and county information. These base layers are important to municipal and county master plans, local initiatives and the RMP. The Council will facilitate updates and the RMP Updates procedures will identify the format in which updates may be processed and, where appropriate, will identify an appropriate administrator for an update to Council base layers.

## **RMP Updates - Digital Submission Standards**

For all RMP Updates, the digital submission standard will assist the Highlands Council and its participating entities in receiving, processing, utilizing, maintaining and disseminating digital data. All digital submissions shall meet the NJDEP Geographic Information System Mapping and Digital Data Standards (N.J.A.C. 7:1D Appendix A) and the following minimum requirements:

1. All digital geospatial data must meet or reference published standards such as those defined by the Federal Geographic Data Committee or a defined survey standard, regardless of scale. Testing against base maps or photography of known accuracy determines the accuracy of data. This will ensure appropriate positional accuracy of the geographic data, and therefore, compatibility of digital information.
2. All digital geospatial data must be provided to or produced for the Council as GIS Shape Files (.SHP) and are required to be in North American Datum 1983 (NAD83) horizontal geodetic datum, and in the New Jersey State Plane Coordinate System (SPC) or the most current SPC and in an ARCGIS compatible format.
3. All digital geospatial data must be documented using the Federal Geographic Data Committee (FGDC) Metadata Standard or be compliant with the FGDC metadata standard.

Any submissions to the Highlands Council that do not satisfy the requirements shall be deemed incomplete and no further action shall be taken. See the NJDEP Geographic Information System Mapping and Digital Data Standards (N.J.A.C. 7:1D Appendix A) for the complete submission standards.

## **RMP Updates Tracking**

All Council approved RMP Updates will be documented and publicly available. To provide an accurate picture of the progression that the RMP and LUCM Series takes over time, RMP Updates that are made shall be maintained in a database and as GIS spatial data in accordance with Highlands data management and data sharing protocols.

## Subpart g. Housing and Community Facilities

The Highlands Regional Master Plan seeks to address a full range of housing needs for the Region. This includes housing needs for low and moderate income ranges as well as middle and upper income ranges. In addition, the Region should support a variety of housing types such as rental housing, multi-family housing, age-restricted housing, and supportive and special needs housing. Housing issues can be complex and are related to economic, social, and environmental considerations. Communities should plan for a sensible balance of land uses, including job and housing opportunities, open space, services, and community facilities. The Highlands Regional Master Plan seeks to provide mechanisms to address the need to have a full range of variety and choice in housing opportunities in the Highlands Region, while protecting the character and natural resources of the Region and acknowledging infrastructure limitations.

<b>GOAL 60</b>	<b>MARKET-RATE AND AFFORDABLE HOUSING SUFFICIENT TO MEET THE NEEDS OF THE HIGHLANDS REGION WITHIN THE CONTEXT OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL CONSIDERATIONS AND CONSTRAINTS.</b>
<b>Policy 601</b>	To establish a region-wide, comprehensive approach to addressing residential needs in the Highlands Region, serving all age groups, income levels, and mobility options.
<b>Objective 601a</b>	A comprehensive Highlands housing program addressing regional housing needs within the context of preserving the character and environmental integrity of the Highlands.
<b>Objective 601b</b>	An interagency partnership with COAH in support of the achievement of both the resource protection requirements of the RMP and the municipal constitutional obligation, in growth areas, to provide a realistic opportunity for the construction of a fair share of affordable housing for low and moderate income households.
<b>Objective 601c</b>	Preserve and monitor existing stocks of affordable housing.
<b>Policy 602</b>	To promote, where appropriate and permitted by LUCM zone, center-based development approaches that address a mix of housing types, support mixed uses, and implement compact development approaches.
<b>Policy 603</b>	To promote, where appropriate and permitted by LUCM zone, affordable housing within new residential and mixed use development, redevelopment, or adaptive reuse projects.
<b>Policy 604</b>	To encourage the targeting of new housing to areas with compatible existing densities and within walking distance of schools, employment, transit, and community facilities and services.
<b>Policy 605</b>	To locate and maintain community facilities and services that support compact development patterns, shared services, and provide a high level of service.
<b>Policy 606</b>	To require that conforming municipalities identify existing and planned community facilities and encourage shared service opportunities as part of the

	local Community Facility Plan element.
<b>Policy 6O7</b>	To require that conforming municipalities implement both the resource protection requirements of the RMP along with the New Jersey Supreme Court's doctrine, in its <i>Mount Laurel</i> decisions, that every municipality in a growth area has a constitutional obligation to provide through its land use regulations, sound land use and long range planning, a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate income families.
<b>Policy 6O8</b>	To require that conforming municipalities update and adopt a housing element, fair share plan, and implementing ordinance(s) to reflect current conditions and resource protection requirements of the RMP.



## **Housing and Community Facilities**

### **Issue Overview**

Housing is a major component of the land use patterns in the Highlands Region. The goals and policies of the RMP seek to address a full range of housing needs for the Region within the context of resource protection needs and sustainable development patterns. Housing costs in the Highlands, as across the State, continue to reflect the trend of increased values. Housing and community facilities issues for the Region include: addressing housing issues for all income groups including low and moderate income ranges, the relationship of employment opportunities to housing, encouraging efficient community facilities, and protecting community quality of life.

To ensure that housing is compatible with regional needs, the Region should support a variety of housing types such as rental housing, multi-family housing, age-restricted housing, and supportive and special needs housing. Agriculture is an important part of the essential character of the Highlands Region's culture, landscape, and economy. Agriculture presents unique housing requirements in order to sustain the agricultural economy, such as farm labor housing (both seasonal and long-term) and the use of clustered and center-based development (to minimize development conflicts with agriculture). The RMP seeks to provide mechanisms to address the need to have a full range of variety and choice in housing opportunities in the Highlands Region and encourages municipal participation in the Council on Affordable Housing (COAH) Substantive Certification program.

The RMP guides development away from environmentally sensitive and agricultural lands and promotes compact development and redevelopment in areas where adequate public facilities are available to serve new growth, provided that it is compatible with existing land uses and community character. Many of the RMP policies and objectives reflect the need for a range of housing opportunities. A regional balance of housing opportunities located in economically mixed communities with access to employment and services is encouraged in the Highlands. The long term integrity of the Highlands Region involves sustainable economic and fiscal health of the Highlands communities as well as preservation of its natural resources. It also supports economic improvement, in the context of greater land, infrastructure and resource efficiency.

Several agencies and initiatives throughout the state play a role in supporting the RMP housing policies including the State Development and Redevelopment Plan, COAH, the Governor's Affordable Housing Initiative and individual municipal and non-profit efforts. In the Highlands Region, the approach to housing will

**RMP Policies and  
Objectives Addressed**

require a comprehensive analysis of conditions and a variety of approaches and mechanisms will be considered.

**Policy 6B3.** To promote compatible growth opportunities that include in-fill development, adaptive re-use, redevelopment, and brownfields redevelopment in existing developed areas.

**Policy 6B4.** To promote land uses which create a sense of place with attractive, walkable neighborhoods that support community connectivity of developed lands and community facilities.

**Objective 6B4a.** Communities of place with a mix of uses which promote multi-purpose trips, through proximity of neighborhood retail, commercial and entertainment uses to residential land uses that create communities that are largely self-sufficient regarding daily needs.

**Objective 6B4b.** Communities of place with a pattern of development which promotes walking and biking.

**Policy 6B5.** To integrate public parks and green spaces into development and redevelopment projects and ensure restoration of impaired natural resources to the extent required by law, at a minimum, and where feasible to a greater extent to maximize long term value of the project.

**Objective 6B7a** Center based development initiatives should be planned where appropriate and permitted by LUCM zone and where consistent with the State Development and Redevelopment. Center based development at a density of five dwelling units and above is encouraged in areas designated as TDR Receiving Zones where benefits under the Highlands Act will be applied. Attainment of any density thresholds is discretionary, and shall be consistent with the resource and capacity goals and requirements in this plan. Centers in the Protection Zone and Conservation Zone, potentially including clustered development, shall be at densities appropriate to the zone, the community character and the use of septic systems or community wastewater systems.

**Policy 6I1.** To encourage, where appropriate and desired by the municipality, new growth and development in the Existing Community Zone in the form of center based and mixed use development.

**Policy 6L2.** To require that conforming municipalities utilize the Highlands Build-out Model and Fiscal Impact Analysis as tools in the identification of appropriate areas for development, redevelopment and brownfields opportunities.

**Policy 6N3.** To require conforming municipalities and counties to incorporate programs for community and neighborhood design that support a variety of housing options for people with different income levels and different needs, mixed uses, redevelopment,

adaptive re-use of historic sites and structures, and infill development in their master plans and development regulations.

**Policy 6O1.** To establish a region-wide, comprehensive approach to addressing residential needs in the Highlands Region, serving all age groups, income levels, and mobility options.

**Objective 6O1a.** A comprehensive Highlands housing program addressing regional housing needs within the context of preserving the character and environmental integrity of the Highlands.

**Objective 6O1b.** An interagency partnership with COAH in support of the achievement of both the resource protection requirements of the RMP and the municipal constitutional obligation, in growth areas, to provide a realistic opportunity for the construction of a fair share of affordable housing for low and moderate income households.

**Policy 6O1c.** Preserve and monitor existing stocks of affordable housing.

**Policy 6O2.** To promote, where appropriate and permitted by LUCM zone, center-based development approaches that address a mix of housing types, support mixed uses, and implement compact development approaches.

**Policy 6O3.** To promote, where appropriate and permitted by LUCM zone, affordable housing within new residential and mixed use development, redevelopment, or adaptive reuse projects.

**Policy 6O4.** To encourage the targeting of new housing to areas with compatible existing densities and within walking distance of schools, employment, transit, and community facilities and services.

**Policy 6O5.** To locate and maintain community facilities and services that support compact development patterns, shared services, and provide a high level of service.

**Policy 6O6.** To require that conforming municipalities identify existing and planned community facilities and encourage shared service opportunities as part of the local Community Facility Plan element.

**Policy 6O7.** To require that conforming municipalities implement both the resource protection requirements of the RMP along with the New Jersey Supreme Court's doctrine, in its Mount Laurel decisions, that every municipality in a growth area has a constitutional obligation to provide through its land use regulations, sound land use, and long range planning a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate income families.

**Policy 6O8.** To require that conforming municipalities update and adopt a housing element, fair share plan, and implementing ordinance(s) to reflect current conditions and resource protection

## Program Summary

requirements of the RMP.

**Policy 3A7.** To permit through local development review and Highlands Project Review limited development, including family and farm worker housing in Agricultural Resource Areas which are accessory to and/or supportive of sustainable agriculture, subject to compliance with the resource management programs of the RMP.

**Objective 3A7a.** Implementation of regulations which allow for construction of ancillary structures and housing for family and farm workers that are necessary to support farm operations, upon a demonstration that the proposed development is consistent with the resource protection goals of the RMP.

The creation and maintenance of housing of all types has several important effects on communities and the Highlands Region as a whole. In particular, housing is linked to the sustainability, diversity, and quality of life for the Region. Ultimately, housing costs and community quality determine who can and will live in a particular area. Opportunities should be created for all residents through the most efficient use of the land and resources with development taking place in conformance with RMP policies to protect the environment, while maintaining low costs.

In order to create and ensure a sustainable range of housing opportunities for the Highlands Region, this program addresses the following:

- Variety and choice of housing. There is a need for options in the creation and maintenance of housing, including affordable and mixed use housing, as well as alternative housing schemes such as farm labor housing. Housing should be located in close proximity to employment centers to minimize the social and environmental costs of longer commutes. Sufficient housing for working families is crucial to the long-term sustainability of business and commercial enterprise in the Highlands Region.
- Affordable housing in the Highlands Region should be created and maintained. Municipalities in growth areas have a constitutional obligation to provide a realistic opportunity for the construction of a fair share of affordable housing for low and moderate income families.
- Housing and community facilities should be built in appropriate locations using smart growth approaches to community building that strive to create compact, energy efficient, walkable communities, offering residents high quality of life. Housing should be targeted to areas with existing higher densities and minimal environmental constraints, within walking distance of schools, employment, services, transit, and community facilities with sufficient capacity.
- Housing metrics for the region should be developed and tracked over time in order to identify long term regional trends and

## Housing Affordability

issues.

- Finally, the Highlands Council shall provide technical assistance, coordination with other state agencies, and incentives to housing initiatives that are consistent with the goals of the RMP.

The New Jersey Supreme Court has determined, in its Mount Laurel decisions, that every municipality in a growth area has a constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate income families. The Supreme Court also demands that municipal land use regulations affirmatively afford a reasonable opportunity for a variety and choice of housing including low and moderate cost housing, to meet the needs of people desiring to live there. While the actual construction of that housing is not required, municipalities are encouraged but not mandated to expend their own resources to help provide low and moderate income housing. COAH has primary jurisdiction for the administration of housing obligations in accordance with regional planning considerations. The Highlands Council is coordinating with COAH to ensure that municipalities meet their housing obligations and that affordable housing is planned and sites are designed to meet the resource protection requirements of the RMP. Through sound planning, both resource protection and affordable housing goals shall be achieved in the Highlands.

The Highlands Act requires that COAH take the RMP into consideration prior to making a determination regarding the allocation of the prospective fair share of the housing need for each of the eighty eight municipalities in the Highlands Region. COAH has created a process to approve an adjustment of the present and prospective fair share based upon available vacant and developable land, infrastructure considerations or environmental or historic preservation factors. The *Land Use Capability Analysis Approach Program* outlines the Highlands Council's approach for determining conforming municipality's land use capability, combining land, resource, and utility based capacity considerations. Municipal conformance with the RMP requires that municipalities adopt a new or updated housing element, fair share plan, and implementing ordinance(s) that incorporate affordable housing obligations and local land use capability. The municipal housing element should be designed to achieve the goal of providing affordable housing to meet the fair share obligation, by demonstrating that existing zoning or planned changes in zoning provide adequate capacity to accommodate household and employment growth projections. The fair share plan should describe the mechanisms and funding sources, if applicable, by which a municipality proposes to address its affordable housing obligation.

It should be noted that RMP resource protection standards may also impact the ability of unbuilt sites to be developed for affordable

housing, and municipalities may need to amend their plans to provide alternate mechanisms to address prior round obligations.

In order to meet RMP housing policy requirements, conforming municipalities shall, consistent with the Fair Housing Act, either petition COAH for a substantive certification of its housing element and ordinances or institute an action for declaratory judgment granting it repose in the Superior Court. Participation in the Substantive Certification program is encouraged and provides protection from exclusionary zoning litigation (also referred to as builder's remedy lawsuits), flexible options for addressing affordable housing obligations, and priority for state funding. Additionally, it allows municipalities to collect development fees to fund housing initiatives and to exercise Regional Contribution Agreements.

The strategies for meeting affordable housing obligations in the Highlands Region will require consistency with critical resource protection and other goals of the Highlands Act. In the Preservation Area, where future development is limited, it is especially important to evaluate innovative options for fulfilling municipal affordable housing needs. In addition to the aforementioned requirements, the following mechanisms will be used to address regional needs:

- Support the creation and enhancement of partnerships for affordable housing between municipalities, counties, non-profits or other housing authorities.
- Maximize the opportunities of State and Federal programs, technical assistance and planning, and agency coordination to ensure regional initiatives are met. Use existing State and Federal programs that assist in the production of new affordable units, the preservation of existing affordable units, and protection of units for people with special needs.
- The Highlands Build out model and RMP will serve in support of identifying local and regional housing needs. Conforming municipalities will evaluate housing opportunities using local knowledge and the Highlands Build out model to evaluate and understand long range local and regional housing needs.
- Partner with COAH and municipalities to identify and inventory existing planned affordable units and to ensure that outstanding affordable housing obligations are fulfilled in a manner that is consistent with NJDEP Highlands Rules (as applicable) and RMP required resource protection standards.
- In support of long term planning and the *RMP Monitoring Program*, develop indicators that may serve as an assessment tool in gauging the level of success in providing a full-range of housing within the Highlands Region.

(See *Plan Conformance Guidelines Technical Report* for details regarding requirements related to Conformance with the RMP)



## **Farm Labor Housing**

The objective of this program component is to support human development, including both seasonal and non-seasonal farm labor housing which are accessory to and/or supportive of sustainable agriculture, subject to compliance with the RMP resource management programs. Coordination with the Department of Agriculture, the State Agricultural Development Committee, County Agriculture Development Boards and other interested parties will be necessary to further examine best practices and limitations that exist in support of this initiative. (See *Agricultural Management and Sustainability Program* for additional details)

## **Housing Approaches - Smart Growth, Housing, and Community Facilities**

Inefficient land use and sprawl development patterns have created fiscal stresses and economic imbalances in the Region, resulting in a need for a smart growth approach in support of achieving regional housing needs. The goal of this approach is to use land more efficiently and in a manner that facilitates economically vibrant communities, complete with jobs, houses, shopping, recreation, entertainment, and multiple modes of transportation, as a means to promote community health and sustainability. This program component supports a housing mix that conceives of housing opportunities as a continuum of housing types, each of which offers specific opportunities, not only to the marketing of housing choices at a wide range of values, but also for housing types that can fit into specific environments or provide specific market opportunities. It also assures that the land area, yards, and other elements of a housing type are set to a level that produces quality design.

Community facilities provide essential services to residents of the Highlands, including emergency services, libraries, schools, and community centers. Community facilities should be responsive to physical and demographic changes in the region, while still providing a high level of service. RMP policy encourages the use of energy efficient or green building techniques and the use of shared services or co-location; which can reduce overall costs of services.

The program component seeks to identify ways to form livable, walkable communities in the Highlands Region. Using the *Highlands Smart Growth Manual*, *Community Development and Design Guidebook Program*, *Redevelopment Program*, *Highlands Development Credits Program*, and *Cluster Development Program*, municipalities will be given the tools to implement smart growth planning approaches. Example smart growth approaches include:

- Maximize the efficient use of existing infrastructure, in the form of redevelopment, infill, and adaptive reuse;
- Target housing opportunities in centers and existing communities rather than in sprawling land use patterns;
- Implement compact forms of development that support center-based development, with the use of clustering, lot-averaging and conservation development approaches, especially in environmentally sensitive areas. Increase the flexibility of zoning



### **Housing Approaches - Green and Energy Efficient Facilities**

ordinances to address the need for smaller building footprints; and

- Encourage approaches for integrated community facilities that enhance the community and do not duplicate services. Support the nexus between housing and community facilities through evaluation of jobs to housing balance, transit enhancements, education facilities, recreational programs, and opportunities for maximizing shared services and infrastructure investments as related to local government fiscal and community sustainability.

This program will support the implementation of green building and energy efficient technology in the rehabilitation, redevelopment and development of facilities including but not limited to housing throughout the Region. Recent innovations in building practices and development regulations reflect significant energy efficiency measures through building materials, energy efficient appliances, water conservation measures, innovative and alternative technologies that support conservation practices and common sense practices such as recycling and re-use.

Using the *Smart Growth Manual*, *Efficient Use of Water Program*, *Low Impact Development Program*, and *Community Development and Design Guidebook Program*, municipalities will be given the tools to implement green building technology, including water conservation and energy efficient practices. Topics include:

- Increasing the efficiency of land, resources, and utilities, by promoting green technology and energy efficient housing;
- Promote the use of green building site design, efficient water management, energy efficient technologies, building materials and equipment, and retrofitting inefficiencies;
- Coordination with the Sustainable State Institute, Board of Public Utilities, the Green Building Society and alternative energy agencies and non-profit entities; and
- Education and outreach to stakeholders in support of RMP initiatives.

### **Housing Metrics – Jobs-to-Housing Balance**

The Highlands Region and the State overall have a disparity between jobs and housing opportunities, forcing increased commutes by automobile. Jobs-to-housing balance is a tool that can assist in achieving a general balance between the number of jobs and housing units in a municipality or sub-region. Land development patterns and zoning regulations that permit mixed-use communities are able to offer housing opportunities near employment centers which support the reduction of tailpipe emissions and the number of hours that vehicles are operating, and increase efficiency in public infrastructure and services, all of which benefit quality of life. Through sound planning practices that support both resource protection and appropriate growth, the goal of community economic sustainability may be realized.

**Housing Metrics –  
Regional Development  
Activity Monitoring**

The RMP's goal for housing is to ensure that market-rate and affordable housing are available and sufficient to meet the needs of the Highlands Region within the context of the Highlands Act goals for protection of regional character and environmental integrity. To that end, a regional balance of housing opportunities located in economically mixed communities with access to employment and services is encouraged in the Highlands. In support of these objectives, an evaluation of the jobs-to-housing balance has been performed by the Highlands Council for the Region in order to evaluate the relationship between employment (sector, amount, type, and wage ranges) and housing opportunities (amount, type, tenure, and costs as a percentage of household income) in each municipality and sub-region of the Highlands.

The analysis incorporates both qualitative and quantitative components, and will be provided to municipalities during Plan Conformance. The analysis includes the following components:

- Calculations of the amount and type of employment and housing and the existing jobs-housing ratio;
- Identification of target jobs-housing ratios based on local conditions; and
- Evaluation of future land use scenarios through the Build out Analysis and the potential effects to local and regional jobs and housing balance.

In support of long term planning, housing indicators will serve as a tool in tracking the amount and type of construction that occurs throughout the Region. Housing metrics, including certificate of occupancy, estimated construction cost data, and the distribution of affordable housing for Highlands municipalities will continue to be collected and monitored by Highlands Council to serve as an indicator for a long term trend evaluation of development activity in the Region. Data include:

- Certificate of occupancy by building type;
- Estimated cost of construction, including figures for residential and non-residential new construction, additions, and alterations;
- Housing metrics including market value and costs, vacancy rates, and tenure; and
- Spatial data regarding the distribution of existing affordable housing units.

**General Assistance for  
Eligible Projects –  
Agency Coordination**

Inter-agency coordination between the Highlands Council and other key players is important, particularly COAH. This coordination will allow both the Highlands Council and outside agencies to share data and technologies, provide innovative municipal options, promote regional approaches, ensure that regional initiatives are supported by state economic and housing programs, and generally support affordable housing development in the Highlands Region.

**General Assistance for**

The Council will provide technical assistance related to housing

**Eligible Projects –  
Technical Assistance**

issues. Technical assistance and support is available for the following activities:

- Technical assistance and coordination with COAH.
- Information regarding funding for housing initiatives through existing resources. Currently, State and federal agency programs offer a variety of grant, loan, and technical assistance programs. While available programs and technical assistance may change over time, examples of programs and technical assistance that may be useful for housing, community building, and neighborhood enhancement initiatives in the Highlands Region include but are not limited to the following;
  - Neighborhood Preservation Balanced Housing;
  - At Home Downtown;
  - Transit Village Initiative;
  - Urban Enterprise Zone (UEZ) Program; and
  - Main Street New Jersey Program.

**General Assistance for  
Eligible Projects –  
Highlands Planning  
Grants and Incentives**

The Highlands Council has funds available for the purpose of assisting municipalities in planning for their affordable housing requirements in accordance with COAH and fair share obligations. The Highlands Council also provides discretionary planning grants, which are intended to support important elements of the RMP through planning studies on targeted issues. The grant program serves as a mechanism to implement the goals and policies of the RMP and planning for innovative housing approaches may be an eligible project.

The *Plan Conformance Program* contains information on Highlands Council funding opportunities relating to the implementation of the RMP.