

Attachment B

Considerations of Scope for Goal 5 Cultural Areas Rulemaking, November 2022

Developed by Department of Land Conservation and Development Staff with assistance from the Goal 5 Cultural Areas Tribal Workgroup

Ultimately, definitions for Goal 5 cultural areas and significant cultural area resource sites will depend on the scope of the rule making. The scope could include one or more of the ideas listed below, or an idea not yet captured.

Scope	Discussion	RAC implications
1) Archaeologic sites	Builds awareness and supports implementation of existing state law. ORS 358.905-358.961 and OAR 736-051-0000 through 0090 do not distinguish between the ethnicity or heritage of people from whom the significance of an archaeologic site is derived, except that ORS 358.905(b)(B) provides representatives of Tribal Nations (tribes) the ability to identify an archaeological site as significant. Significance of other sites is based on Inclusion or eligibility for inclusion on the National Register of Historic Places “as determined in writing by the State Historic Preservation Officer”. ORS 97.745 specifically protects “cain, burial, human remains, funerary object, sacred object or object of cultural patrimony of any native Indian”.	RAC members would focus on procedures and technical questions related to better implementation of existing state laws. Strategies for leveraging knowledge of known and expected archaeologic sites while keeping sensitive information confidential is critical. <ul style="list-style-type: none"> ○ State archaeologist (SHPO) ○ Professional archaeologists (consultants) ○ Tribal representatives ○ Local planners ○ Private property interests ○ State Police ○ (Interested racial and ethnic groups)
2) Landscape features* on city and county public lands	This addition to the scope would require creation of a definition to identify landscape features considered Goal 5 cultural areas and a process for distinguishing significant resource sites from the category as a whole. It would also require development of protection measures. There are examples of culturally significant landscape features being recognized and protected on public land under federal law and state agency policy.	RAC members would address additional issues of definition and process. Same as above with addition of: <ul style="list-style-type: none"> ○ Local public works and parks staff ○ Representatives of ethnic groups (still unspecified)
3) Landscape features* on private land	This addition to the scope would require the same steps described for landscape features on public lands. It would add	RAC members would address the question of thresholds for additional review, i.e projects

Scope	Discussion	RAC implications
	the additional challenge of balancing the benefits of protection with the interests of private property owners.	with potential to impact physical or visual access to places with significant connection to cultural identity. Same as above with addition of: <ul style="list-style-type: none"> ○ OPRD staff familiar with protections for State Scenic Waterways (SSW) ○ Local planners familiar with implementing SSWs protections, Willamette River Greenway review, Estuary Management Plans, or Columbia Gorge Scenic Area review. ○ Developers ○ Additional private property interests
4) Addressing the extent of culture and cultural resources	This consideration of scope is relevant to options 2 and 3 above. Cultural resources, and areas important to expression of culture, make up a very large set. The rule could address only cultural areas and resources that represent ways of life that have not been well preserved through other means. Such an approach recognizes that the dominant culture, at any given time, has an outsized influence on how history is recorded and which cultural practices survive over generations. The scope of the rule could support efforts to bring equity to racial and ethnic groups whose heritage has been obscured by development and re-development over time.	RAC members would need to consider culture generally and culture specific to groups that have potential to influence land use discussions and development outcomes in ways that have been unavailable in the past. <ul style="list-style-type: none"> ○ Historians/sociologists ○ DEI experience/perspective

Oregon State Historic Preservation Office - [Table of Oregon and federal laws/rules](#)

*Culturally important landscape features are understood to be those associated with cultural practices or beliefs of a living community.