

CALIFORNIA COASTAL COMMISSION

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Frequently Asked Questions: The Coastal Commission Permit Appeal Process

Why may certain local projects be appealed?

The [California Coastal Act](#) protects California's coast through state and local government implementation of policies that safeguard state interests in coastal resources, including the provision of maximum public access and recreational opportunities to and along the shoreline. Although state and local interests often coincide, the Coastal Act appeal process is an important mechanism to assure that *statewide* interests in coastal resources are protected and appropriately balanced with competing local interests.

What types of projects area appealable?

Any locally-approved development project between the first public road and the sea; within 300 feet of a beach or the mean high tideline where there is no beach; within 300 feet of a coastal bluff edge; within 100 feet of a wetland, estuary, or stream; or on tidelands, submerged lands, or public trust lands is appealable to the Commission. The approval or denial of a major public works project or energy facility, regardless of its location, is also appealable. In counties only, the approval of any project that is not the principal-permitted use under the certified Local Coastal Program (LCP) zoning code is appealable to the Commission. If you have questions about whether a project may be appealable, call your local planning department or [Coastal Commission office](#).

Who may file an appeal?

Any applicant or person who participates in the local permitting process for a project may file an appeal. An appellant must have exhausted all local appeals unless the local government charges a fee to appeal, restricts the class of people who can file appeals, or failed to follow the hearing and notice requirements for issuing a coastal development approval. Any two Coastal Commissioners may also appeal projects to the Commission.

What are valid grounds for an appeal?

The grounds for appealing a project are limited to whether the project conforms to the requirements of the LCP or to the public access

policies of the Coastal Act. Issues that are not addressed by the LCP are not valid appeal grounds.

How can applicants avoid an appeal to the Commission?

The best way to avoid an appeal is to work closely with your local government, neighbors, and interested citizen groups *as early as possible* in the local process to address the requirements of the LCP that may apply to your project. This may include providing biological and other technical information that identifies sensitive resources and potential development impacts; avoiding or providing a buffer from sensitive resources such as wetlands, environmentally sensitive habitat areas (ESHA), and riparian areas; and following specific design rules to address shoreline erosion and other hazards, water quality, drainage, scenic views, and community character concerns. Public access and recreational opportunities in the project area may need to be addressed. Coastal Commission staff is generally available to answer questions you may have concerning interpretation and application of the LCP to your project. Due to severe budget and staffing constraints, it is not always possible for Commission staff to provide comments on a project to the local government. Do not assume that the absence of Commission staff comments on your project means there are no issues or that an appeal will not be filed. When in doubt, call the Commission district office for your area, or request that your local planner coordinate directly with Commission staff to identify potential issues that may result in an appeal of your project.

What happens if your project is appealed?

The first step in the appeal process begins when the Commission receives the notice of final local action (the local decision) on your project (see flowchart). Receipt of this notice generally starts a ten “working day” appeal period (approximately two weeks) during which your project may be appealed. If appealed, the Commission must begin the public hearing on the appeal within 49 working days of the filing of the appeal to determine whether it raises a “substantial issue” relative to conformance with the LCP or with Coastal Act public access and recreation policies. Determining if a substantial issue exists depends on the project and nature of issues raised in the appeal. The Commission may consider various factors, including the significance of resources potentially impacted, the scope of the project, and whether and to what degree the local decision conflicts with LCP requirements or with Coastal Act public access requirements.

Sometimes applicants can make project changes that result in the withdrawal of the appeal if the changes are incorporated into the local permit approval. If more time could help clarify appeal issues, result in more relevant information being available, or allow for a more convenient location for the hearing, applicants may waive the 49-day hearing requirement. A 49-day waiver may also avoid the need for the appeal hearing to extend over two or more meetings by allowing the Commission to evaluate whether the appeal raises a substantial issue and, if so, conduct a new review of the project (“de novo” review) at the same meeting. If the Commission finds that an appeal does not raise a substantial issue, the local decision becomes final.

What happens if the Commission finds “substantial issue”?

If the Commission finds that the local action raises a substantial issue, the Commission takes jurisdiction over the application. This means you will need to work with Commission staff to address all the issues raised in the appeal, and potentially other issues related to LCP and Coastal Act compliance. It is important to understand while the “substantial issue” phase is limited to issues raised by the appeal, during the de novo phase all issues relating to conformance with LCP and Coastal Act public access and recreation policies are appropriate for consideration. New studies may be required to address unresolved issues. In some cases changes in project design or location, or additional mitigation measures, may be needed to address LCP or Coastal Act requirements. After staff has evaluated the issues, your project will be scheduled for the de novo phase of the public hearing. A staff recommendation is published at least ten days before the hearing. You have a right to one postponement if you feel more time is needed to respond to staff’s recommendation. The majority of projects appealed to the Commission are approved, but often with revised conditions to address coastal resource constraints and impacts.

How long does an appeal take?

The time required to process a Commission appeal depends in part on the complexity and significance of the issues raised. The average time for appeals that do not raise a substantial issue is 2 to 3 months. For appeals that raise a substantial issue, it takes approximately 6-8 months on average to reach a final decision. It may take longer to resolve more complicated appeals. The Commission does its best to process appeals as quickly as possible, generally in the order they are

received. Information needs, complexity of issues, extent of public interest, applicant responsiveness, and staff workload all affect the timing of the appeal process.

How should you communicate concerns to the Commission?

The best way to have your concerns and information reflected in a staff recommendation is to work with Commission staff. It is important to note that the Coastal Act presumes that an appeal raises a substantial issue. Accordingly, when staff recommends that an appeal raises a substantial issue, unless three or more commissioners want to hear a discussion on substantial issue, public testimony is deferred to the de novo phase of the hearing. Thus, you may not be able to address the Commission at the substantial issue phase of the hearing, though written comments submitted in advance will be distributed to Commissioners. Should the Commission find substantial issue, you will have an opportunity to submit written comments and address the Commission during the de novo phase of the public hearing. You may also contact individual commissioners outside the public hearing process (“ex parte”), if the particular Commissioner accepts ex parte communications. Commissioners must report all ex parte communications in detail, either in writing before the hearing or orally at the hearing for the item.

What happens after the Commission approves a project?

Once the Commission approves coastal development, there may be special conditions that need to be addressed before the permit may be issued and construction begin. Sometimes it will be necessary to prepare and record legal documents on your property that reflect the requirements of the coastal permit, such as protections for habitat or open space areas. Other times revised project plans will be required that reflect changes in project design approved by the Commission. The time required to receive the permit will depend on how quickly the special conditions are addressed. As with the processing of appeals, Commission staff does its best to review condition compliance materials submitted by applicants as soon as possible and generally in the order received. You can assist with condition compliance by submitting all required documents as soon as possible.

CALIFORNIA COASTAL COMMISSION (CCC) APPEALS PROCESS

