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Section II. Local Coastal Permitting Procedures

Certified IPs should provide clear directions for processing any required local government coastal development permit. The Coastal Act authorizes local governments to issue coastal permits that are consistent with the provisions of their certified local coastal program. While local governments are free to devise the details of their application process, the California Code of Regulations §§ 13560 – 13574 provide minimum standards to be followed in processing coastal development permits. For example, certified LCPs must contain certain procedures to notice and conduct public hearings on coastal permits and transmit the results to the Coastal Commission. Chapter III of the *Local Coastal Program Post-Certification Guide for Coastal Cities and Counties* at <http://www.coastal.ca.gov/la/docs/post-cert-lcp-guide.pdf> gives some general explanation of Notice of Hearing or Pending Action and Notice of Final Local Action. Since the *Post-Certification Guide* was last revised in 2002 legislation has been enacted prohibiting public hearings for permit applications for second residential units on residentially zoned land.

The Commission and local governments have also learned from LCP implementation over the years about certain recurring procedural issues and problems with coastal permit applications, noticing, decision-making and transmittal of final local action notices. For example, occasional problems occur when the purported applicants do not have complete authority to comply with the terms of the permit. Other application issues arise when information needed to adequately consider the coastal permit had not been requested or submitted. Delays may occur if notices of pending actions on coastal permits are not prepared or distributed correctly and have to be redone. Some complaints of delays in arriving at permit decisions may be attributable to the time it takes to follow standard processing steps -- which for some cases could have been streamlined. Attempting to follow not only coastal permit requirements but others that are in your local code and are in other State laws can cause confusion, if coordination measures are lacking. The same can be true if coordination is lacking between you and the Coastal Commission when it takes jurisdiction on appeal over a coastal permit that you have approved. And appeal decisions can be delayed if required noticing of final local actions or information transmittal to the Coastal Commission is incomplete or improper.

The full text of citations to the Coastal Act can be found at:
<http://www.coastal.ca.gov/coa/act.pdf>.

The full text of citations to the California Code of Regulations can be found at:
<http://government.westlaw.com/linkedslice/default.asp?SP=CCR-1000>. All references are the Title 14 Natural Resources Division 5.5.

Updating your IP can thus help prevent some of these problems and can result in saving time and money in processing coastal permits. Since the coastal permit is the primary means of carrying out your coastal land use plan policies, it is important to have clear and legally correct processing procedures. Some benefits from considering the suggestions offered in this section could include:

- Coastal resources receive full protection;
- Proposed projects are considered in a consistent manner and applicants recognize this;
- Processing times and delays are reduced;
- Interagency coordination is enhanced;
- Applicants have a clearer understanding of what is required;
- Confusion over seemingly contradictory requirements is avoided;
- Emergency situations are expeditiously addressed;
- Any appeals can be and are made in a timely manner;
- There are not subsequent problems when an applicant constructs a project.

This section provides suggestions for updating the IP and considering other practices that will help guide the processing of a coastal permit. The first step (Section II.A) is ensuring that you have all necessary information through the application. The second step (B) is to follow noticing requirements. The third (C) is to establish procedures to act on the permit. The final step (F) is to memorialize and transmit the action taken on the coastal permit. Additionally, this section covers coordinating various provisions within your IP and between your IP and other state laws (D & E).

A. Specify Application Contents

All LCPs should require that a party proposing development that requires a coastal permit submit an application. Requesting sufficient, verifiable and relevant information is important in order to be able to act appropriately on the application. Likewise, it is crucial that the applicant have the legal authority to carry out any terms of the issued coastal permit. Thus, applicants and the public could benefit if your IP: (a) indicates what information should be contained in the application; (b) includes application requirements tailored to the type of hearing process that may

be required; and (c) requires clarity as to who the applicant is and their legal ability to carry out the proposed development.

1. Recommendation: Require a Coastal Permit Application

Update the IP to incorporate a requirement for a coastal permit application if it is not already included.

EXAMPLE: Certified IP text states where to submit application, content, timing and fee (please see Appendix B).

2. Additional Updates, Procedures, and Practices to Consider

In updating your IP, consider adding specifications for what should be contained in coastal permit applications. For example:

a. Include categories of information that the application should address.

Updating the IP provides an opportunity to review and specify the information that applicants must provide to support their permit application. Code of Regulations § 13053.5 (which lists the items that the Coastal Commission requires for the permits it processes) can be used as guidance as to the nature and extent of general site and project information to request.

The presence of certain coastal resource issues will necessitate in depth technical review to ensure that the proposed project is consistent with LCP policies. You may wish to prepare supplemental application sheets for each issue requiring special documentation. For example, if environmentally sensitive habitats are a concern, the application should require a biological assessment and state how it should be prepared. Other possible supplements to a basic permit application include a geological assessment, archaeological reconnaissance, scenic resource evaluation, and agricultural suitability or feasibility analysis.

EXAMPLE: suggested filing requirements for subdivisions where landform alteration (grading) is involved:

<http://www.coastal.ca.gov/landform/sec4.html> (please see #s 6 and 7 also reproduced in Appendix B)

EXAMPLE: Certified IP contains filing requirements for biological survey:

http://www.co.monterey.ca.us/planning/docs/plans/nc_cip.pdf
(please see pp. NC-21 & 22 also reproduced in Appendix B)

EXAMPLE: Certified IP contains filing requirements for hydrological reports:

http://www.co.monterey.ca.us/planning/docs/plans/nc_cip.pdf
(please see pp. NC-48 –50, also reproduced in Appendix B)

EXAMPLE: Certified IP contains filing requirements for geological reports:

http://www.co.monterey.ca.us/planning/docs/plans/nc_cip.pdf
(please see pp. NC-65—68, also reproduced in Appendix B)

EXAMPLE: suggested filing requirements for geological reports:

<http://www.geology.ca.gov/forms-pubs/guide-reports.shtml> (also in Appendix B)

b. Tailor applications or application questions to correspond to different types of permit review.

Coastal permit processes can be tailored to specific circumstances such as the applications for variances, emergency situations, or requests for permit amendments or extensions (Please see [Section II.C](#) “Specify Procedures for Deciding on Coastal Permits”). For example:

Variance requests: Since a variance may only be granted if a property has special circumstances, your permit application should include questions about nearby property characteristics (e.g., sizes, shapes, topography) to be able to determine if the subject site is different than nearby sites and potentially qualifies for a variance. (please see [Section II.D.2.a](#) “Coordinate any variance allowances with coastal resource protection.”)

Emergency permits: Where appropriate, consider the following to facilitate the streamlining of requests to perform emergency work (please see [Section II.C.2.e](#) “Have a distinct process for emergency permits”):

- The written application or parts of it may be deferred upon receipt of a telephone, emailed, or faxed request to perform emergency work,

provided that a follow-up written application is required to be submitted as soon as possible;

- Certain plan requirements (e.g., to scale, engineered drawings) may be waived provided a clear description of the limits of the emergency work, including the location, spatial extent and timing of the work, is specified;
- Submittal of required supporting information may be waived, postponed, or adjusted (e.g., a full geotechnical or biological report may be waived, but a geologist or biologist may be required to be present on site when the emergency work is underway).

Coastal permit amendments and extensions: Some options to consider (assuming that you issued the original permit for the site and retain access to the original permit file materials) include:

- Not requiring duplicate property information already obtained for the original application;
- Focusing supporting information requirements on what is proposed for change or may be changed circumstances.

See, also: Sections [II.C.2.f & g](#) “Include permit amendment procedures” and “Include permit extension procedures.”

c. Establish methods to ensure that the stated applicant has legal authority to carry out the approved project.

Coastal permits need to be issued to a party with the legal authority to undertake development on the site and carry out any terms or future obligations of the coastal permit.” In updating your IP you may wish to incorporate text quoting or similar to Coastal Act § 30601.5 (“the applicant shall demonstrate the authority to comply with all conditions of approval [of a coastal permit]”) and companion Code of Regulations § 13053.5 (that requires applications to contain a description and documentation of the applicant’s legal interest in the property and signatures attesting to the truth of the application).

Standard practice should be that all parties shown on a current property deed subject to proposed development sign the application. However, you may be faced with some party wishing to submit an application whose absolute or complete authority is not readily apparent. Thus, you may establish rules specifying the acceptable proof of authority for such cases. The following examples offer some options to consider in making sure

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that permit applicants are clearly identified and have the authority to comply with conditions.

If some, but not all, of the co-owners of a property apply, consider:

- requiring all owners to sign the application;
- requiring non-applicant owners to grant written permission for the owners who do sign the application to represent them as well;
- allowing the application to be processed if the percentage of owners who sign is sufficient for them to have the authority to undertake the project; or
- allowing the application to be processed, but permit issuance to occur only if it can be demonstrated that the owners who signed the application have authority to undertake the project and comply with all terms of the permit.

If a party applies on behalf of a government, corporation, partnership or nonprofit, consider:

- determining if the representative signing the application has the necessary authority to represent the organization and carry out the permit conditions.

If a lessee of a property applies, but not the owner, consider:

- requiring the current owner to be a co-applicant;
- giving all other parties with an interest in the property the opportunity to be co-applicants (Coastal Act § 30106.5 places this requirement on permits issued by the Coastal Commission);
- requiring proof that the lease allows the applicant to undertake the development in question; or
- allowing the application to be processed, but permit issuance to occur only if it can be demonstrated that the lessee has the authority to undertake the project and comply with all terms of the permit; and.
- specifying in the permit what happens to the approved project when the lease term expires.

If a prospective future owner of the property applies, but not the current owner, consider:

- requiring the current owner to be the applicant;
- requiring the current owner to allow the prospective buyer to act in the current owner's behalf; or

- allowing the application by a future owner to be processed, but permit issuance to occur only after the transaction transferring ownership to the applicant is complete.

If a representative of an entity that wishes to perform work on property that the entity does not own applies (e.g., a director of a utility installing a new sewer or water line across private properties), consider:

- requiring submittal of an easement or similar permission to install their facilities on other people's property;
- allowing the application to be processed, but permit issuance to occur only after permission to use the property from the owners is obtained; or
- allowing the application to be processed on the basis that if all else fails the applicant can take or use the property through eminent domain.

If a property owner's agent applies on the owner's behalf, consider:

- requiring the owner(s) to grant written permission for the agent(s) to act on their behalf; and.
- having contingencies to address situations where the agent changes or no longer represents the owner.

If a party applies for development that is, or might be on, state lands, consider:

- requiring documentation from State Lands that the project will not be on State Lands, will be on State Lands but the applicant has permission from State Lands, or may be on State Lands pending further review but State Lands has no objection to the application being processed.

B. Specify Noticing to Perform

California Code of Regulations §§ 13565 and 13568(a) and (b) mandate certain basic noticing requirements to inform parties that a coastal permit application will be considered. California Code of Regulations § 13567 identifies mandatory situations where follow-up noticing is required. All LCPs, therefore, must include these minimum noticing requirements.

Noticing should be provided in a timely and understandable manner to those who have an interest in the matter being considered. Thus, the public may benefit from IP updates that amplify the basic noticing requirements

to cover: (a) standard notice forms; (b) cases of new people getting interested in the process or project changes over time; and (c) early noticing.

1. Recommendation: Specify Noticing Requirements

Update the IP to incorporate California Code of Regulations [§§ 13565](#), [13567](#) and [13568\(a\) and \(b\)](#) if they are not already included.

2. Additional Updates, Procedures and Practices to Consider

In updating your IP, consider additional procedures that may help ensure timely notification to all potentially interested parties. For example:

a. Standardize notice forms.

To ensure that all the required information is always included in the notice, you may develop standard forms for each consideration process for coastal permits established in your IP; e.g., one for public hearings for appealable permits, one for public hearings for non-appealable permits, one for continued public hearings (please see Section [II.B.2.b](#) “Adopt procedures for additional noticing” below), one for administrative permits (please see Sections [II.C.2.b](#) “Have an administrative officer hear and act on some coastal permits” and [II.C.2.c](#) “Use an alternative process for some coastal permits not needing public hearings” below), etc.

EXAMPLE: sample notices of a public hearing on a coastal permit and of action to occur on a coastal permit without a hearing:

Local Coastal Program Post-Certification Guide for Coastal Cities and Counties, Appendices C-2 and C-3 at <http://www.coastal.ca.gov/la/docs/post-cert-lcp-guide.pdf>.

b. Adopt procedures for additional noticing.

In addition to minimum noticing requirements, you may wish to formalize procedures for additional noticing to facilitate public participation. Examples of situations that you may wish to address include:

New Interested Parties: Often people who are not on an original list to be noticed become interested in a project. You may wish to formalize a process to update your mailing lists and publicize how someone can be added. Parties who communicate to you on the matter in any way could automatically be added to the mailing lists for all future notices concerning the project. If you have a public hearing sign-in sheet, it could

include an explanation that by leaving contact information the signer will receive further noticing and be in the record for noticing by the Coastal Commission if the matter is appealed.

Change in Appeal Determination: As noted in Section I.D.2.c “Determining if a Proposed Project is Appealable to the Coastal Commission”, a determination as to whether a permit is appealable could change during the course of considering the project. If subsequent noticing has to occur, then it should be clear on the new notice that the determination has changed. Because anyone can challenge a determination of appealability and because anyone who has participated in the process can appeal an appealable local coastal permit, widely broadcasting a change in appeal determination is important. This is especially true if the appeal status of a project changes from not appealable to appealable to the Coastal Commission.

Related Hearings: Sometimes multiple hearings occur on a matter that is subject to a coastal permit (e.g., a public works commission determining if a water connection is allowed, an architectural review commission determining if the proposed design is appropriate, a permit extension request, a subsequent permit for additional or different development on the same site). If you can predict that a matter under consideration by one of your local bodies will be subject to a subsequent coastal permit, you should have a procedure that conveys that information to interested parties so that they can be placed on the coastal permit notice list. Similarly, to the extent that you have the ability to track all related matters concerning a subject site, then the mailing list can be linked to the site, not just to the individual permit hearing matter. That way interested parties can be informed of any subsequent decisions involving the site.

c. Provide for some advanced noticing.

The Code of Regulations does not mandate notification of pending coastal permit deliberations until seven days before a hearing. However, you may wish to update your IP and/or your common practices to provide some level of earlier noticing. We have found that many disputes and delays in the permitting process can be avoided if we coordinate early on permit cases that may raise questions and issues. There may be other interested persons that you identify that also would benefit from earlier noticing, perhaps for a subset of coastal permits. If you have a sophisticated automated permit tracking and noticing system, then providing broad early noticing may be simple to do. If not, then you may wish to develop a more targeted procedure that does not overly burden your resources. For example, the procedures can:

- add the Coastal Commission to any distribution list of applications or other applicant information that you already maintain for routing to departments or other entities (e.g., click here to see a form that Monterey County uses to transmit its project referrals to the Coastal Commission staff);
- transmit key reports (or notifications of their availability) from biologists, foresters and geologists as they are received;
- add Coastal Commission staff to your electronic or regular mailing lists for receiving staff reports on proposed developments within your jurisdiction's coastal zone as soon as available;
- share any electronic tracking of coastal permit applications with the Coastal Commission;
- keep the Coastal Commission apprised of any responses to such early review that we provide and of any other significant changes in the proposed project.

In offering this advice, we acknowledge the Commission's limited staff resources to review a large number of permit applications that may be pending at the local level. But we try to review and discuss individual significant cases. And with this information the Commission staff may also be able to respond to any questions raised by the public.

C. Decide on Coastal Permit Application

Code of Regulations § 13566 requires that you hold at least one public hearing on each coastal permit that is appealable to the Coastal Commission, although this requirement does not apply to certain second residential units (please see [Section II.E.1](#) "Accommodate Second Unit Law") and, under Coastal Act §30624.9, to certain "minor development" when the public was provided with adequate notice of the proposed project and no public hearing is requested. Code of Regulations § 13568(b) allows you to issue non-appealable coastal permits without public hearings. Code of Regulations § 13573(a) provides that appellants need not exhaust local appeals if local governments require an appeal to a local appellate body that has not been certified as an appellate body in an IP. Beyond these basic rules, you have discretion as to who makes the decision to approve or deny a coastal permit and related processing matters. LCPs should indicate all of the decision-making bodies that can act on coastal permit matters and their basic procedures for doing so.

Applicants may benefit if your LCP includes streamlined procedures for considering certain categories of coastal permits, such as: (a) using a consent calendar; (b) using a hearing officer; (c) deciding on certain permits administratively; ; and (d) consolidating hearings. In addition you can have separate processes for: (e) emergency permits; (f) permit amendments; and (g) permit extensions.

1. Recommendation: Specify Who Decides on a Coastal Permit Application

Update the IP to describe which of your local bodies acts on coastal permits and the consideration procedure that each follows, if this is not already included.

The procedure must include holding a public hearing for at least those coastal permits that are appealable to the Coastal Commission (except for certain second residential units).

EXAMPLE: Certified IP text establishes three bodies that can act on coastal permits (please see [Appendix B](#)).

2. Additional Updates, Procedures and Practices to Consider

In updating your IP, you can consider incorporating other additional measures that may streamline the permitting processes without reducing public participation. For example:

a. Expand use of the consent calendar.

Your decision-making bodies probably already make use of a consent calendar. You can establish rules for which coastal permits are placed on a consent calendar. You may also establish a process for moving items to the consent calendar (e.g., the Coastal Commission moves some items to the consent calendar after they are agendaized as regular calendar items when applicants and staff are in agreement on the recommendation and there is no known public concern). However, if you place appealable coastal permits on a consent calendar, then interested parties who wish to testify must be given an opportunity to do so.

b. Have an administrative officer hear and act on some coastal permits.

You may use a hearing officer, such as a zoning administrator, instead of an elected or appointed body, to act on coastal permit matters. As long as

the minimum noticing and hearing requirements are met, a hearing officer can conduct a public hearing on a coastal permit. You can update your IP to specify those categories of projects for which a coastal permit hearing can be held, and a decision rendered, by the Planning Director, Zoning Administrator, or other official.

c. Use an alternative process for some coastal permits not needing public hearings.

Your IP may specify categories of development for which public hearings are not required in order to act on coastal permits pursuant to Code of Regulations § 13568(b); e.g., non-appealable development or projects that meet the criteria in Coastal Act §30624.9(b). In order to comply with § 13568(b)'s noticing requirements quoted above, you must establish a procedure for accepting and considering public comments. Examples of such procedures include:

- If public comments are received, then hold a public hearing;
- Forward any public comments to a decision-making body to determine whether a public hearing should be held; or
- Prepare and disseminate written responses to any public comments.

In order to comply with Coastal Act § 30624.9, you must hold a public hearing if so requested.

d. Consolidate some permit processes.

You may already have the ability to consolidate functionally-related or same-applicant coastal permits into one process or to consolidate multiple permits that have to be issued for the same project, as the Commission does (Code of Regulations §§ 10353.4 and 10358). Updating the IP provides an opportunity to consider these or other consolidation methods to save time and cost while retaining the integrity of the coastal permit process. You will need to examine each requirement (e.g., policy basis, application form, noticing, hearing, appeal process) for each permit (e.g., coastal, septic, water well, design, special use) that you issue to determine what aspects, if any, can be consolidated.

In considering whether to combine certain noticing, hearing or permit issuance procedures, please note that consolidation cannot substitute for, nor lessen, basic coastal permit requirements. For example, if a proposed project requires both a coastal permit and a design permit and you want to combine noticing and hearing for both permits, then, at a minimum, the

coastal permit procedures should be followed. If you combine approvals, the combined permit would have to be treated as the coastal permit for purposes of any appeals or other challenges under the Coastal Act.

A second factor to consider is that because the authority for the coastal permit is to carry out the LCP, it may not comprehensively address all development aspects that you regulate. If you issue a combined development permit, you may distinguish those conditions and findings that are not part of the coastal development component of the combined permit. If the permit is then appealed and the Coastal Commission approves it on appeal (i.e., substituting its action for the local coastal permit), the Commission becomes responsible for future condition compliance and enforcement for the aspects of the approval that were related to LCP compliance. Thus, a Commission coastal permit issued on appeal may include a provision stating, “This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.” In anticipation of such situations, your regulations need to be clear as to what authorities and, hence, what categories of permit conditions, you remain responsible for. (Please see Section [III.C.2.c](#) “Reconcile any remaining local responsibilities with Coastal Commission action on the appeal.”)

Similar advice applies in the reverse. To the extent that you will be issuing other permits that affect coastal development separately from the coastal permit, you need to ensure that they are consistent with and do not override provisions of the coastal permit.

e. Have a distinct process for emergency permits.

Your IP likely already contains special procedures for authorizing responses to emergencies in your coastal permit jurisdiction. Code of Regulations § 13009 defines an emergency as, “a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public service.” In updating your IP you can revise and update emergency permit procedures, if necessary, to avoid delays caused by noticing and appeal requirements. This can be challenging because the Regulations do not contain any exceptions from noticing, public hearings, and appeal time lines and other requirements for local government, so the intent of these sections must be preserved in issuing local emergency permits. The Commission has approved IPs with emergency coastal permit procedures structured in a manner to allow timely emergency responses to occur, while preserving the integrity of the permit and appeal process. These emergency procedures should include some key provisions, such as:

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- a clear definition as to what constitutes an emergency consistent with Code of Regulations § 13009;
- a process to consult with Coastal Commission staff, if necessary, to agree that the authorization is clearly for an emergency;
- an abbreviated application (please see Section [II.A.2.b](#) “Tailor applications or application questions to correspond to different types of permit review”);
- some ability for the public to be notified and to be able to comment, where time allows;
- a finding that the emergency work is the minimum necessary to address the situation in the time period before a regular coastal permit could be processed;
- a requirement that the emergency work must commence as soon as possible;
- a requirement to submit applications for regular coastal permits for retaining any of the development authorized by the emergency permit within a limited time period;
- notification that follow-up coastal permits are appealable if the emergency work is appealable under the Coastal Act;
- a requirement for expiration of emergency authorizations and removal of the authorized development if a follow-up permit is not granted within a specified time period.

EXAMPLE: Certified IP’s emergency permit ordinance:

Chapter 13.14 at <http://www.qcode.us/codes/malibu-coastal/> (also reproduced in [Appendix B](#))

EXAMPLE: Another certified IP’s emergency permit ordinance:

Section 17.52.18 at <http://www.codepublishing.com/CA/carmel.html>. (also reproduced in [Appendix B](#))

f. Include permit amendment procedures.

You have no doubt fielded questions about proposed additions and other design changes before, during, or after initial construction or have been requested to modify terms of a coastal permit. Your IP may accordingly already contain a process to amend permits that you issue. In updating your IP with regard to coastal permit amendments, clarify that any changes to permitted development need authorization through a coastal

permit or amendment (unless exempt). The Code of Regulations does not identify separate minimum requirements for coastal permit amendments. Thus, in general, an amendment request will be processed in the same manner as a coastal permit request. But, variations can be incorporated in your IP to address different types of proposed project changes involving coastal permits; for example:

- Coastal permit amendment application requirements could differ from original permit applications (Please see Section [II.A.2.b](#) “Tailor applications or application questions to correspond to different types of permit review” above);
- Application and processing provisions could vary for different categories of permit changes for projects or approval conditions (e.g., Santa Cruz County categorizes four types of amendments: minor variations, corrections, modifications, and major amendments);
- Staff sign-off could be allowed and discretionary approvals could be narrowed for a very limited category of immaterial changes that do not alter the original coastal permit (e.g., format or grammatical changes to conditions or interior design detail alterations);
- Some small changes may be exempt from coastal permit requirements, such as minor additions to any approved structures (please see [Section I.C](#) “Determining if a Development Proposal is Exempt from Permit Requirements”);
- Procedures could better distinguish those changes to previously exempted development that may not be exempt, such as a further structural addition that is closer to the shoreline or higher than previously approved;
- The amendment may not always have the same appeal determination as the original permit (please see Section [I.D](#) “Determine if a Proposed Project is Appealable to the Coastal Commission”).

g. Include permit extension procedures.

Code of Regulations § 13156 provides that coastal permits approved by the Coastal Commission expire if authorized development has not commenced within two years. Section 13159 indicates how this permit life can be extended. You can include a process to extend the coastal permits that you issue if you do not already have one. The original permit decision (i.e., in the local final action notice) should include a statement explaining if and when the permit expires (please see Section [II.F.2.c](#)

“Elaborate on the contents of Final Local Action Notices”). Any subsequent discretionary action to extend a coastal permit beyond what is provided for in the local final action notice must be reported to the Coastal Commission. (This is akin to amending the permit because one of the terms of the original approval -- its stated expiration date – is being changed.) In cases where the permit subject to extension was originally appealable to the Coastal Commission, the extension would likewise be subject to the appeal process (please see Section [I.D.2.c](#) “Clarify whether a coastal permit amendment or extension is appealable”). As long as you follow these principles, there are various options for processing permit extensions, such as:

- Different categories of development could be subject to different processes (e.g., by type of project, location, size, whether it is appealable or not to the Coastal Commission);
- The time period that the extension is valid for could vary by category of development;
- The number of allowed extensions could be limited, so that an unexercised permit does not have an infinite life;
- Different circumstances could determine the process (e.g., pursuant to Code of Regulations § 13169, the Coastal Commission extension procedures vary depending on whether the Executive Director determines that there are changed circumstances that may affect the consistency of the development with the Coastal Act).

EXAMPLE: Certified IP text establishes application requirement for, criteria for granting and limits on the number of time extensions for coastal permits (please see Appendix B).

For those cases where an extension would not be possible, applicants could always apply for a new coastal permit for their projects. In all cases, any extension requests would need to be received before the permit expires; otherwise, the proper procedure would be for the applicant to reapply.

D. Address Potential Conflicting Code Provisions

Applying all of your IP provisions to a project may result in some apparent conflicts, and applying them in conjunction with some of your other Municipal or County Code regulations may also result in inconsistencies. Government Code § 65906 allows for granting variances to zoning requirements, but these are discretionary and do not supersede

Coastal Act requirements. At a minimum, IPs should contain any provisions (e.g., variances, non-conforming, height limit exceptions) that operate to affect the coastal permit.

Applicants and the public would further benefit from a more efficient and transparent process for resolving potential conflicting provisions of their IPs. This could be accomplished by updating IPs to more specifically describe how various provisions are applied in a coordinated manner, so that there either will not be a conflict, or if there is potential conflict, the IP can describe how it will be resolved. Specific situations to consider addressing include: (a) variances; (b) non-conforming uses; (c) other local permits; (d) map depictions; and (e) potentially conflicting LCP provisions.

1. Recommendation: Include Provisions that Affect Coastal Permits

Update the IP to incorporate any variance, non-conforming or similar procedures in your County or Municipal Code that can affect coastal permits, if they are not already part of the certified IP.

Any provision in your Municipal or County Code or other binding document that can be used to alter any LCP standard needs to be in the LCP as well. If you have been applying any variance, non-conforming, height exception, or similar provisions that are not part of the LCP to coastal permits and wish to continue to do so, then you must submit them to the Coastal Commission as LCP amendments. The Commission needs to review them to ensure that implementation will remain consistent with the LCP land use plan. If you have such provisions to submit, you may first wish to review and possibly revise them to address the following considerations.

2. Additional Updates, Procedures and Practices to Consider

In updating your IP, consider how coastal permit requirements interact with other provisions of your code that provide for some exceptions. For example:

a. Coordinate any variance allowances with coastal resource protection.

Government Code § 65906 allows for variances to zoning requirements only when there are special circumstances for the property in question that result in it being deprived of the same benefits that similar properties enjoy. In addition, variances are discretionary, and it is important that they

not become a mechanism for undermining Coastal Act or LCP objectives. If your Code only has basic, general variance language, updating the IP offers the opportunity to clarify the relationship between variance procedures and the application of coastal protection policies. Variance procedures in an IP can:

- ensure that what is allowed pursuant to the variance is incorporated into the development authorized by the coastal permit (e.g., by processing the variance application concurrently with the coastal permit, please see Section [II.C.2.d](#) “Consolidate some permit processes”);
- ensure that variances are granted only when the resulting development will still be consistent with all LUP policies (e.g., even if a lot is smaller than others on a street, so that it might qualify for a variance from a stream setback requirement, such variance should not be granted if doing so would allow development that is inconsistent with other policies in your LCP). If the standard is in the LUP, not just the IP, then the variance provision can only operate if a variance is allowed by the LUP as well – a variance can not be used to override an LUP policy.

***EXAMPLE:** Proposed County IP’s text with modifications suggested by the Coastal Commission indicates that projects including variances must be consistent with LCP policies, can not deviate from habitat or geological setback requirements and can not be considered principal permitted uses (please see [Appendix B](#)).*

b. Coordinate any non-conforming use and structure allowances with coastal resource protection.

Local zoning typically describes the extent to which changes can be made to existing land uses and structures that once conformed, but no longer conform, to setback, height, coverage, allowed use, and other current requirements (e.g., allowing similar replacements as long as no more than 50% of the structure is replaced or allowing additions that do not increase the non-conformance). If your provisions for non-conforming uses or structures do not account for coastal resource protection concerns, then your IP should be revised to clarify when existing non-conforming uses and structures can be allowed to continue. The following are some examples of how non-conforming use provisions could be coordinated and clarified with regard to other LCP provisions:

- For cases when an existing non-conforming use is allowed to continue, limitations can be placed on how long the continuance can last before it is subject to a new coastal permit (e.g., if the use in question previously had an operational time limit, such as authorized to occur for a certain amount of years, then a continuance beyond that time could be defined as “new” development subject to a new coastal permit; similarly, restarting a use after a defined time gap in continued operation could be defined as “new “ development).
- For any cases where a non-conforming use similar to, or in the same category of use as the current use, is allowed to continue, limitations could be placed on what is considered the similar or same category of use, in order to account for different impacts on coastal resources or access (e.g., a sit-down restaurant and a take-out fast-food drive-in may both be in the eating establishment category but their respective impacts on water use and traffic may vary significantly and thus you may subject them to different non-conforming rules).
- For any cases of allowing additional intrusions into setbacks that extend no farther than a current non-conforming intrusion, limitations could be placed on the setback exception to ensure that it does not diminish the function of habitat or wetland buffers or shoreline setbacks.
- For any cases of allowing replacement of existing structures that exceed current maximum coverage standards, limitations could be placed on the size of the replacement.
- For cases where the non-conforming aspect of a use or structure is no longer allowed and must be terminated, limitations or mitigations could be placed on other remaining aspects of the development, such as shoreline protective devices (e.g., if a structure intruding into a rear setback on a bluff top is being replaced and now has to conform to the setback, then maintenance of a shoreline device to protect the intruding structure may no longer be allowed, since the improved structure meets the setback rule).
- For any cases where non-conforming structures were destroyed by disaster, whether or not to allow their rebuilding and how would depend on how you apply your use or building permit requirements, in cases where the replacement structures are exempt from coastal permitting requirements under Coastal Act § 30610(g) (please also see [Section I.C.](#) “Determine if a Development Proposal is Exempt from Permit Requirements”).

c. Coordinate other local reviews with coastal permit procedures.

Typically local permit actions will be sequenced -- with planning permits preceding building and related permits. After a basic entitlement to perform the project is approved, then subsequent permits are considered. These usually involve technical requirements and are issued by staff – e.g., septic, well, building, and grading permits. The staff that signs off on these permits may be different than the planning staff that was assigned to the coastal permit. Thus, coordination is necessary to ensure that these subsequent permits do not contradict the terms of the coastal permit.

In updating your IP, you can review your coastal permit process to ensure that it is structured to be the controlling permit over all development, including, for example, grading, septic tank installation and water well drilling. You can also review your ordinances governing other permits that you issue to ensure that their application cannot override what is contained in the final coastal permit. If the subsequent application of another permit requirement cannot be accommodated within the parameters of the coastal permit, then the proper course of action is to direct an amendment to the coastal permit.

d. Explain how to use map depictions.

Sometimes maps are relied on in a manner inconsistent with the Coastal Act or the intent of the LCP. For example, take the case of a development proposed in environmentally sensitive habitat, an LCP policy prohibiting intrusion into such a habitat, and an LCP habitat map that fails to show that this habitat is present on the site in question. If a coastal permit is approved for such development based on the map (not showing habitat on the site), then a coastal resource is not protected. Updating the IP provides an opportunity to address such situations if your LCP includes map depictions of protected or restricted areas. These maps may have lost some of their utility as more precise resource knowledge of both mapped and unmapped areas has been gained. It is important that LCPs clearly note that resources are protected as they exist on the site, not simply as depicted on a map. Your IP update could, for example:

- Indicate the sources and dates and any qualifications of any mapped information;
- Indicate how the mapped information is to be used (e.g., as a guide to portraying where issues might be present, taking into account current on-the-ground conditions);
- Include guidance identifying resources that are to be protected;

- Include provisions that explain how to reconcile any differences between previously mapped information and new information garnered during coastal permit review and how to apply the results;
- Incorporate updated maps;
- Include procedures for further updating maps in the future.

e. Ensure internal consistency in the LCP

An LCP's land use plan (LUP) and implementing ordinances (IP) should each be internally consistent, and there should be consistency between them. Coastal Act § 30513 requires that zoning ordinances and maps conform with and be adequate to carry out the certified LUP. Thus, your LCP can indicate that, in general, zoning provisions must be interpreted and applied in a manner consistent with the LUP. Updating the IP offers an opportunity to review the language and structure of your LCP to ensure internal consistency. If your IP has in some way become inconsistent with your LUP, then it should be amended to be brought into conformity with the LUP. IP ordinances can be updated to clearly implement the specific LUP policies. Sometimes clarification can be achieved by adding language that specifies the relationship among possibly overlapping or competing LCP policy or ordinance sections. Your IP can identify some general rules of construction for your LCP. For example:

To learn more about conformance with land use plans please see: Lesher Communications, Inc. v. City of Walnut Creek, (1990) 52 Cal. 3d 531, 541.

EXAMPLE: from proposed IP text approved by the Coastal Commission:

Where conflicts exist between the provisions of this [Design Review] Section and the policies of the LUP, the policies of the LUP shall control.

EXAMPLE: from certified IP ordinance:

D. In the event of a conflict or inconsistency between this Title and any County land use regulation the terms of the regulations listed highest on the following ladder shall prevail:

- 1. Coastal Act*
- 2. Applicable Area Land Use Plan*
- 3. Regulations For Development (Parts 2 through 6 of the Coastal Implementation Plan)*
- 4. Title 20 (Part 1 of the Coastal Implementation Plan)*
- 5. Any other regulation in the County*

Finally, it is important to know that LCPs cannot incorporate the conflict resolution provision of Coastal Act § 30007.5. This section allows the Commission to resolve direct conflicts between two policies in the Coastal Act “in the manner that is most protective of significant coastal resources.” As noted, by design LCPs are required to be certified as consistent with Chapter 3 of the Coastal Act, and thus certain provisions cannot be ignored in favor of others. If a conflict arises between LCP policies, then the remedy is to apply to the Commission for an LCP amendment to resolve it.

E. Address Other State Laws

Coastal Act Chapter 5 discusses the relationship of the Coastal Commission’s regulatory process with those of certain other state agencies. Since the Act was written, other state laws have been adopted whose application may pose challenges when also applying coastal permitting authority. For example, when these laws direct the processing or outcome of local permits, it may appear that they apply to a local government’s issuance of a coastal permit when they may not. Many of these laws strive to expedite permit processing or to limit grounds for denial of certain types of projects deemed worthy (e.g., affordable housing, farm labor housing, family childcare homes and mobile homes). In a few cases, the legislation itself explicitly resolves any potential inconsistency with the Coastal Act. For example, Government Code § 65852.2 was changed in 2002 to end the requirement for public hearings for proposals to develop second residential units. But the law explicitly preserves the coastal permit and appeal process. If you have not already amended your IP to conform to 65852.2, you should do so.

Other state laws mandate or allow local governments to address certain types of development in the coastal zone, such as subdivisions, affordable housing, mobile homes, etc.. If you experienced questions or challenges in applying some of these laws, consider updates to your IP to address the coastal permitting relationship with them.

1. Recommendation: Accommodate Second Unit Law

Update the IP to eliminate any requirement for public hearings for qualified second units, if they are still in your LCP.

EXAMPLE: from certified IP ordinance:

Notwithstanding any other provisions of the LCP, attached or detached second dwelling units shall be processed as administrative

permits, except that the approval of such permits shall be appealable to the Coastal Commission if the project is located in the appealable zone.

If you already have a process for noticing coastal permits where no local hearing is required, it can be applied to all coastal permits for second units. Or, you can develop a specific notice applicable for second unit permit applications. Either case must provide for some way for the public to provide comments to you and to be informed that the permit for second units can be appealed to the Coastal Commission (if it is appealable).

2. Additional Updates, Procedures, and Practices to Consider

In updating your IP, consider adding clarifications on applying other state laws to new development in coordination with your coastal permit process.

a. Ensure coastal permit process is preserved when addressing other state law provisions.

Some state laws mandate expediency requirements for processing local permits for certain types of development, such as affordable housing. Unless the state law specifically mandates a change in coastal permit procedures, you should ensure that incorporating these other state requirements into your ordinances does not contravene Coastal Act and California Code of Regulations requirements. Coastal development will still need to be authorized by a coastal permit (unless it falls under a specific exemption, please see [Section I.C.](#) “Determine if a Development Proposal is Exempt from Permit Requirements”) even if certain state laws exempt certain types of development from other local permits or standards. For example, Government Code § 65589.4, which restricts requiring use permits for some affordable housing, does not apply to coastal permits – they are still required. Minimum noticing and hearing requirements for coastal permits must always be followed and appealable development remains appealable.

You can revise your coastal permit procedures to address the intent of streamlining provisions in other state laws, provided the Coastal Act and Code of Regulations requirements are met. (Please see [Section II.C](#) “Decide on Permit Application” for ways to expedite permit processing). For example, if your IP has an expiration period for coastal permits that is less than three years, you can modify it for subdivision approvals to conform to Government Code §§ 66452.6(a) and 66463.5(a) (allowing tentative map approval to initially be valid for three years --or longer in

some cases), because the Code of Regulations does not set a specific time period for local coastal permits to expire, as long as other Coastal Act and LCP resource protection requirements are taken into account (e.g. some reasonable expiration period or process needs to be in place to assure that changed circumstances do not render the original permit approval obsolete or inconsistent). Similarly, if your IP has a time limit for processing coastal permits that is longer than the minimum specified by Code of Regulations §§ 13565 or 13568, you can shorten it to the minimum to expedite consideration of affordable housing projects pursuant to Government Code § 65950 (please see Section II.B “Specify Noticing to Perform”).

If you add sections to your County or Municipal Code addressing other state laws, you may wish to cross-reference them to your IP’s coastal permitting provisions so that planners and the public are aware that both sets of requirements apply. You should ensure that any terminology used in both a coastal permit processing section of your IP and another section of your Code addressing another State law does not have conflicting meanings.

Some state laws either limit or prescribe certain standards that can be applied to certain types of developments. Before these requirements can be applied to development projects in the coastal zone, you must amend your LCP, if the standards differ from what is currently in the certified documents.

With regard to affordable housing, for example, please see Part I of this Guide: “Planning and Locating New Development” at http://www.coastal.ca.gov/la/lcpguide/lcpguide_development_6.pdf.

F. Memorialize Action Taken on a Coastal Permit

Code of Regulations §§ 13570 -13572 cover minimum requirements for preparing and transmitting final local action notices (FLANs or NOFAs—Notice of Final Action) on coastal permits. Regulations § 13571 stipulates that your final action notices include written findings and any written conditions that you have imposed. Coastal Act § 30604(c) requires every coastal permit for a project located seaward of the nearest public road and the sea to “include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 [of the Coastal Act].” At a minimum, all IPs should contain provisions that follow these requirements.

Documenting and transmitting a justifiable action on a coastal permit is crucial to implementing your local coastal program in a manner to protect coastal resources. The resulting permit is legally binding on the authorized development – any future questions are answered by referring to the final local action notice. Inaccurate or unclear final action notices can lead to

unnecessary appeals because potential appellants may not fully understand the nature or scope of the project. Failure to transmit notices properly can result in time delays. Applicants and citizens would benefit from elaborations on the basic requirements regarding: (a) permit findings and conditions; (b) specific access and recreational findings and conditions for legal documents; (c) contents of the FLAN; (d) FLAN transmittal responsibilities; and (e) responses to deficient FLANs.

1. Recommendation: Memorialize the Action Taken on a Coastal Permit

Update the IP with provisions regarding how coastal permits are prepared and transmitted pursuant to Code of Regulations §§ 13570 - 13572, if not already included.

EXAMPLE: Certified IP text indicates when a coastal permit decision is final and how notice of final action is given (please see Appendix B).

2. Additional Updates, Procedures and Practices to Consider

Some certified IPs may already supplement basic final action notice requirements with more detailed guidance. If not, in updating an IP, consider the following additional procedures that will elaborate on the process of writing and transmitting FLANs.

a. Add guidance for preparing permit findings and conditions.

You may wish to supplement a statement of general responsibility to adopt findings and conditions with more guidance as to what findings and conditions should generally contain. In addition to amplifying your IP, some of the tools that the Commission is aware of to accomplish this include compiling illustrative examples of findings and conditions on various issues, conducting planning staff training sessions with staff attorneys and preparing templates or checklists of common conditions. Following are some examples of guidance that you could offer:

For Findings: Write findings to:

- explain how the project (as finally approved and conditioned) is or is not consistent with all relevant LCP policies (or policy groupings), including how policies are interpreted;
- explain and support all conditions of approval;
- resolve any apparent discrepancies with relevant policies;

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- resolve any conflicts in applying various policies to the project;
- explain why some apparently relevant policies may not apply;
- explain any deviations from past precedents.

For Conditions: Draft conditions to:

- cover all topics at issue that need addressing in order to find complete consistency with your LCP policies;
- be specific as to the intended outcome and, where necessary, as to ensuring the outcome will occur (e.g., wording a condition so that a reader can easily discern who is responsible for carrying out the condition, how and by when it should be achieved, documentation required to demonstrate compliance, who reviews and enforces the requirement, and the potential recourse for not implementing what is specified).

For a discussion of the importance of being specific as to outcome please see Sundstrom v. County of Mendocino court decision at: http://ceres.ca.gov/ceqa/cases/1988/sunstrom_062288.bt

EXAMPLE: chart format that a certified County uses has columns for permit condition number, permit condition text and responsible County department, compliance or monitoring actions to be performed, responsible party for compliance, timing, and verification of compliance:

http://www.co.monterey.ca.us/planning/docs/resolutions/za_2008/res_PLN080316.pdf beginning at page 5.

- make explicit any requirements that direct the applicant to follow referenced material (e.g., recommendations of consulting biologists) and ensure such material is publicly available;
- avoid deferring discretionary decisions to the future (e.g., for staff discretion to approve future “minor” modifications, final building siting, or terms of an access or conservation easement).

b. Add guidance for addressing Coastal Act public access and recreation policies and required legal documents.

In updating your IP you may include an elaboration of how to address coastal access and recreation and required legal documents in coastal permit findings and conditions.

Access Findings:

Coastal Act § 30604(c) requires that your findings address Coastal Act recreation and public access policies for any project between the nearest public road and the sea. Thus, your LCP could cite or quote the Coastal

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Act sections that need consideration, such as [§§ 30210, 30211, 30212, 30212.5, 30213, 30214, 30220, 30221, 30222, 30223, 30224](#) and [30252](#).

In order to comply with this mandate, the final local decision may have to address not only what specific access requirements are in the LCP, but what would be required by applying the Coastal Act policies as well. Your LCP update could acknowledge and prescribe that this must be part of the final decision if compliance with these Coastal Act sections is not already mandated in your LCP. Especially if the LCP was written some time ago, circumstances could have changed or the particular project location might not have received detailed attention. For example, your LCP might have a provision requiring adequate access from the nearest road paralleling the ocean to the beach and illustrating where this should occur. In considering a permit for a project located on a parcel seaward of the nearest road, where access is not specifically illustrated, your LCP should also require that staff reports include a finding explaining whether access should be required pursuant to Coastal Act access and recreation policies. Your LCP could go on to list factors to evaluate, such as:

- any evidence of public use across the parcel;
- availability of a publicly usable beach or viewpoint on the seaward side of the parcel to which access is lacking;
- impacts caused by any increase in demand for access in the area, that may be overburdening other access points;
- availability of nearby accessways;
- presence of any safety hazard that may affect access;
- presence of agricultural use that may affect access;
- status of nearby accessways planned or anticipated but not yet constructed.

EXAMPLE: *Certified IP ordinance details how access findings are made:*

<http://www.qcode.us/codes/malibu-coastal/> Please click on “Local Implementation Plan” > “CHAPTER 12—PUBLIC ACCESS ORDINANCE” > “12.7. REQUIRED FINDINGS AND SUPPORTING ANALYSIS FOR PUBLIC ACCESS DEDICATIONS” or see Appendix B.

EXAMPLE: *Another certified IP ordinance details how access findings are made:*

<http://www.cityofpointarena.com/> Please click on “Municipal Code” > “Zoning Ordinance” > “Chapter 18.25 GENERAL PROVISIONS

AND EXCEPTIONS)” > “18.25.100 Public access to the shoreline” > subpart (7) or see Appendix B.

Conditions for Recorded Legal Documents: If findings support requiring public access in the coastal permit, it is often secured through recordation of a legal document, such as a public access easement. Recorded documents may also be required to secure property interests in open space, scenic views, archaeological sites, and other sensitive resources. Any permit condition requiring recorded documents should include the following:

To implement such conditions, the Coastal Commission sends compliance instructions including a requirement for a Preliminary Report from a licensed title insurance company to identify the prior encumbrances or liens on the property, and to confirm the current ownership and correct legal description.

- Precisely describe what development or activities can take place in the restricted portion of the parcel. Condition language should be supplemented or illustrated with a map exhibit. The condition can direct any precise follow-up delineation that still must occur, such as field verification to identify the exact location of a trail easement. For example, if the final easement location is dependent on an additional biological survey to delineate a habitat boundary and buffer, then the condition can direct who should perform the delineation, when, and how.
- Describe the method for drafting and recording the legal document.
- Address any property encumbrances by specifying that the easement, or other legal document, be recorded free of prior liens and encumbrances that may affect the interest being conveyed. This can be accomplished by the holders of these prior encumbrances signing subordination agreements subordinating their interest in the property to your recorded document. To help ensure that subordination agreements will be acceptable, you can attempt to determine what current encumbrances may be on a property and how the condition requirement affects these. For example, if an objective is to designate an area to set aside in a conservation easement for habitat restoration purposes, land subject to an existing utility easement that allows for future excavations and maintenance activities should probably not be chosen.
- Describe long-term expectations, both proactive and restrictive. Proactive measures could include, for example, installing a trail, eradicating invasive plants, inviting scientific study, revegetating with native species, or enhancing habitat. Restrictive measures could limit, for example, temporal access, vegetation removal, hunting, or pets. Several of these types of measures are defined as development. (Please see [Section I.B](#) “Determine if a Proposed Project is ‘Development’”). Thus, the coastal permit should be clear as to which activities are authorized, which should never be allowed, and which could be allowed but only pursuant to future permits or permit

amendments, all of which must be consistent with your LCP. It is also important to note who is to carry out future management of the property in question.

c. Elaborate on the contents of Final Local Action Notices.

An IP update can elaborate on what constitutes a complete and informative “final local action notice” (FLAN) -- sometimes called a Notice of Final Action (NOFA). Required contents of a complete final local action notice can be expanded upon, for example, to specify:

Form and content: A FLAN may be more readily identifiable if you attach a cover letter clearly indicating that a FLAN is being transmitted and describing what is being transmitted. In assembling material to send as, or with, the FLAN you might find that it contains outdated references (e.g., if you include a staff report it may refer to earlier project descriptions or suggested conditions that were eliminated in the final approval). Through revision, annotation, or the like, it should be clear to the reader that these references are outdated.

EXAMPLE: *of a cover page to a FLAN indicating its content:*

Appendix C-4 of the Local Coastal Program Post-Certification Guide for Coastal Cities and Counties at
<http://www.coastal.ca.gov/la/docs/post-cert-lcp-guide.pdf>

Applicant contact information: This information is needed because we must notice the applicant if we receive an appeal.

Project descriptions: Your application form likely requires a project description initially provided by applicants, but this description may undergo modification through the permit approval process, so you should ensure that the FLAN has an accurate, up-to-date project description. For example, to more accurately portray all that is being proposed, reflect any changes that the applicants propose, or reflect any revisions that the decision-makers mandate. Thus, the FLAN should clearly and fully describe the complete approved project, and it is helpful to include a plot plan and elevations.

Adopted findings and conditions: Similarly, final adopted findings and conditions may differ from those drafted in a staff report. The clearest way to address any changes is for the FLAN to include one adopted set of complete, correct findings and conditions. If this is too burdensome, then any annotations or revisions made on an earlier set of findings and conditions (e.g., margin notes or strike-outs and underlines) should be as clear as possible (with most documents now electronic, these changes and

notations should be easier to incorporate). Findings and conditions should be plainly distinguished from any other material in the submittal. And it would be helpful for each finding and condition to be clearly labeled and/or numbered so it can be easily discerned and referenced.

Expiration dates: The notice should state the time period for which the permit approval is valid. Extensions may be possible (please see Section II.C.2.g “Include permit extension procedures”), but first there needs to be a baseline date from which to extend the permit. Some options include, for example:

- state what the time period is before a permit will expire;
- specify from what date the time is calculated (e.g., date the final approval body acts, date final findings are adopted, or date a permit acceptance form is signed);
- define any terms that your ordinance uses in this regard, such as “exercised,” “expired” or “abandoned” (e.g., is it sufficient that some conditions have been complied with, some paperwork completed or construction equipment moved to the site or does physical construction have to have occurred? Does a certain amount of work have to occur in a certain time period or does the work have to be completed in a certain time period?);
- conform corresponding provisions governing the term of any other related permits that you issue, such as building permits or tentative map approvals, to the coastal permit expiration provisions.

Attachments or exhibits: In general, the FLAN should include any documents referenced in findings and conditions. For example, if a condition of approval requires following certain recommendations of a geological report, then that report (or at minimum, its recommendations) needs to be part of the FLAN. You may have additional staff reports or other materials that are critical to evaluating the final coastal permit decision (e.g., biological and geological consultant reports) that you may wish to transmit with the FLAN as well.

d. Establish procedures for transmitting Final Local Action Notices.

You may wish to supplement a requirement to transmit FLANs with procedures for ensuring that this is always accomplished. Code of Regulations §§ 13570 and 13571 mandate that a final local action notice be mailed first-class to the Coastal Commission within seven days of the local government’s action on the coastal permit being completed (i.e., all findings have been adopted and all local avenues of appeal have been

exhausted). One ramification of this regulation is that the final action may be made by different local decision-makers who have different support staff (e.g., Planning Department, City Council or Board of Supervisors). Support staff to the appellate bodies may have fewer occasions to mail notices and hence have less familiarity with the rules.

Our experience is that FLANs are not always mailed to the Coastal Commission within the required time period -- occasionally we receive them too early, occasionally too late, and occasionally not at all. If a notice is sent before local appeal periods have been exhausted, Commission staff cannot consider it a “final” action notice, and we have to return it with a notice of deficiency. For appealable projects, receipt of the notice triggers the Commission’s ten working day appeal period -- until this transpires the local permit cannot be exercised. To fully monitor LCP implementation, the Commission needs to have all final action notices (including for denied and non-appealable projects as well as for administrative and emergency coastal permits). These notices help to 1) understand any questions or disputes that arise in conjunction with the permit; 2) meet federal reporting requirements, 3) use in the evaluation of subsequent LCP amendments; and 4) to use in periodic reviews. And some denials of public works and energy projects can be appealed to the Coastal Commission.

Methods for ensuring timely transmittal of a final local action notice could include:

- assigning a staff person or persons from or responsible to each body from which a FLAN may be produced to prepare and mail the FLAN;
- coordinating your permit tracking process with the FLAN mailing process so the person responsible for mailing the FLAN knows when the right time to mail it is (e.g., knows whether or not it has been appealed locally and knows when that appeal process is completed);
- clarifying that if an appeal through your process is subsequently withdrawn, the date that withdrawal occurs would constitute the final local decision date for purposes of complying with § 13571.

e. Establish procedures to respond to notices of deficient Final Local Action Notices.

The Coastal Commission can reject as deficient a final local action notice (FLAN) on a coastal permit that you send if it does not meet either content or procedural requirements. When we receive a FLAN that fails to meet the applicable requirements, we mail you a Notification of Deficient Notice. The effective date of your approval of an appealable development

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is suspended if we find that the FLAN is deficient pursuant to Code of Regulations § 13572. No appeal period can commence until the deficiency is corrected and the corrected FLAN is mailed to us.

A process to respond to notices of deficiencies can be included when updating your IP and related internal procedures, such as to:

- track your final local action notice transmittals to us;
- make assigned staff aware that the Coastal Commission may send a Notification of Deficient Notice and, if it does so, the local action notice needs to be corrected and retransmitted;
- establish a time frame for correcting and resending FLANs;
- discuss with the Commission planner assigned to your jurisdiction any questions about a deficient notice or any reoccurring final action noticing problems.