

**CALIFORNIA COASTAL COMMISSION**

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# Th14b



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## STAFF REPORT: REGULAR CALENDAR

**Application Number:** 5-17-0336

**Applicant:** City of Manhattan Beach

**Agent:** McCabe & Company

**Project Location:** Manhattan Beach State Pier, west of Manhattan Beach Blvd.

**Project Description:** Improvements to the Manhattan Beach State Pier, including replacement of utilities (water, sewer, power), exterior repairs to the Roundhouse Building (replacement of windows, shutters, and doors) at the end of the pier, and interior remodel of the Roundhouse Marine Studies Lab and Aquarium.

**Staff Recommendation:** Approval with Conditions

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### SUMMARY OF STAFF RECOMMENDATION

The proposed project is an upgrade to an existing public fishing pier and the marine science education facility that occupies the "Roundhouse" at the end of the pier. Major Coastal Act issues associated with this project include potential adverse impacts to public access to the pier, marine resources and water quality. Other concerns raised by interested parties include potential adverse impacts to public access related to the removal of the food concession space (café) within the Roundhouse, and impacts to the historical integrity of the Roundhouse that may result from the proposed upgrades.

The proposed project is located partially within the Commission's area of original jurisdiction, and partially within the City's permitting jurisdiction pursuant to its certified Local Coastal Program (LCP). The submerged area of Santa Monica Bay (and other waterways) is within the Coastal Commission's original jurisdiction, and approximately two thirds of the pier structure is located within this submerged area. The remaining approximately one third of the pier structure is located within the City's certified Local Coastal Program jurisdiction. In order to avoid potential confusion, inconsistent conditions of approval, and a lengthy timeline due to dual application processes, the City requested by letter dated April 11, 2017 that the Commission consolidate the permitting processes, and Commission staff agreed to do so. Therefore, the standard of review for the proposed project is Chapter 3 policies of the Coastal Act. The certified City of Manhattan Beach LCP may be used as guidance.

The pier is owned by California Department of Parks and Recreation, but managed by the City of Manhattan Beach under an Operating Agreement with the State. The State Parks Department declined the City of Manhattan Beach's invitation to be a co-applicant of this coastal development permit application, and deferred to the City of Manhattan Beach for processing the CDP as the sole applicant **(Exhibit 7)**.

Staff is recommending that the Commission **approve** a coastal development permit for the proposed development with special conditions. The recommended special conditions are: 1) assumption of risk; 2) public access to the shoreline; 3) construction best management practices; 4) a water quality management plan; 5) conformance with the requirements of the resource agencies; and 6) fish cleaning stations.

See Page Four for the Motion to approve the permit application.

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### EXHIBITS

- Exhibit 1 – Project Location
- Exhibit 2 – Site Plans
- Exhibit 3 – Historic Impacts Assessment
- Exhibit 4 – Letter of Concern, Jan Dennis
- Exhibit 5 – City’s Response to Letters of Concern
- Exhibit 6 – Letter of Opposition, Bill Victor
- Exhibit 7 – State Parks Letter

## I. MOTION AND RESOLUTION

**Motion:** *"I move that the Commission **approve** Coastal Development Permit Application No. 5-17-0336 pursuant to the staff recommendations."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **Resolution:**

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

**1. Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit, the applicant, on behalf of 1) themselves; 2) their successors and assigns and 3) any other holder of the possessory interest in the development authorized by this permit, acknowledge and agree (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).

**2. Timing of Construction.** Pier closures shall be minimized to the extent feasible. Closure of the pier for completion of the approved development is permitted only between January 1 and May 28. Any proposed extension of the period of pier closure shall be submitted to the Executive Director in order to determine if an amendment to this permit is required pursuant to the requirements of the Coastal Act and the California Code of Regulations. The applicant and the development shall not interfere with public access along the shoreline in the project area, except for the temporary disruptions that may occur during the completion of the permitted development.

**3. Construction Responsibilities.** The permittee shall comply with the construction Best Management Practices listed in the permittee's project description received by Commission staff on April 24, 2017, except as modified herein. Construction-related requirements shall include, but shall not be limited to, the following Best Management Practices:

A. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;

B. Any and all debris resulting from construction activities shall be removed from the site within 24 hours of the completion of construction;

C. No machinery or construction materials not essential for project improvements shall be allowed at any time in the intertidal zone;

D. If turbid conditions will be generated during construction, a silt curtain shall be utilized to control turbidity;

E. Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible after loss;

F. Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss;

G. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;

H. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;

I. The applicant shall provide adequate disposal facilities for solid waste, including excess treated wood or concrete, produced during demolition or construction;

J. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;

K. All stock piles and construction materials shall be covered, enclosed on all sides, surrounded by a berm, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;

L. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;

M. The discharge of any hazardous materials into any receiving waters shall be prohibited;

N. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible. The applicant and the applicant's contractors shall have adequate equipment to contain and absorb or collect any such spill immediately;

O. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and

P. All construction related BMPs shall remain in place and be maintained in a functional condition throughout the duration of construction activity, and all construction equipment and surplus materials have been removed from the site.

**4. Water Quality Management Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit a Water Quality Management Plan

(WQMP), which incorporates Best Management Practices (BMPs) including, but are not limited to: 1) all equipment shall be inspected for leaks immediately prior to the start of construction operations, and regularly inspected thereafter until project completion. Vehicles and equipment with leaks shall not enter the project/beach area; 2) trash and other debris generated during demolition, construction and clean-up shall not be disposed of in the ocean, but will be disposed of off-site at an approved waste disposal facility; and 3) secure all materials to prevent discharges to receiving waters via wind.

**5. Conformance with the Requirements of the Resource Agencies.** The permittee shall comply with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, California State Water Quality Control Board, Regional Water Quality Control Boards, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality, the marine environment, and sensitive species. Any change in the approved project, which is required by the above-stated agencies, shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

**6. Fish-cleaning Stations.** The applicant shall install the two fish-cleaning stations as shown on the final approved project plans by no later than May 28, 2018 and maintain the fish-cleaning stations as proposed.

## IV. FINDINGS AND DECLARATIONS

### A. PROJECT DESCRIPTION

The applicant is proposing to implement maintenance improvements to the Manhattan Beach State Pier, including interior and exterior improvements to the Roundhouse building located at the end of the pier, and upgrades to the aquarium and educational facilities located inside the Roundhouse. No structural modifications to the pier are proposed. No work is proposed below the water line.

The project site is the Manhattan Beach State Pier, which is located at the terminus of Manhattan Beach Boulevard in the City of Manhattan Beach, within the Santa Monica Bay in Los Angeles County. The pier was built in 1920. Traditionally, piers are built on wood pilings and have blacktopped decks, however the Manhattan Beach Pier features steel-reinforced concrete pilings, a concrete deck, and rounded end. The octagonal-shaped Roundhouse was originally constructed at the end of the pier in 1921, and in 1991-1992, the Pier and Roundhouse were rehabilitated with modern materials such as vinyl/plastic-framed windows, which replicated the original design and appearance. However, according to the Historic Impacts Assessment for the Manhattan Beach Roundhouse Project at the Manhattan Beach Pier conducted by LSA, the Roundhouse is now in poor condition due to “atmospheric conditions, roosting pigeons, and vandalism” (**Exhibit 3**). The pier is owned by California Department of Parks and Recreation, but managed and operated by the City of Manhattan Beach. The State Parks Department has acknowledged the City’s application for a coastal development permit and declined to be a co-applicant for the proposed project (**Exhibit 7**).

The maintenance improvements proposed to the pier include replacing the utilities, including water, sewer, power, and low voltage utility lines. Installation of a macerating pump (a large capacity disposal unit) is also proposed at the end of the Pier to be connected to the sewer line to safely dispose of fish parts at the proposed fish-cleaning stations that will replace the fish-cleaning stations, which consisted of cutting boards and discharge pipes into the ocean, that were removed without the benefit of a coastal

development permit in 2014. A life ring cabinet and an emergency call box are also proposed to be installed, the latter of which will provide direct connectivity to local and marine emergency services.

Exterior improvements to the Roundhouse building located at the end of the pier include replacement of windows, shutters, and doors; replacement of the existing cupola with a new weather vane and copper cap; replacement of some damaged barrel mission clay tiles on the roof; repainting of the building with anti-graffiti paint; installation of eyebolts at all building corners; replacement of the copper vent and stucco; replacement of existing gutters and downspouts; installation of a water line along the Pier to connect to the Roundhouse; replacement of existing exposed utility lines; and replacement of fan coil units. Additionally, the existing entrance located on the southern side of the Roundhouse will be relocated to the eastern side of the Roundhouse which faces the pier entrance at the terminus of Manhattan Beach Boulevard. An existing 207 square foot concession space in the Roundhouse will be removed as a part of the proposed Roundhouse renovation.

The interior remodel of the Roundhouse consists of upgrades to the currently deteriorating aquarium facilities, including the specimen tanks and public restrooms. The Roundhouse Marine Studies Lab and Aquarium serves as an Oceanographic Teaching Stations' (a 501(c)3 non-profit) educational facility. Admission is free, and is generally open to the public during the fall, winter and spring Monday through Friday, from 2 pm to 5 pm and Saturday and Sunday from 10 am to sunset. Between Memorial Day and Labor Day, it is open Monday through Friday, 2 pm to 8 pm; and 9 am to 9 pm on weekends. The existing Aquarium is approximately 2,171 square feet.

The existing 207 square foot concession space on the east side of the Roundhouse, which currently serves coffee and ice cream to paying customers, is proposed to be removed as a part of project in order to expand the size of the marine education center. A small scale seawater supply system is also proposed to replace the existing aquarium water supply system. All of the improvements described above will occur over a period of five to six months during the non-peak season of January to May, during which time public access to the pier will be restricted.

## **B. STANDARD OF REVIEW**

Coastal Act Section 30601.3 provides the Commission with the authority to act upon a consolidated permit for proposed projects that require a coastal development permit from both a local government with a certified local coastal program (LCP) and the Commission. This authority is triggered if the applicant, local government, and Executive Director (or Commission) consent to consolidate the permit. The standard of review for such permits is the Chapter 3 policies of the Coastal Act. The submerged area of Santa Monica Bay (and other waterways) is within the Coastal Commission's original jurisdiction, and approximately two thirds of the pier structure is located within this submerged area. The remaining approximately one third of the pier structure is located within the city's certified Local Coastal Program jurisdiction, which although subject to the appeal of the CCC, is within the City's jurisdiction. In order to avoid potential confusion, inconsistent conditions of approval, and a lengthy timeline due to dual application processes, the City requested by letter dated April 11, 2017 that the Commission consolidate the permitting processes, and Commission staff agreed to do so. Therefore, the standard of review for the proposed project is Chapter 3 policies of the Coastal Act. The certified City of Manhattan Beach LCP may be used as guidance.



### **C. PUBLIC ACCESS AND RECREATION**

One of the basic goals stated in the Coastal Act and is to *maximize public access* to and along the coast. The public access and recreation policies of the Coastal Act require that maximum access and recreational opportunities shall be provided and that development shall not interfere with such access.

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211 of the Coastal Act states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30213 of the Coastal Act states:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...*

Section 30221 of the Coastal Act states:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

The Commission is vested with the authority to assure that it acts in a manner consistent with Section 30210 of the Coastal Act which requires the Commission to carry “out the requirement of Section 4 of Article X of the California Constitution” and provide for maximum access and recreational opportunities for all people.

Section 4 of Article X of the California Constitution provides the following:

*No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.*

This section merges the common law Public Trust Doctrine with the California Constitution. [See *Personal Watercraft Coalition v. Marin County Board of Supervisors* (2002) 100 Cal.App.4th 129, 144-145.] The Legislature, in furthering the goals of Article X Section 4 of the Constitution, enacted Section 30210 of the Coastal Act to ensure the public can always attain access to navigable waters for

recreational purposes. As such, through this legislative mandate, the Commission is charged with the duty of ensuring that proposed development is consistent with Section 30210 of the Coastal Act, and by extension, the Public Trust Doctrine. Therefore, the Commission has the authority to impose requirements to protect public trust uses as a condition of approval for a development if such development would be inconsistent with Section 30210 of the Coastal Act without the imposition of such a condition.

The subject site is located on the Manhattan Beach State Pier, a regional and local coastal recreational visitor destination point, and popular fishing location. The pier is open for public fishing and sightseeing 24 hours a day. Pier parking is available in public parking lots located at the base of the pier.

The project is proposed to occur from January to May 2018, with the construction staging location to be the southern portion of the lower pier parking lot. By having the laydown and staging area located in the lower pier parking lot, portions of the pier can be open to the public during the project. The far west end of the pier and area surrounding the Roundhouse will be closed for the duration of the project construction, but the remaining length of the pier will be closed off in quadrants, leaving an area open to public access as outlined in **Exhibit 2**. For example, when the northwest quadrant of the pier is closed, the southwest quadrant will only be open for pass-through traffic; however the northeast and southeast quadrants of the pier will be open to the public for fishing and sightseeing. Furthermore, the City will implement public outreach in the form of bilingual signage, social media, newspaper articles and public alert systems to inform pier visitors and fishing enthusiasts to utilize the nearby piers at Hermosa Beach (1.7 miles south along the Strand) and/or the Redondo Beach Pier (3.7 miles south). The letter of opposition submitted by Bill Victor on August 22, 2017 also generally contends that fishermen will not be able to access the pier for fishing, and the project is therefore inconsistent with the Chapter 3 policies of the Coastal Act (**Exhibit 7**). However, the schedule for public access to the pier and fishing access plan submitted by the City, along with **Special Condition 2**, will provide continuous and adequate public access and thus ensure that the proposed development conforms to the public access and recreation policies of the Coastal Act. In addition, the project's purpose is to repair and improve the public pier, thereby allowing continued and improved public use of the area in furtherance of the Coastal Act's mandate for maximum public access.

In addition, Mr. Victor's August 22, 2017 and August 28, 2017 letters also generally assert that the removal of the food concession space (café) is inconsistent with the public access policies of Chapter 3 of the Coastal Act because the location of the café is unique and provides the public with a special opportunity to enjoy a beverage on the pier while enjoying the coastal views, breeze, and ambiance. According to the City, the expansion and aquarium improvements require more space than what the aquarium currently had available, which necessitated expansion into the current concessions space. The City, Oceanographic Teaching Stations, and the aquarium operator have determined that the entire interior of the Roundhouse building space was needed for the proposed reconfigured aquarium, support systems and facilities. The Roundhouse also provides the public with restrooms. Additionally, the aquarium, which charges no admission for entry and educates thousands of students and visitors each year, provides a unique amenity to the public by way of experiencing local sea life up close and personal.

In regards to the removal of the concession, the City contends that frequent turnover in vendors using the concession space makes it difficult to keep the space as a viable food and beverage resource location. In addition, the City points out that while there is ample food and beverage access closer to the head of

the pier, the City is exploring the opportunity to bring in a mobile vendor to meet visitor needs for hydration at the end of the pier. For the forgoing reasons, as proposed and as conditioned, the project conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

#### **D. DEVELOPMENT**

The Manhattan Beach State Pier, including the Roundhouse Marine Studies Lab and Aquarium, is a very popular coastal visitor destination on California's coast. It maintains statewide significance as the "oldest standing steel reinforced concrete pier on the Pacific Coast that remains in its original design, structure, and environment" (**Exhibit 3**). In 1995, the Pier was designated California Registered Historical Landmark Number 1018.

Section 30253 of the Coastal Act states, in part:

*New development shall...*

*e) where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Through the subject application, the City of Manhattan Beach is proposing maintenance improvements to the pier (replacement of utilities) which will not change the structural integrity or historic character of the pier itself. Additionally, aside from the proposed relocation of the front entrance, the work proposed to the Roundhouse consists of like-for-like replacement of damaged roof tiles, windows, and doors that must be repaired due to deteriorating conditions, and are intended to mimic the existing architectural character and design of the building and would serve to and preserve the overall design of the Roundhouse.

According to the historic impacts report submitted by the City entitled *Historic Impacts Assessment for the Manhattan Beach Roundhouse Project at the Manhattan Beach Pier, in Manhattan Beach, California (LSA Project No. AND1602)* dated April 17, 2017, although the Roundhouse is technically a modern building because it was completely reconstructed in 1992 with modern materials (i.e. vinyl/plastic-framed windows which replicated the original design and appearance) and has completely lost its integrity of materials, workmanship and design, it is still historic because its overall features and design have been preserved. The historic impacts report concluded that the proposed project is in compliance with the Secretary of the Interior's Standards (SOIS) for the Treatment of Historic Properties because the project does not propose any significant changes, additions, or exterior alterations to the design of the Roundhouse.

On July 12, 2017, the South Coast District Office received a letter of concern from Jan Dennis, a Manhattan Beach Historian, regarding the proposed relocation of the front entrance of the Roundhouse. The letter generally expresses concern that the relocation of the front entrance from the south side of the structure to the east side of the structure would change the iconic three arches that are located on the eastern portion of the Roundhouse (**Exhibit 4**). However, as addressed in the City's response to that letter (**Exhibit 5**), there will be no structural changes to the three arches, with the exception that the window located in the center archway will be replaced by a door that will function as the front entrance.

On August 22, 2017 and August 28, 2017, the South Coast District Office received letters of opposition to the project from William Victor. In addition to other concerns discussed in further detail below, Mr. Victor expressed that the application should be rejected because the proposed project requires the elimination of the food concession space (café) and the change of the location of the entrance to the Roundhouse because it is not consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (**Exhibit 6**). However, the impacts analyses conducted by LSA concluded that the relocation of the front entrance and removal of the food concession does not impact the historical significance of the Roundhouse since the iconic arches will remain. Commission staff agrees with this conclusion. The proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

## **E. MARINE RESOURCES AND WATER QUALITY**

The Coastal Act contains policies that address development in or near coastal waters. The proposed project includes development in the coastal waters of Santa Monica Bay. The following Coastal Act policies require the protection of water quality and biological productivity, and require that any adverse impacts to marine resources be avoided or adequately mitigated.

The standard of review for development proposed in coastal waters is the Chapter 3 policies of the Coastal Act, including the following marine resource policies. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity and marine resources.

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Sections 30230 and 30231 of the Coastal Act require the protection of water quality and biological resources. The proposed project will be occurring in coastal waters and along the shoreline of a developed area (City of Manhattan Beach) that is heavily used by the public. The shoreline at the project site is a sandy beach. Since the proposed project does not include any new fill or bottom disturbance, no eelgrass beds or bottom habitat will be disturbed. However, due to the project's location it is necessary to ensure that construction activities will be carried out in a manner that will not adversely affect recreation, water quality or marine resources. In addition, Section 30231 requires the proposed project to minimize adverse effects of entrainment.

The proposed project includes a new seawater intake system to provide water for the aquarium tanks in the Roundhouse Marine Studies Lab and Aquarium. The proposed seawater intake system would pump up to 10 gallons per minute, for up to three hours per week, resulting in a maximum flow rate of about 0.038 cubic meters per second during high tides. The proposed seawater intake system is designed to minimize entrainment, by enclosing the seawater intake (the pump) with a fine wire mesh screen enclosure with 1.0 millimeter-wide openings. This will prevent any organism larger than 1 mm from getting into the system. Upon withdrawal, the seawater would be filtered within the facility, and any eggs or larvae entrained would be removed from the system.

Entrainment is the term used when tiny organisms (small fish and plankton such as fish and shellfish eggs and larvae) in seawater get sucked into a pump or a seawater intake like the proposed project. Entrainment typically results in the destruction of the organisms. In this case, any organism sucked into the proposed intake system would be killed by the water filter and treatment process. The applicant's estimated anticipated entrainment impacts are approximately 59-264 fish larvae and 18-48 shellfish larvae per year [Entrainment and Essential Fish Habitat Assessment, by MBC Applied Environmental Sciences, April 2, 2017]. No threatened or endangered fish or invertebrate species would be affected by the proposed intake.

The proposed design will also include a pumping rate that ensures through-screen water velocities that are at or below 0.5 feet per second (fps). This is the rate considered by both the U.S. EPA and California State Water Resources Control Board as resulting in *de minimis* levels of impingement. Impingement occurs when marine organisms larger than the mesh screen openings are pulled onto the screen and are injured or killed. With the proposed design, the proposed project's effects on marine habitats and communities resulting from entrainment and impingement have been minimized as required and are expected to be minimal and of short duration. As conditioned, the proposed project complies with Sections 30230 and 30231 of the Coastal Act.

The potential adverse impacts to water quality and marine resources also include discharges of contaminated runoff and sedimentation during construction activities associated with the proposed project. In order to prevent adverse impacts to marine waters from construction activities, the Commission is imposing **Special Condition 3 and 4** which require that specific mitigation measures be implemented (e.g., erosion control, equipment storage) in order to ensure that water quality, biological productivity and marine resources are protected as required by Sections 30230 and 30231 of the Coastal Act.

## **F. LOCAL COASTAL PROGRAM**

The City of Manhattan Beach LCP was effectively certified on May 12, 1995. The certified LCP sets for the the following policy regarding the pier and Roundhouse:

***POLICY I.A.7:** The City will promote the public awareness of the Marine environment such as through the Oceanographic Teaching Stations, Inc. presently located in the Roundhouse on the pier.*

This consolidated coastal development permit, as conditioned, will carry out this policy by ensuring that the aquarium can continue to operate in the Roundhouse. The project is consistent with surrounding development and the certified LCP for the area.

## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Manhattan Beach is the lead agency for CEQA. The City of Manhattan Beach determined that the project was categorically exempt under Section 15301 of the CEQA regulations [Class 1 Minor Alterations to Existing Facilities] in April, 2017. Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative, will not have any significant impacts on the environment, and complies with the applicable requirements of the Coastal Act to conform to CEQA.

## **H. UNPERMITTED DEVELOPMENT**

Unpermitted development has occurred at the project site subject to this Coastal Development Permit application. The unpermitted development includes the removal of fish-cleaning stations from the Manhattan Beach Pier in 2014 without the benefit of a coastal development permit. Any non-exempt development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

Commission staff notified the applicant of this matter by letter dated December 8, 2014. In that letter, staff noted that the pier provides a variety of recreational opportunities to the public, including lower cost recreational opportunities, such as pier fishing. Public piers are some of the few places where residents can fish without a fishing license and removing the fish-cleaning stations was an impediment to those wishing to fish on the pier for recreation or for subsistence purposes. In the December 8 letter, staff suggested that the applicant consider installing new fish-cleaning stations on the pier in order to resolve the matter. To that end, the applicant is proposing, as part of the project, to install two new fish-cleaning stations to replace two fish-cleaning stations that were removed without a permit in 2014. In order to ensure that the replacement fish-cleaning stations are installed in a timely manner, **Special Condition 6** requires the City to install the fish cleaning stations by no later than May 28, 2018 and maintain the fish-cleaning stations as proposed. Although the development has taken place prior to submittal of this application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit will resolve the violations identified in this section above once the permit has been fully executed and the terms and conditions of the permit complied with by the applicant.