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Prepared January 19, 2018 for February 7, 2018 Hearing

To: Commissioners and Interested Persons

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**Subject: San Luis Obispo County LCP Amendment No. LCP-3-SLO-15-0013-1-Part B
(Resource Management System)**

SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County proposes to amend its Local Coastal Program (LCP) by updating the LCP's Resource Management System (RMS) provisions. The RMS is a component of the LCP's Land Use Plan (LUP) that provides one of the LCP's tools for identifying and addressing identified resource constraints and capacities (e.g., water supply and wastewater treatment capacities). The main purpose of the current RMS is to provide the County and the general public with a systematic means of assessing resource constraints and capacities on a regular basis, including annual reassessments that allow the County to regularly update such assessments in relation to the best available information, and to identify measures to address such issues. The RMS currently categorizes each such resource evaluated in terms of supply and demand, and ultimately assigns a "Level of Severity" (LOS) designation to it ranging from none up through LOS levels I, II, and III, where each successive level represents a higher degree of resource constraint.¹ Under each LOS designation, the LCP then requires the County to take certain actions to address the resource issue (e.g., adopting additional development controls when there is a lack of water to support new water-reliant uses). In addition, a small subset of LCP policies are based on RMS LOS water and wastewater designations themselves, and provide differing standards for proposed new development in those areas so designated by further limiting such development in areas outside of the urban services line when the RMS level is LOS II or III.

The County's proposed LCP amendment would update the LCP's RMS chapter. Most of these changes are simply general cleanup and reorganization, but three proposed changes are more substantive, with one of them being problematic. First, and not problematic, the proposal would eliminate the RMS task force and shift its RMS report responsibilities to the County's Planning

¹ Services with a higher LOS (e.g., LOS III) have more severe use, capacity, and adequacy constraints and issues than do those with a lower LOS (e.g., LOS I). LOS levels are designated by the County Board of Supervisors.

Department, and it would change the report from an annual report to an every two years report. These changes are appropriate and reflect the County Planning Department's primary role in LCP implementation, as well as the realities of the time and resources necessary to develop such reports. These changes should not significantly alter RMS implementation in the LCP.

Second, the proposal would provide different thresholds for determining LOS classifications for certain resources, including for water supply and wastewater treatment capacity. These changes would set more conservative thresholds for each LOS level, essentially lowering the threshold by which a higher LOS (i.e., a greater concern) is designated, and thus setting in motion a process to address associated resource deficiencies sooner than is the case under the existing LCP. Thus, these LOS classification changes serve to strengthen the LCP.

Third, the proposal would change the actions that need to be taken by the County under particular LOS designations, and it would also make the actions discretionary as opposed to mandatory (i.e., the County proposes to change applicable language from "the County shall" to "the County may"). These changes would generally serve to weaken LCP RMS effectiveness because the proposed language allows the County to choose to do nothing when the LCP currently requires the County to take certain actions. Also, as to the actions themselves, although the proposed amended actions are generally similar, they include some changes that lessen their effectiveness. Both of these issues are readily resolved by suggested modifications designed to ensure that the actions themselves are fully fleshed out and as encompassing or more so than existing LCP language, and by retaining the mandatory nature of the existing LCP language.²

Finally, the proposed changes themselves raise issues with a few RMS-related policies in other parts of the LCP. Specifically, these policies rely on RMS LOS designations to identify adequacy or lack thereof related to water and wastewater services, and to subsequently identify required LCP development standards in those cases. While this is generally an appropriate LCP construct, it also means that in cases where initial or revised LOS designations are in process and/or where measures to address deficiencies associated with those designations are in process, these policies may not be adequately protective in terms of these resources in that interim period. And this disconnect will be more apparent when the RMS reports are no longer annual as is proposed in this amendment. Although there are only a few policies that fall into this category, it is something that should be addressed so that there is no question that current resource constraints on the ground are applied to applicable development scenarios in those cases. Thus, suggested modifications are included that clarify that the on-the-ground analysis and conclusions provided during the CDP application review process constitute other key tools (which also may still consider or rely upon LOS determinations under the RMS) in ensuring consistency with key Coastal Act and LCP requirements regarding adequacy of services.

In summary, the proposed amendment generally reorganizes and updates LCP RMS language, but it also includes some weakening components. Fortunately these issues are readily addressed through suggested modifications to ensure that the RMS continues to effectively function as an

² Staff notes that when the Commission heard public testimony on this amendment at its September 2017 hearing in Cambria, many members of the public, and some Commissioners, voiced concern about the amendment's proposal to change the RMS' listed resource management actions from mandatory (i.e., "shall") to discretionary (i.e., "may"). Subsequently, Commission staff worked with County staff and other interested parties to address this issue, and proposes here to retain the existing LCP's mandatory directives.

LCP tool to help systematically assess resource constraints and capacities on a regular basis and to help identify measures to address such issues in the coastal zone. As modified, the proposed LUP amendment conforms with the policies of the Coastal Act, and staff recommends that the Commission approve the amendment with those modifications. The motions and resolutions are found on page 4 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on November 18, 2016. On February 8, 2017, the Commission voted to extend the action deadline by one year, to February 8, 2018. Thus, the Commission has until February 8, 2018 to take a final action on this LCP amendment. In other words, unless withdrawn by the County, the Commission must take action on this proposed LCP amendment by Thursday of its February 2018 meeting in Cambria.

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- Appendix A: Substantive File Documents
- Appendix B: Staff Contact with Agencies and Groups

EXHIBITS

- Exhibit 1: Proposed LUP Amendment in Strikethrough and Underline
- Exhibit 2: Proposed LUP Amendment (Clean)
- Exhibit 3: Applicable LCP Policies and Standards

CORRESPONDENCE

- Correspondence 1: Public Comments Received
- Correspondence 2: San Luis Obispo County’s Response to Public Comments

I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment if modified. The Commission needs to make two separate motions in order to act on this recommendation.

A. Deny the LUP Amendment as Submitted

Staff recommends a **NO** vote on the motion below. Failure of the motion will result in denial of the LUP amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

***Motion:** I move that the Commission certify Land Use Plan Amendment Number LCP-3-SLO-15-0013-1-Part B as submitted by San Luis Obispo County, and I recommend a **no** vote.*

***Resolution:** The Commission hereby denies Land Use Plan Amendment Number LCP-3-SLO-15-0013-1-Part B as submitted by San Luis Obispo County and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible mitigation measures and/or alternatives which could substantially lessen any significant adverse effect which the Land Use Plan may have on the environment.*

B. Approve the LUP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in certification of the LUP amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

***Motion:** I move that the Commission certify Land Use Plan Amendment Number LCP-3-SLO-15-0013-1-Part B if it is modified as suggested in this staff report, and I recommend a **yes** vote.*

***Resolution:** The Commission hereby certifies Land Use Plan Amendment Number LCP-3-SLO-15-0013-1-Part B for San Luis Obispo County if modified as suggested and adopts the findings set forth below on the grounds that the amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment if modified as suggested 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 plan on the environment, or 2) there are no further feasible mitigation measures and/or alternatives which could substantially lessen any significant adverse effect which the Land Use Plan may have on the environment.*

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Coastal Act consistency findings. If San Luis Obispo County, by formal resolution of the County Board of Supervisors, accepts the suggested modifications within six months of Commission action (i.e., by August 7, 2018), the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format and text in underline format denotes proposed text to be deleted/added by the Commission. (Note that the baseline text is all language proposed by the County as part of this LUP amendment.)

Suggested Modification 1: Amend pages 15 through 16 of **Exhibit 1** as follows:

General ~~Recommended~~ Actions for Levels of Severity

When the Board of Supervisors finds that a level of severity exists, it shall considers and institutes ~~any or all of the following or other specified actions as needed~~. These general actions are in addition to the more specific recommended actions for each resource as listed in the following section.

LOS I ~~Recommended~~ Actions

If sufficient progress is not made toward alleviating the level of severity within one year from the Board of Supervisors designating LOS I for any particular resource, the Board of Supervisors ~~may~~ shall adopt an appropriate action ~~such as~~ from the following:

1. Identify projects to decrease and/or at least avoid worsening the level of severity, and ~~funding~~ of projects necessary to address the resource problem.
2. In the case of special districts, recommend to LAFCo that annexations that increase demand for the affected resource address the resource problem prior to approval.
3. ~~The Board may~~ impose conservation measures within the service area.
4. Identify projects to decrease and/or at least avoid worsening the level of severity, and impose restrictions or conditions on budget allocations to an affected department, if applicable, that shift priorities to such projects.
5. Restrict funding, such as discretionary loans, to affected districts if applicable.
6. Restrict approvals of capital projects for the affected agency.
7. In the case of special districts, recommend to LAFCo denial of any annexations that increase demand for the affected resource.
8. Designate an LOS II, if projects that decrease and/or at least avoid worsening the level of severity cannot be completed before resource capacity is exceeded.
9. Other actions as necessary.

LOS II ~~Recommended~~ Actions

In addition to the preceding action requirements for LOS I, the Board ~~may~~ shall take actions that adopt land use policies that respond to a delay in funding for a necessary project such as include but are not limited to the following:

1. Manage the rate of resource depletion within the affected community or area to extend the availability of the resource until such time as the projects can be implemented that will provide additional resource capacity.
2. Initiate appropriate financing mechanisms to recover ~~the project costs~~ including, but not limited to, capital improvement bonds, assessment districts, developer fees, etc..
3. Use RMS information to evaluate the appropriate scale and timing of discretionary projects within the remaining resource capacity to determine whether they should be approved.
4. Enact restrictions on further land development in the area that is affected by the resource problem.
5. Enact adjustments to land use categories so that they will accommodate no more than the population which can be served by the remaining available resource, or redirect growth to communities or areas that have available resource capacity.
6. Give a higher priority to serving existing and strategically planned communities with adequate resources, streets, and infrastructure, over outlying rural areas.
7. Impose stringent conservation measures within the service area.
8. Identify appropriate measures to reserve water supply, sewage treatment or road capacity, as applicable, so the following priority uses specified by Coastal Act Section 30254 will not be precluded by other development: services to coastal-dependent land uses; essential public services and basic industries vital to the economic health of the region, state, or nation; public recreation; commercial recreation; and visitor-serving land uses.

LOS III ~~Recommended~~ Actions

In addition to the preceding actions ~~action requirements in addition to those~~ for LOS I and II, the Board shall take ~~may institute measures such as~~ the following actions:

1. Institute appropriate measures (including capital improvement programs) to correct the critical resource deficiency, or at least restore LOS II so that severe restrictions will be unnecessary. In many cases, other agencies or districts will control decisions about necessary measures. The Board of Supervisors shall only seek cooperative assistance for a certain time period, beyond which measures may be considered to enact County ordinances or standards affecting resource usage such as development restrictions.

2. Adopt growth management or other urgency measures to initiate whatever restrictions are necessary to minimize or halt further resource depletion. Restrictions enacted by means other than an urgency ordinance shall be reduced or removed after a public hearing at which the Board of Supervisors determines that LOS III no longer exists and any dangers to public health or safety have been eliminated.
3. Enact a moratorium on land development or other appropriate measures in the area that is affected by the resource problem until such time that the project provides additional resource capacity to support such development.
4. Identify appropriate measures to reserve water supply, sewage treatment or road capacity, as applicable, so the following priority uses specified by Coastal Act Section 30254 will not be precluded by other development: services to coastal-dependent land use; essential public services and basic industries vital to the economic health of the region, state, or nation; public recreation; commercial recreation; and visitor-serving land uses.

Suggested Modification 2: Amend Coastal Plan Policies 1, 6, and 8 as follows:

Policy 1: ~~Availability of~~ Adequate Public or Private Service Capacity

New development (including divisions of land) shall demonstrate that adequate public or private service capacities, including water supply and wastewater disposal, are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas within the urban service line (USL). Adequate public or private service capacity for water and wastewater is demonstrated when, Pprior to permitting all new development, a finding isshall be made that the development will be served by an identifiable, available, and long-term sustainable water supply and wastewater treatment system in a manner that does not impair coastal resources, including by accounting for there are sufficient services to serve the proposed development given the already outstanding commitment to existing development, as well as potentially allowed development on vacant lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable. Permitted development outside the USL shall be allowed only if:

- a) It can be serviced by adequate private on-site water and waste disposal systems; and
- b) The proposed development reflects that it is an environmentally preferable alternative.

The applicant shall assume responsibility in accordance with county ordinances or the rules and regulations of the applicable service district or other providers of services for costs of service extensions or improvements that are required as a result of the project. Lack of ~~proper arrangements for guaranteeing~~ adequate public and/or private services is grounds for denial of the project or reduction of the density that could otherwise be approved (see also Policy 6) ~~consistent with available resources~~. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.021c (DIVISIONS OF LAND),

23.04.430 AND 23.04.432 (OTHER DEVELOPMENT) OF THE CZLUO.]

Policy 6: Limited Public and/or Private Service Capacity and the Resource Management System

The county will implement the Resource Management System (RMS), as well as the coastal development permit review process for new development, as tools to evaluate ~~consider~~ where adequate ~~the necessary~~ public and/or private service capacities ~~resources~~ exist or can be readily developed to support new land uses. The RMS Biennial Resource Summary Report is an important source of information to help inform decision-makers when public or private service capacities become limited. Any LCP policy or standard that applies when a resource is designated LOS II or III shall also apply in the same way to any resource found to have limited and/or inadequate public and/or private service capacity. Permitted public service expansions shall ensure the protection of coastal ~~natural~~ resources, including the ~~bio-logical~~ biological productivity of coastal waters. ~~In the interim, w~~Where there ~~they is~~ are limited and/or inadequate public and/or private service capacity ~~identified public service limitations~~, uses having priority under the Coastal Act shall not be precluded by the provision of those limited services to non-priority uses (see also Policies 1 and 8). [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 8: Priority Development

Where there is limited public and/or private service capacity ~~existing or planned public works facilities can accommodate only a limited amount of new development~~, the following land uses shall have priority for those services in accordance with the Coastal Act and be provided for in the allocation of services in proportion to their recommended land use within the service area.

- a) Uses which require location adjacent to the coast (coastal-dependent uses).
- b) Essential public services and basic industries vital to the economic health of the region, state or nation including agriculture, visitor-serving facilities and recreation.

Priority for development of such uses shall be given to lands within the USL that are already subdivided with services available, and then to unsubdivided parcels within the USL with services available. Subdivision is highly discouraged outside of the USL where there is limited public and/or private service capacity. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

III. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

Resource Management System Background

The amendment proposes to update the LCP's Resource Management System (RMS) provisions. The RMS is a component of the LCP's Land Use Plan (LUP) that provides one of the LCP's tools for identifying and addressing identified resource constraints and capacities for water supply, wastewater treatment capacity, traffic and circulation, parks, and schools. The main purpose of the current RMS is to provide the County and the general public with a systematic means of assessing resource constraints and capacities on a regular basis, including annual reassessments that allow the County to regularly update such assessments in relation to the best available information, and to identify measures to address such issues.

The RMS categorizes each resource evaluated in terms of supply and demand, and ultimately assigns a "Level of Severity" (LOS) designation to it ranging from none up through LOS levels I, II, and III, where each successive level represents a higher degree of resource constraint.³ While the RMS includes specific thresholds that apply to each specific resource type (e.g., water supply, wastewater treatment, etc.), in general LOS III means that the use of the resource exceeds its capacity, with LOS I and II providing lead time for the County and service providers to address such potential capacity issues and ultimately avoid a future LOS III designation. Under each LOS designation, the LCP requires the County to take certain actions to address the resource issue (e.g., adopting additional development controls when there is a lack of water to support new water-reliant uses). In addition, a small subset of LCP policies are based on RMS LOS water and wastewater designations themselves, and provide differing standards for proposed new development in those areas so designated by further limiting such development in areas outside of the urban services line when the RMS level is LOS II or III.

Although the RMS specifies the criteria by which each LOS level is defined, such level setting does not require strict adherence to those criteria, and it requires Board action (i.e., just because the criteria are met does not unilaterally imply a particular LOS absent Board action). On the former, the LCP states: "The criteria for each level of severity are not absolute, as particular community conditions or circumstances may logically support alternative criteria. Instead, they offer general guidelines for determining when resource management measures should be enacted."⁴ Thus, just because a resource meets a particular LOS designation criterion, it does not mean that such resource automatically de facto becomes so designated. Rather, the Board of Supervisors must formally adopt the specific LOS designation in a public hearing.

Proposed Amendment

The County's proposed LCP amendment would update the LCP's RMS chapter. Most of these changes are simply general cleanup and reorganization, but three proposed changes are more substantive. First, the County proposes to eliminate the RMS task force and shift its RMS report responsibilities to the County's Planning Department, and it would change the report from an annual report to an every two years report.

Second, the County proposes to use different thresholds for determining LOS classifications for certain resources, including for water supply and wastewater treatment capacity. These changes would set more conservative thresholds for each LOS level, essentially lowering the threshold by

³ Services with a higher LOS (e.g., LOS III) have more severe use, capacity, and adequacy constraints and issues than do those with a lower LOS (e.g., LOS I).

⁴ See page 5 of **Exhibit 1**.

which a higher LOS (i.e., a greater concern) is designated, and thus setting in motion a process to address associated resource deficiencies sooner than is the case under the existing LCP. In other words, the amendment requires supply to be adequate for a longer period of time for each LOS designation. See pages 21–28 of **Exhibit 1**.

Finally, the County proposes to change the actions that need to be taken by the County under particular LOS designations, and it would also make the actions discretionary as opposed to mandatory (i.e., the County proposes to change applicable language from “the County shall” to “the County may”). For example, if a water supply is designated LOS III, the existing LCP RMS provisions require the County to undertake certain management actions to address the supply inadequacy, including potentially growth management measures or even development moratoriums to halt further resource depletion. The proposed amendment changes these mandatory actions to discretionary, wherein the County *may* undertake certain actions to manage the resource deficiency, but the County is not required to do so.⁵

See **Exhibit 1** for the proposed LUP amendment text.

B. CONSISTENCY ANALYSIS

Standard of Review

The proposed amendment affects the LUP component of the San Luis Obispo County LCP. Pursuant to Coastal Act Section 30512.2, the standard of review for LUP amendments is that they must conform with the requirements of Chapter 3 of the Coastal Act. Applicable Coastal Act policies include:

***Section 30222.** The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

***Section 30250(a).** New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

⁵ Note that, due to the proposed reorganization, the existing mandatory LCP text in this regard is somewhat separated from the proposed discretionary text in the County’s LCP amendment exhibit showing the amendment in cross-through and underline format (see Exhibit 1). For ease of reference, the existing text proposed for deletion and the new text proposed for each LOS (i.e., LOS I, II, and II) is found on pages 8 (existing) and 15 (proposed) for LOS I, pages 10 (existing) and 16 (proposed) for LOS II, and pages 11 (existing) and 16 (proposed) for LOS III in Exhibit 1.

Section 30254. New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted, consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded, except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services, and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation and visitor-serving land uses shall not be precluded by other development.

The Coastal Act requires that development be served by adequate services, including with respect to water supply and wastewater treatment capacity (Coastal Act Section 30250(a)). The Act also describes a prioritization of allowed uses, with visitor-serving commercial recreational, agriculture, and coastal-dependent uses having the highest priority (Coastal Act Section 30222). When services are limited, these uses are given priority to those services over general residential, commercial, and industrial uses (Coastal Act Sections 30222 and 30254). Such non-priority development must not divert scarce and limited water supply and wastewater treatment capacity from identified priority uses.

Analysis

RMS Report

With respect to the proposed changes regarding the RMS annual report, these changes should not significantly alter RMS implementation in the LCP. The proposal to eliminate the RMS task force and shift its RMS report responsibilities to the County's Planning Department reflects the Planning Department's primary role in LCP implementation, and should not substantively alter the report itself. In addition, the proposal to change the report from an annual report to an every two years report simply reflects the very real realities of the time and resources necessary to develop such reports. Although there will be less RMS LOS updating under an every two years scenario, it is not expected to significantly alter the LOS revision process moving forward, including as the County estimates that no existing LOS designations would change when the proposed LOS criteria changes are implemented in the near term as part of this LUPA. In short, these RMS reporting changes should not significantly alter RMS implementation in the LCP.

LOS Designation Criteria

In terms of the proposed changes designed to update and lower the thresholds for designating LOS levels, including for water supply and wastewater treatment capacity, the County indicates that these changes would not at this time result in any changes to existing already defined LOS designations in the coastal zone, but that it could lead to modified LOS designations in the future, including as the thresholds to qualify for higher LOS levels (i.e., higher resource constraint severity levels) would be lower (again, requiring supplies to be adequate for longer time periods).

With respect to water supply LOS thresholds, the proposed changes would extend for each LOS the amount of time by which a water source must have an adequate supply to serve its estimated

demand, meaning that such supply must exceed its demand for longer time periods than the RMS currently requires. Thus, the amendments strengthen the existing RMS standards by setting more conservative thresholds for each LOS, thus setting in motion a process to address associated resource deficiencies sooner than is the case under the existing LCP, and helping to ensure that communities will have adequate water supplies for longer periods into the future. With respect to wastewater capacities, the changes are intended to reflect the timeframes associated with Central Coast Regional Water Quality Control Board review requirements.

The proposed LOS threshold changes should be able to appropriately ensure that essential resources, including their relationship to public and private services, are well monitored under the LCP. Furthermore, regardless of the specific thresholds articulated for each service type, the RMS will continue to serve as a proactive tool that will describe how the County is to review and monitor essential resources within the coastal zone, and will serve to alert the County and the general public about potential issues on the horizon. In other words, the RMS is an innovative LCP tool that serves to proactively plan for resource constraint and capacity issues, and the LOS criteria changes only strengthen this LCP tool.

Mandatory Versus Optional Actions

The proposal would change the actions that need to be taken by the County under particular LOS designations, and it would also make the actions discretionary as opposed to mandatory (i.e., the County proposes to change applicable language from “the County shall” to “the County may”).⁶ With respect to changes to the actions themselves, although the proposed amended actions are generally similar, some of them are deleted, thereby lessening their effectiveness.

With respect to whether the actions should be mandatory as is the case now, or discretionary as the County proposes, there is little question that making the required actions only optional serves to weaken LCP RMS effectiveness because the proposed language allows the County to choose to do nothing when the LCP currently requires the County to take certain actions. The intent of the RMS is to provide a vehicle to make actual changes (including potentially LCP changes) to address resource problems, and there is little to be gained in an LCP sense from allowing actions to be optional in that sense.

Fortunately, both of these issues are readily resolved by suggested modifications designed to ensure that the actions themselves are fully fleshed out and as encompassing or more so than existing LCP language, and by retaining the mandatory nature of the existing LCP language. See **Suggested Modification 1**.

RMS-related LCP Policies

The proposed changes themselves raise issues with a few RMS-related policies in other parts of the LCP. Specifically, these policies rely on RMS LOS designations to identify adequacy or lack thereof related to water and wastewater services, and to subsequently identify required LCP development standards in those cases (see **Exhibit 2** for LCP policies and standards that refer to the RMS). While this is generally an appropriate LCP construct, it also means that in cases where initial or revised LOS designations are in process and/or where measures to address deficiencies

⁶ Again, see pages 8 (existing) and 15 (proposed) for LOS I, pages 10 (existing) and 16 (proposed) for LOS II, and pages 11 (existing) and 16 (proposed) for LOS III in Exhibit 1.

associated with those designations are in process, these policies may not be adequately protective in terms of these resources in that interim period. And this disconnect is likely to be slightly more apparent when the RMS reports are no longer annual as is proposed in this amendment. Although there are only a few policies that fall into this category, it is something that should be addressed so that there is no question that current resource constraints on the ground are applied to applicable development scenarios in those cases.

Thus, suggested modifications are included that clarify that the on-the-ground analysis and information provided during the CDP application review process constitute other key tools (which also may still consider or rely upon LOS determinations under the RMS) in ensuring consistency with key LCP requirements regarding adequacy of services. **Suggested Modification 2** modifies LUP Public Works Policies 1, 6, and 8 by requiring all new development to be served by adequate public or private service capacity, and by explicitly stating that the RMS as well as the CDP review process are tools to evaluate whether there are adequate services available to serve new development. Thus, in all cases, including regardless of whether a particular resource is designated via the RMS or not, on-the-ground conditions of the particular resource will be used to determine whether there in fact are adequate or limited services available for proposed development. And consistent with this construct, all LCP policies and standards that refer to areas with LOS II or III designations (i.e., areas already designated by the RMS as having inadequate public services) shall also apply to any resource found to have inadequate services.⁷ Finally, the suggested modification ensures that, if there is limited public or private service capacity (again, if the resource is found not to be adequate via the RMS or the CDP review process), certain uses are given priority to those limited services, including coastal-dependent uses and visitor-serving uses, but explicitly not including residential subdivisions outside of existing urban areas. As modified, the proposed amendment is consistent with Coastal Act Sections 30222, 30250(a), and 30254.

Other

Finally, it should be noted that some members of the public have voiced concerns about the process undertaken locally for the proposed amendment, including allegations of improper noticing of local Planning Commission and Board of Supervisors' hearings, and errors in materials provided to the public (see these allegations in **Correspondence 1**). However, as explained in the County's letter responding to these assertions (see the highlighted paragraph in **Correspondence 2**), the County held four appropriately noticed public hearings on the proposed amendment (two at the Planning Commission on July 14 and September 11, 2014 and two at the Board of Supervisors on December 2 and December 16, 2014). In addition, although it appears that there may have been some confusion at times regarding the proposed changes, the County indicates that they thoroughly reviewed the document to ensure that what is presented in Exhibit 1 accurately reflects the changes the Board of Supervisors adopted with respect to the existing certified RMS (which Commission staff has relied upon in evaluating consistency of the

⁷ In other words, LCP policies and standards that apply to resources designated LOS II or III (e.g., CZLUO Section 23.04.021 and 23.04.430, see **Exhibit 3** for these applicable LCP policies and standards) will also apply when case-specific analysis indicates a lack of such services. And, in all cases, development must be found to have adequate public or private services, including water supply and wastewater treatment capacity, and the lack of same, regardless of LOS designation, is grounds for mitigation measures, including up to reduced density or denial of a proposed project because it is not supported by adequate services.

proposed LUP amendment with Coastal Act Chapter 3 policies and in proposing suggested modifications to ensure LUPA consistency with Chapter 3). In addition, the individuals voicing these concerns have been actively involved at the Coastal Commission level, including through significant written correspondence and verbal testimony on the various issues engendered, and it appears clear that they understand what has been proposed and have provided their opinions on it, including issues resolved through the Commission's suggested modifications.

Conclusion

In summary, the proposed amendment generally reorganizes and updates LCP RMS language, but it also includes some weakening components. Fortunately these issues are readily addressed through suggested modifications to ensure that the RMS continues to effectively function as an LCP tool to help systematically assess resource constraints and capacities on a regular basis and to help identify measures to address such issues in the coastal zone. As modified, the proposed LUP amendment conforms with the policies of the Coastal Act.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Public Resources Code (within CEQA) exempts local government from the requirement of preparing environmental review documentation under CEQA in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program, including amendments. Therefore, local governments are not required to prepare any CEQA environmental review document in support of their proposed LCP amendments, although the Commission can and does use any environmental information that the local government submits in support of any proposed LCP amendment in carrying out its duties under CEQA and the Coastal Act when evaluating the LCP amendment. The Commission's LCP review and approval program has been found by the Natural Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5 and 14 CCR Section 15251(f).

Nevertheless, the Commission is required, in approving an LCP amendment submittal, to find that the approval of the proposed LCP, as amended, does conform with certain CEQA provisions, including the requirement in Section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available that would substantially lessen any significant adverse impact which the activity may have on the environment. See also, CEQA Guidelines Sections 13542(a), 13540(f), and 13555(b).

The County's LCP amendment consists of a Land Use Plan (LUP) amendment. As part of its local action on the subject LCP amendment, San Luis Obispo County found that there is no possibility that this amendment may have a significant effect on the environment, and therefore determined that the amendment was not subject to CEQA. As discussed herein, the LUP amendment as originally submitted does not conform with the Chapter 3 policies of the Coastal Act. The Commission, therefore, has suggested modifications to bring the LUP amendment into full conformance with the Coastal Act, which will have the effect of substantially lessening any significant adverse impact which the LUP amendment may have on the environment. As modified, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of CEQA. Absent the incorporation of these suggested modifications to effectively mitigate potential resource impacts,

such a finding could not be made.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- None

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- San Luis Obispo County Department of Planning and Building
- LandWatch San Luis Obispo County
- Greenspace—The Cambria Land Trust
- Office of San Luis Obispo County Supervisor Bruce Gibson