

**CALIFORNIA COASTAL COMMISSION**

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August 30, 2018

**F13g****TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT  
ALEX LLERANDI COASTAL ANALYST, SAN DIEGO COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO LOCAL COASTAL  
PROGRAM AMENDMENT No. LCP-6-SAN-18-0047-1 (11<sup>th</sup> Update to Land  
Development Code) for Commission Meeting of September 12-14, 2018**

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**SYNOPSIS**

On June 13, 2018, the City of San Diego (City) submitted its first major LCP amendment package for the 2018 calendar year to the San Diego District office. The submittal was a batch submittal consisting of three unrelated items: LCP-6-SAN-18-0047-1 (11<sup>th</sup> Update to the Land Development Code), LCP-6-SAN-18-0048-1 (Affordable Housing Regulations), and LCP-6-SAN-18-0049-1 (Vernal Pool Habitat Conservation Plan). Currently, the 11<sup>th</sup> Update to the Land Development Code is before the Commission. At the August 8, 2018 hearing, the Commission approved the Affordable Housing Regulations as submitted and granted a one-year time extension to the Vernal Pool Habitat Conservation Plan, which will be brought before the Commission at a later hearing. At the August hearing, the Commission also granted a one-year time extension to the 11<sup>th</sup> Update, and thus the latest that this item can be heard by the Commission is the August 2019 hearing.

**SUMMARY OF AMENDMENT REQUEST**

The proposed 11<sup>th</sup> Update to the Land Development Code contains forty-seven separate changes to the Land Development Code (LDC), which serves as the certified Implementation Plan (IP) to the City's certified Local Coastal Program (LCP). The City periodically reviews the LDC and proposes corrections, clarifications, and modifications to make the document easier to understand, enforce, and apply for the public. The changes are organized into the categories of Process and General Regulations, Landscaping, Historical Resources, and Minor Corrections.

**SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending the Coastal Commission first reject the proposed amendment as submitted and then approve the proposed amendment with suggested modifications. The issue to be resolved in the 11<sup>th</sup> Update relates to reductions in brush management areas

between structures and surrounding natural vegetation, especially if the natural vegetation is determined to be environmentally sensitive habitat area (ESHA).

Currently, the certified LCP requires a 100-ft. brush management area between structures and surrounding vegetated areas. The adopted zoned configuration of the brush management area requires the 35 feet closest to a structure be “Zone One” – lowest flammability and consisting of pavement or permanently irrigated ornamental planting – with the remaining 65 feet being “Zone Two” – thinned or trimmed vegetation maintenance area. While the City’s certified LCP views brush management as part of a development’s impact footprint, the certified LCP does permit brush management activity within environmentally sensitive lands (except for wetlands) in certain cases.

The proposed LCP amendment would modify the allowable substitution of increasing Zone One width for a decrease of Zone Two width. Currently, the certified LCP permits a 1.5-ft. decrease in the Zone Two width for every 1-ft. increase in Zone One width, up to a maximum reduction of 30 feet of Zone Two width. Under this scenario, Zone One could be increased to 55 feet and Zone Two could be decreased to 35 feet, for a total brush management area of 90 feet. The proposed LCP amendment would remove the 30-ft. limit of such reduction to allow a development to continue to increase their Zone One width until no Zone Two is required, meaning that Zone One could be increased to 79 feet in order to eliminate the Zone Two width.

While on its face the proposed amendment would appear to provide for the overall reduction of the footprint of brush management and related overlap with and impacts to adjacent natural vegetation, the most likely outcome of this proposal is that the reduced brush management zone will allow structures to be built closer to vegetated areas than currently allowed under the certified LCP. With the development footprint growing closer to vegetated areas, the risk increases that the Fire Marshal, following a devastating wildfire of the kind that are becoming more frequent in California, will issue directives requiring 100 feet or more of brush management, which under the scenarios allowed by the proposed amendment, would extend into adjacent vegetated areas because the certified LCP currently allows for brush management activity to occur in environmentally sensitive lands that are located within 100 feet of an existing structure.

The most effective manner to limit adverse impacts to environmentally sensitive lands from brush management activity is to avoid it in the first place, by properly designing a development to account for the full brush management footprint and site its structures accordingly. With the frequency of wildfires increasing in our warming climate, siting structures farther back from vegetated areas – not closer as under the amendment – is the proper way to avoid fire risk as well as impacts to environmentally sensitive lands. Thus, a suggested modification is recommended to not accept the reduced brush management buffer within the coastal zone.

In addition, the 11<sup>th</sup> Update contains a provision addressing the erection of solar shade structures in parking lots that requires clarification to avoid future issues. Currently, the certified LCP has landscape requirements for vehicle use areas, such as parking lots, that scale with the size of the vehicle use area. As proposed, the 11<sup>th</sup> Update contains a

provision requiring that solar shade structures erected within parking vehicle use areas cover a minimum of 50 percent of the exposed parking spaces located therein. The City has indicated that it intends to interpret this provision as allowing solar shade structures in lieu of landscaping. Furthermore, the City intends to exempt solar shade structures from the requirement to obtain a coastal development permit (CDP).

While the promotion of sustainable energy and the related reduction in greenhouse gas emissions is a shared goal of the Coastal Commission, as written, the amendment language does not support the City's interpretation of foregoing landscaping with the erection of solar mounted shade structures, nor has any argument been put forward as to why both solar shade structures and landscaping are incompatible in vehicle use areas. In response, the City has indicated that they recognize the Commission's concerns and that they plan to refine the provisions addressing vehicle use area landscaping in the 12<sup>th</sup> Update. Furthermore, the certified LCP contains explicit provisions identifying what types of development are exempt from obtaining a CDP, and the erection of solar shade structures – which are free standing structures that can have impacts on visual resources – do not qualify for any of the stated exemptions. Thus, with this action, the City will be put on notice that the erection of solar shade structures will not be viewed by the Commission as exempting the landscaping requirement, nor will their erection be exempt from obtaining a CDP in many circumstances, especially between the ocean and the first public road and in certain geographic areas.

Staff is recommending rejection of the proposed amendment, as submitted, and then approval of the amendment with suggested modifications. The amendment request, as modified, and the LDC would remain consistent with the City's many certified Land Use Plans (LUPs).

The appropriate resolutions and motions begin on page 4. The suggested modifications begin on page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on page 6. The findings for approval of the plan, if modified, begin on page 8.

## **BACKGROUND**

The City's first IP was certified in 1988, and the City then assumed permit authority. The IP consisted of portions of the City's Municipal Code, along with some Planned District Ordinances (PDOs) and Council Policies. In 1999, the Commission certified the City's LDC that primarily includes Chapters 11 through 15 of the municipal code. It replaced the first IP and took effect in the coastal zone on January 1, 2000. The Commission has certified many IP amendments since 2000.

## **ADDITIONAL INFORMATION**

Further information on the City of San Diego LCP Amendment LCP-6-SAN-18-0047-1 may be obtained from Alexander Llerandi, Coastal Planner, at (619) 767-2370.

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## **PART I. OVERVIEW**

### **A. LCP HISTORY**

The City of San Diego has a long history of involvement with the community planning process, and in 1977, requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988, for the majority of its coastal zone. Several isolated areas of deferred certification remained at that time, but some have since been certified as LCP amendments. Other areas of deferred certification still remain today and will be acted on by the Coastal Commission in the future.

### **B. STANDARD OF REVIEW**

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

### **C. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## **PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS**

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION I:** *I move that the Commission reject the Implementation Program Amendment No. LCP-6-SAN-18-0047-1 for the City of San Diego certified LCP, as submitted.*

**STAFF RECOMMENDATION OF REJECTION AS SUBMITTED:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO DENY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of San Diego and adopts the findings set forth below on grounds that the Implementation Program amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan(s). Certification of the Implementation Program amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program amendment as submitted.

**II. MOTION II:** *I move that the Commission certify the Implementation Program Amendment No. LCP6-SAN-18-0047-1 for the City of San Diego if it is modified as suggested in this staff report.*

**STAFF RECOMMENDATION OF CERTIFICATION AS MODIFIED:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program 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 Commissioners present.

**RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plan(s). Certification of the Implementation Program 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 Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

### **PART III. SUGGESTED MODIFICATIONS**

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Please revise Chapter 14, Section 142.0412(f) Brush Management, to read as follows:

#### **§142.0412 Brush Management**

Brush Management is required in all base zones on publicly or privately owned premises that are within 100 feet of a structure and contain native or naturalized vegetation.

[...]

(f) Within the Coastal Overlay Zone, the Zone Two width may be decreased by 1½ feet for each foot of increase in Zone One width up to a maximum reduction of 30 feet of Zone Two width. Outside of the Coastal Overlay Zone, the Zone Two width may be decreased 1½ feet for each 1 foot increase in Zone One width.

### **PART IV. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

#### **A. AMENDMENT DESCRIPTION**

The subject amendment request consists of approximately 46 separate items, and represents the 11<sup>th</sup> Update of the certified LDC, which went into effect in the coastal zone on January 1, 2000. The City periodically reviews the LDC and proposes corrections, modifications, clarifications, etc. to make the document easier to understand, implement and enforce. This update is similar to past updates in that it covers a number of different issue categories of the LDC, including permit processing, historic resources, grading, landscaping, and minor corrections.

The City of San Diego has developed community planning areas based on its established neighborhoods and future urbanizing area. Predicated on those community planning areas, the City utilized the geographic segmentation provisions of the LCP regulations and developed its land use plan component covering twelve different communities (i.e., North City, La Jolla, Pacific Beach, Mission Beach, Ocean Beach, Peninsula, Otay-Mesa Nestor). These community plans or LCP Land Use Plans contain policies that seek to reduce risk from coastal hazards and protect, or where possible enhance, public access and public views. The Commission's review of the proposed changes to the Land Development Code must assure that development is approved only when consistent with the certified LCP.

While the majority of the proposed amendment is acceptable, there is one provision that raises Coastal Act concerns and cannot be found consistent with the certified LUPs, and require that the 11<sup>th</sup> Update be rejected as submitted.

## **B. FINDINGS FOR REJECTION**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

As proposed, the 11<sup>th</sup> Update modifies the brush management provisions of Section 142.0412(f) of the LDC to remove the 30-ft. limit on reduction of Zone Two when expanding Zone One, allowing structures to be sited closer to adjacent natural vegetation. As proposed to be amended, Section 142.0412(f) states:

### **§142.0412 Brush Management**

Brush management is required in all base zones on publicly or privately owned premises that are within 100 feet of a structure and contain native or naturalized vegetation.

(a) through (e) [No change in text]

(f) The Zone Two width may be decreased by 1½ feet for each 1 foot of increase in Zone One width ~~up to a maximum reduction of 30 feet of Zone Two width.~~

The proposed amendment creates a potential conflict with coastal resource protection policies of the certified LUPs, specifically with regard to protection of the limited open space and sensitive habitat areas within the City's coastal zone, which in many cases are already partially or wholly surrounded by development. Listed below are resource protection policies contained in the certified Land Use Plan segments in the Coastal Zone for the City of San Diego.

### **Torrey Pines Community Plan**

- Land uses adjacent to environmentally sensitive habitats shall not negatively impact those areas.
- Protect, preserve and enhance the variety of natural features within the San Dieguito River Valley including the floodplain, the open waters of the lagoon and river, wetlands, marshlands and uplands.

### **Mira Mesa Community Plan**

- No encroachment shall be permitted into wetlands, including vernal pools. [...]

### **La Jolla LCP Land Use Plan**

- The City should preserve and protect the coastal bluffs, beaches and shoreline areas of La Jolla assuring that development occurs in a manner that protects these resources, encourages sensitive development, retains biodiversity and interconnected habitats and maximizes physical and visual public access to and along the shoreline.

With the continuing pace of development in the City, there is growing pressure to construct ever more development closer and closer to vegetated areas and open space. In addition, given the development that has already occurred, remaining development sites are the more constrained sites. Areas such as Los Peñasquitos Canyon, Carmel Valley, Torrey Pines, La Jolla, Sunset Cliffs, and elsewhere are already substantially bordered by development and developable lots, and are at risk of affecting sensitive resource and recreation areas. In order to preserve the integrity and productivity of open space and sensitive habitat, appropriate buffers between development and the resource area are necessary in order to limit impacts from noise, litter, runoff, and intrusion.

As it stands now, the possible 30-foot allowance in the reduction of the Zone Two brush management width in exchange for Zone One widening allows structures to be as close as 90 feet to vegetated areas. The 11<sup>th</sup> Update's proposed removal of the 30-foot reduction limit would allow structures to be as close as 79 feet from naturally vegetated areas. Although the City asserts that the allowance for a single 79-ft. Zone One fuel modification zone will reduce impacts to natural vegetation, it still allows new development to be sited closer to habitat. This creates a possibility that the Fire Marshal could direct future increases in brush management area in response to existing or anticipated wildfire threats, a scenario that is more likely given the warming climate and increased frequency of devastating wildfires. If a structure were constructed 79 feet from vegetated areas, especially if those areas were determined to be ESHA, as would be allowed under the proposed amendment, and the Fire Marshal subsequently directed all structures to observe a full 100-foot brush management area, the brush management activities would then intrude into the ESHA or naturally vegetated area. After serious fires in the past, some fire departments began requiring fuel modification zones larger than 100 feet. Therefore, within the coastal zone, unless a site is so constrained as to require alternate compliance as specified in the LDC, a 100-ft. fuel modification zone, even with an expanded Zone One area, should be maintained.

Thus, with respect to the 11<sup>th</sup> Update's proposed amendment to the brush management regulations, the language as proposed does not meet the intent of many of the applicable LUPs' coastal resource policies calling for preservation of sensitive resources, and should be rejected as submitted.

## **PART V. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The majority of the proposed amendments represent minor changes in wording, corrections, and deletions to improve the usability of the LCP by the public and make it more internally



consistent. The more substantive proposed amendments address permit processing level, type and design of landscaping, improvements to historic structures, and grading in areas of paleontological resources. Although LUPs are required to have a great deal of specificity when identifying environmental standards, placement or prohibition of various uses, and development standards, they do not address how to obtain or provide the specific information required to assure a proposed development is consistent with those policies. Those measures are typically contained in the zoning code and implementation plan.

The amendments addressing permit processing do not substantially alter the discretionary review that the City applies to proposed development nor diminish the ability of the public to be notified and participate in the review process. Rather, the amendments include proposals that range from modifying the scheduling requirements for filing and scheduling appeals, shifting responsibility for ensuring compatibility of a commercial use with the underlying zoning to the applicant, loosening signage limits for commercial uses in residential zones, relaxing permit requirements for food trucks in certain zones, placing attendance limits on instruction studios, lowering internal ground floor height requirements for commercial spaces in buildings in the coastal zone, and requiring paleontological monitoring for certain grading projects. None of the amendments in this category lessen the IP's conformance to the provisions of the certified LUPs.

The amendment addressing development of historic resources is intended to streamline the process for owners of historic properties and incentivize them to maintain historic resources. Specifically, the amendment will exclude the historic portions of a development from parking and Floor Area Ratio calculations, as those areas are commonly prohibited from being modified, as well as granting a single deviation from development regulations for single family development. There are a limited number of historic resources in the City's coastal zone (with most being concentrated in one or two neighborhoods), and there is strong public interest in promoting their continued maintenance. Given that the proposed amendment will encourage preservation efforts, and because the exclusion of a few standards for historic properties will not significantly affect coastal resources, the City's proposed amendment to the certified historical resources regulations can be found in conformance with the certified LUPs.

Finally, regarding the amendments addressing landscaping, the issue with the City's proposed changes to brush management has been addressed above in Section IV. With the proposed modification, a full 100-ft. wide fuel modification zone will be maintained, unless a site qualifies for the alternate compliance measures already certified in the LDC, and natural vegetation areas will be protected. Given the increasing fire risk in the state, this is not the time to be reducing fuel modification zones and buffers between new development and sensitive habitat areas.

However, while not needing modification at this time, there is another proposed provision that warrants additional comment. The 11<sup>th</sup> Update amends Section 142.0407, which contains the landscaping design requirements for vehicular use areas such as parking lots, to add subsection (e) stating:

**§142.0407 Additional Vehicular Use Area Requirements**

(a) through (d) [No change in text]

(e) Solar mounted shade structures located above parking spaces within vehicular use areas shall cover a minimum of 50 percent of the exposed parking space.

As written above, there is no language indicating that the solar mounted shade structures may be provided in lieu of the required landscaping in the vehicular use area. Solar mounted shade structures and landscaping are not inherently mutually exclusive, and the presumption is that both can and should be provided on-site together and, barring explicit language stating otherwise. However, in discussions with Commission staff, the City has indicated that they view the provision's effect differently and would find a vehicular use area with just solar mounted shade structures to satisfy the landscape requirements of Section 142.0407. Understanding the issues raised by Commission staff, the City indicated that they, also, wish to promote both landscaping and solar mounted shade structures and will be further addressing this topic in the 12<sup>th</sup> Update. Thus, at this time, the Commission will work with the City through the monthly coordination meetings to ensure that the subsequent update sufficiently addresses the issue.

However, there also exists the issue over the processing of applications to erect solar mounted shade structures. As free standing structures, solar mounted shade structures constitute development as defined in Section 113.0103 [Definitions] of the certified LCP, which states:

**§113.0103 Definitions**

Development means the act, process, or result of dividing a parcel of land into two or more parcels; of erecting, placing, constructing, reconstructing, converting, establishing, altering, maintaining, relocating, demolishing, using, or enlarging any building, structure, improvement, lot, or premises; of clearing, grubbing, excavating, embanking, filling, managing brush, or agricultural clearing on public or private property including the construction of slopes and facilities incidental to such work; or of disturbing any existing vegetation.

Pursuant to Section 126.0702, development requires a CDP when:

**§ 126.0702 When a Coastal Development Permit Is Required**

(a) Permits Issued by the City. A Coastal Development Permit issued by the City is required for all coastal development of a premises within the Coastal Overlay Zone described in Chapter 13, Article 2, Division 4, unless exempted by Section 126.0704, or if the proposed project site lies completely within the Coastal Commission Permit Jurisdiction or the Deferred Certification Area as described in Section 126.0702(b).

[...]

Finally, Section 126.0704 explicitly lists the certified exemptions adopted for the City's LCP, none of which apply to the erection of solar mounted shade structures.

The City staff has indicated that they view the erection of solar mounted shade structures as being exempt from the requirement to obtain a CDP, despite the above language. In response to the above provisions of the LCP, the City has referenced Assembly Bill No. 2188 (Muratsuchi 2014) to amend Section 714 of the Civil Code and to amend Section 65850.5 of the Government Code, relating to solar energy, which reads in part:

(b) A city or county shall administratively approve applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Review of the application to install a solar energy system shall be limited to the building official's review of whether it meets all health and safety requirements of local, state, and federal law. The requirements of local law shall be limited to those standards and regulations necessary to ensure that the solar energy system will not have a specific, adverse impact upon the public health or safety. However, if the building official of the city or county makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the city or county may require the applicant to apply for a use permit.

(c) A city, county, or city and county may not deny an application for a use permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

Notwithstanding the referenced provisions, review of the state bills do not reveal any language exempting solar panel structures from requiring permits, and the presumptive reading of any law is to read it in harmony with the whole body of existing law, including the Coastal Act. Should the City wish to process solar mounted shade structures as an exempt development, the City will need to amend the certified LCP and frame an acceptable categorical exclusion request for such development or create an administrative procedure that incorporates findings of no significant impact on coastal resources. Until such time, the Commission will continue to view solar mounted shade structures as constituting development requiring the provision of a CDP. Further, the legislative analysis preceding the bill clarified that the intent is to streamline procedures to approve building or use permits for homes and condominiums, in particular rooftop solar and systems for heating swimming pools. The bill does not call out freestanding systems or solar systems for parking lots.

In summary, the remainder of the 11th Update amendments addresses the details of project development, without any rezoning or material changes in uses. The remaining amendments do not modify or conflict with the policies or standards of individual

certified LUP segments because they pertain to procedural rather than substantive matters. The proposed revisions do not significantly modify any development standards that would conflict with any coastal resource protection measures of the City's LCP.

Therefore, the 11<sup>th</sup> Update to the City of San Diego LCP, as modified, is consistent with, and adequate to carry out, the certified LUPs.

#### **PART VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

An EIR (No. 96-0333) was prepared and certified by the City, on October 28, 1997, for the original project – the adoption of the Land Development code. The proposed amendments to the LDC as part of the 10<sup>th</sup> Update were reviewed by the City's Environmental Analysis Section. City staff determined, in accordance with CEQA Guidelines Section 15162(a), that no subsequent EIR or other environmental document is needed for the adoption of the 11<sup>th</sup> Update, as all impacts were adequately addressed and disclosed in EIR No. 96-0333.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform to CEQA provisions. In this particular case, as modified to retain the 100-ft. wide fuel modification zone in the coastal zone, the LCP amendment as modified will not have any significant adverse effects on the environment, and there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP implementation plan, as amended, conforms to CEQA provisions.