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**CALIFORNIA COASTAL COMMISSION**

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# W18a

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Staff Report: 11/18/2020  
Hearing Date: 12/9/2020

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-18-0032

**Applicant:** City of San Diego

**Agent:** Megan Hickey

**Location:** 13018 North Torrey Pines Road, Torrey Pines State Beach, San Diego, San Diego County (APN: 301-130-01)

**Project Description:** Demolish and reconstruct an existing pedestrian sidewalk under North Torrey Pines Road with a 6.5-ft. long, 81 sq. ft. ramp extension onto the sandy beach at the western end; restack approximately 500 sq. ft. of scattered rip rap adjacent to the new ramp, and permanently authorize a 60-ft. long emergency retaining wall constructed under a connecting pedestrian ramp to the north.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

During the winter storm season of early 2017, a portion of the pedestrian ramp providing access from the west side of North Torrey Pines Road down to Torrey Pines State Beach in the City of San Diego suffered a partial collapse and undermining due to wave action eroding the earthen slope underneath, necessitating the partial closure of the ramp. On April 28, 2017, the Coastal Commission issued Emergency Coastal Development Permit (CDP) No. G-6-17-0028 for the placement of approximately 65

cubic yards of cement under a 60-foot long segment of the pedestrian ramp to construct a retaining wall and allow repair of the ramp and railings. In the time since emergency authorization, the City submitted this application to permanently retain the retaining wall as well as to demolish and reconstruct the adjacent sidewalk at the base of the ramp that crosses under the North Torrey Pines Road bridge over the Los Peñasquitos Lagoon mouth. The City previously applied for the sidewalk reconstruction and the Coastal Commission approved that application on October 8, 2014 as CDP Amendment No. 6-01-172-A1. However, that amendment approval subsequently expired with no action taken, and the City wishes to reapply for the same project.

The sidewalk reconstruction would demolish the sidewalk and regrade it lower to bring it into compliance with current American with Disability Act (ADA) requirements. While the width of the sidewalk will not increase, the lower grade will necessitate the construction of a 6.5-foot long, 81-sq. ft. extension of the sidewalk at its western end where it meets the sandy beach to provide access all year round over the range of the shifting sand levels. To make space for the reconstruction and remove impediments, the City will also restack the adjacent rip rap that has scattered onto the beach, opening up approximately 500 sq. ft. of sandy beach area. No new shoreline protective devices, either for the emergency retaining wall or the reconstructed sidewalk, are part of the city's proposal or would be approved under this permit.

The proposed project gives rise to issues regarding public access, water quality, and flood hazard. Public access issues arise because the project proposed to expand the developed footprint of the existing sidewalk seaward, covering 81 square feet of what is currently sandy beach. However, this is the smallest amount that could be covered in a feasible manner while still meeting ADA requirements. Furthermore, the construction activity could interfere with the public's ability to access the beach by blocking one of the two main pedestrian paths between the public parking east of North Torrey Pines Road and the beach west of it, as well as construction staging and storage occupying some of that public parking. However, the City is planning to conduct the reconstruction outside the summer season, when public parking demand and beach visitation are below peak levels.

Water quality issues arise because the project site is located adjacent to the north bank of the Los Peñasquitos Lagoon mouth and the ocean, where construction activity could introduce pollutants into coastal waters. However, the city will implement a construction Best Management Practices (BMP), which is also required by this permit, and the sidewalk itself is not expected to present significant risk to water quality. Finally, given the history of erosive impacts from tidal forces and the location at the intersection of the lagoon and ocean, the project area will be subject to wave action that will only increase in intensity as sea level rise progresses.

The proposed project is conditioned to address the aforementioned foreseeable adverse impacts to public access and coastal resources. **Special Condition No. 1** will require final, approved plans in conformance with those approved by the Commission, showing that the reconstructed sidewalk will not encroach more than 6.5 seaward and that the restacked rip rap shall be placed as far landward as feasible to restore the maximum beach area to public use. To protect public access during construction,

**Special Condition No. 1** also requires a staging and storage plan that prohibits construction activity during the summer season, defined as from Memorial Day weekend to Labor Day, of any year, as well as require the provision of pedestrian access through the project site or the provision of clearly designated detours when certain construction activity makes that access infeasible, and limitations on the amount of public parking space occupied. To protect water quality of the lagoon and ocean, **Special Condition No. 2** requires the submittal of an approved construction pollution prevention plan that limits manner in which construction and storage is conducted to limit the exposure of pollutants into the water. Because the project site has a history of impacts from tidal forces, **Special Condition No. 3** requires the City to assume the risk and waive liability associated with future impacts from wave action, tidal forces, and flooding. Because of the aforementioned anticipated impacts from flood risk, **Special Condition No. 4** addresses the future maintenance of the approved development, requiring the restacking of scattered rip rap and allowing the City to conduct regularly exempted maintenance activities. This condition also advises the City that a long-term hazards management plan, including a detailed alternatives analysis, must be prepared to support any permit application for future changes or modification to the proposed facilities beyond repair and maintenance.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-18-0032, as conditioned. The motion is on Page 5. The standard of review is Chapter 3 of the Coastal Act.

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## EXHIBITS

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[Exhibit 2 – Aerial View](#)

[Exhibit 3 –2017 Storm Damage Photos](#)

[Exhibit 4 –2017 Ramp Repair Photos](#)

[Exhibit 5 –Existing Underpass Sidewalk](#)

[Exhibit 6 – Project Plans](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 6-18-0032 subject to conditions set forth in the staff recommendation specified below.

Staff recommends a **YES** vote on the foregoing motion. 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 Commissioners present.

### Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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

- 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 of 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

#### 1. Submittal of Final Plans

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, two full-size sets of the following plans:

- i. Final construction plans that are in substantial conformance with the plans submitted to the Commission on January 16, 2018, titled "Access Ramp at North Torrey Pines Road Bridge;" and
- ii. Final as-built plans for the 60-ft. long emergency retaining wall constructed pursuant to Emergency CDP G-6-17-0028 that conform to the plan titled "North Torrey Pines Access Ramp Conceptual Repair Plan" dated March 2, 2017;
- iii. Final construction staging and storage plans that are in substantial conformance with the plans submitted to the Commission on January 16, 2018, titled "Access Ramp at North Torrey Pines Road Bridge" and include, at a minimum, the following:
  - a) No construction activity shall occur on the beach or sidewalk from Memorial Day weekend to Labor Day of any year. However, the applicant may undertake construction during this period upon obtaining a written statement of the Executive Director on specified dates. To obtain such a determination, the applicant must submit information documenting that construction on the specified dates proposed will not cause adverse impacts to public access;
  - b) The existing sidewalk shall remain open to two-way pedestrian traffic throughout the construction period, or, if not feasible, clearly redirect pedestrian traffic through the shortest detour available for the shortest period of time feasible.
  - c) Overnight storage or staging areas shall not be permitted on public beaches, within public beach parking lots, within the section of the sidewalk available for public access, or in any other location would otherwise restrict public access to the beach at any time, with the exception of a 2,500 square foot area (10 parking space maximum) located in the southwestern corner of the adjacent parking lot, which may be utilized only by the applicant. The staging and storage site shall be removed or restored within 24 hours following completion of the approved development;

- d) Within 72 hours upon completion of construction or when the staging site is no longer needed, the site shall be returned to its preconstruction state; and
- e) The applicant shall submit evidence that the approved staging and storage notes have been incorporated into construction bid documents.

The applicant shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No change to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

## 2. Construction and Pollution Prevention Plan

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a final Construction and Pollution Prevention Plan prepared and certified by a qualified licensed professional. The final plan shall demonstrate that all construction, including but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance, building, reconstructing, or demolishing a structure, and creation or replacement of impervious surfaces, complies with all of the following requirements:

- a) **Property Owner Consent.** The Construction and Pollution Prevention Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to use of their properties.
- b) **Minimize Erosion and Sediment Discharge.** During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including, at a minimum:
  - i. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.
  - ii. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
  - iii. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sandbag barriers, or straw bale barriers) shall be installed

as needed to trap and remove eroded sediment from runoff, in order to prevent sedimentation of coastal waters.

- iv. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
  - v. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) that will be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.
- c) **Minimize Discharge of Construction Pollutants.** The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including, at a minimum:
- i. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:
    - A. Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers;
    - B. Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site;
    - C. Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptables during wet weather;
    - D. Prompt removal of all construction debris from the beach; and
    - E. Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.
  - ii. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile



equipment conducted on site shall not take place on the beach, and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, unless those inlets are blocked to protect against fuel spills. The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.

d) **Minimize Other Impacts of Construction Activities.** Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:

- i. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to help maintain water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control;
- ii. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil;
- iii. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.

e) **Construction in, Over, or Adjacent to Coastal Waters and Habitat.** Construction taking place in, over, or adjacent to coastal waters and habitat shall protect the coastal waters and habitat by implementing additional BMPs, including:

- i. No construction equipment or materials (including debris) shall be allowed at any time in the intertidal zone or on the beach during grunion runs;
- ii. Construction activity shall not be conducted below the mean high tide line, unless tidal waters have receded and the area is part of the authorized work area;
- iii. All work shall take place during daylight hours, and lighting of the beach and ocean area is prohibited;
- iv. All construction equipment and materials placed on the beach during daylight construction hours shall be stored beyond the reach of tidal

waters. All construction equipment and materials shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exceptions shall be for erosion and sediment controls or construction area boundary fencing, where such controls or fencing are placed as close to the base of the seawall/bluff as possible and are minimized in their extent.

- v. Tarps and other devices shall be used to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills to protect the quality of coastal waters.
  - vi. All erosion and sediment controls shall be in place prior to the commencement of construction, as well as at the end of each workday. At a minimum, if grading is taking place, sediment control BMPs shall be installed at the perimeter of the construction site to prevent construction-related sediment and debris from entering the ocean, waterways, natural drainage swales, and the storm drain system, or being deposited on the beach.
  - vii. Only rubber-tired construction vehicles shall be allowed on the beach; the only exception shall be that tracked vehicles may be used if the Executive Director agrees that they are required to safely carry out construction. When transiting on the beach, all construction vehicles shall remain as high on the upper beach as possible and shall avoid contact with ocean waters and intertidal areas.
  - viii. All debris resulting from construction activities shall be removed from the beach immediately;
  - ix. If preservative-treated wood is used, appropriate BMPs shall be implemented that meet industry standards for the selection, storage, and construction practices for use of preservative-treated wood in aquatic environments; at a minimum, those standards identified by the Western Wood Preservers Institute, et al. in *Treated Wood in Aquatic Environments: A Specification and Environmental Guide to Selecting, Installing and Managing Wood Preservation Systems in Aquatic and Wetland Environments* (2012) or current revision thereof (<http://www.wwpinstitute.org/documents/TWinAquaticEnvironments-withLinks12.20.12.pdf>). The preservative-treated wood shall be certified by a third-party inspection program, as indicated by the presence of a BMP Quality Mark or Certificate of Compliance, to have been produced in accordance with industry BMP standards designed to minimize adverse impacts in aquatic environments.
- f) **Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.

- g) **Construction Site Map and Narrative Description.** The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
- i. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
  - ii. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
  - iii. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
  - iv. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.
- h) **Construction Site Documents.** The Construction and Pollution Prevention Plan shall specify that copies of the signed CDP and the approved Construction and Pollution Prevention Plan be maintained in a conspicuous location at the construction job site at all times and be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction and Pollution Prevention Plan, and the public review requirements applicable to them, prior to commencement of construction.
- i) **Construction Coordinator.** The Construction and Pollution Prevention Plan shall specify that a construction coordinator be designated who may be contacted during construction should questions or emergencies arise regarding the construction. The coordinator's contact information (including, at a minimum, a telephone number available 24 hours a day for the duration of construction) shall be conspicuously posted at the job site and readily visible from public viewing areas, indicating that the coordinator should be contacted in the case of questions or emergencies. The coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

The permittee shall undertake development in accordance with the approved Construction-Phase Pollution Prevention Plan, unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

**3. Assumption of Risk, Waiver of Liability, and Indemnity Agreement.**

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee 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; and (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.

**4. Future Maintenance Activity and Alterations.**

- A. The permitted work on the retaining wall, revetment, and sidewalk shall be inspected at the end of each rainy season and before Memorial Day of each year. Any debris, rock, or materials which have become dislodged through weathering or wave action and impair public access or use of the sandy beach area shall be removed or restacked. Any change in the design of the revetment or future addition to or reinforcement of the rip rap revetment, other than exempt maintenance as defined in Section 13252 of Title 14 of the California Code of Regulations, will require a coastal development permit. However, in all cases, if after inspection it is apparent repair and maintenance is necessary, the applicant should contact the Commission office to determine whether permits are necessary.
- B. If any changes or modifications to the project beyond repair and maintenance are proposed in the future, the permittee is required to include in the permit application a long-term hazards management plan for the North Torrey Pines Road bridge area that addresses current and future coastal hazards present at the site. The hazards management plan shall incorporate measures to adapt to sea level rise over time and provide for the long term protection and provision of public improvements, coastal access, opportunities for coastal recreation, public views and coastal resources, including beach and shoreline habitat (measures examined should include, but need not be limited to, phased implementation of beach nourishment, soft protection, managed retreat, focused or small-scale armoring) and a timeline or event driven schedule for implementation of the plan. The plan shall evaluate and consider all potential constraints, including

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geotechnical and engineering constraints; potential phasing options with timelines; project costs for the preferred project and alternatives; and potential funding options. The plan shall be submitted with documentation sufficient to support all analyses, methodologies, and conclusions.

## IV. FINDINGS AND DECLARATIONS

### A. Project Description and Background

The City proposes to permanently retain a 60-foot long concrete retaining wall constructed pursuant to a 2017 emergency permit. The retaining wall supports a segment of the western pedestrian ramp located between North Torrey Pines Road and the beach, that collapsed due to tidal erosion of the underlying earthen slope. The City also proposes to demolish an existing 12-foot wide, 120-foot long sidewalk under North Torrey Pines Road that connects the Torrey Pines State Beach north parking lot and the beach, and reconstruct it at a lower grade in line with current ADA requirements, resulting in a 6.5-foot long extension seaward onto the sandy beach. Segments of the western and eastern pedestrian ramps would also be regraded where they connect to the sidewalk under North Torrey Pines Road. Finally, the City also proposes to restack a portion of the rip rap revetment that has scattered onto the beach immediately north of the sidewalk, opening up approximately 500 square feet of usable beach space (Exhibit 2).

The site is within an area of original jurisdiction where the Chapter 3 policies of the Coastal Act are the standard of review with the City's certified LCP used as guidance.

#### Background

The subject 12-foot wide concrete sidewalk currently passes underneath North Torrey Pines Road between the highway bridge abutment and the north side of the mouth of Los Peñasquitos Lagoon (Exhibit 2). The sand level at the seaward end of the existing ramp, which is used by both pedestrians and State Parks emergency vehicles, experiences wide swings in elevation over the course of the year due to wave action and storm events, creating periodic gaps between the existing ramp and the sand and impeding beach access for pedestrians, wheelchairs, and emergency vehicles (Exhibit 5).

The adjacent north parking lot for Torrey Pines State beach is located on the south side of Carmel Valley Road, inland of North Torrey Pines Road. The parking lot, including the sidewalk to the beach under North Torrey Pines Road, was first built in the mid-1960's. The original construction included a rip rap revetment along the south side of the sidewalk bordering the lagoon mouth. Since construction, the Coastal Commission has addressed the public sidewalk under North Torrey Pines Road in several past permits.

In April 1999, the Coastal Commission approved CDP No. 6-99-14 authorizing the California Department of Parks and Recreation (State Parks) to conduct substantial repairs and improvements to the sidewalk. The approved activities included replacing damaged sidewalk segments, grouting under the remaining sidewalk segments, restacking the adjacent rip rap revetment, and adding 200 cubic yards of new rip rap along its length within the original construction footprint, as well as grouting the rip rap together.

In July 2002, the Coastal Commission approved CDP No. 6-01-172 for the demolition and reconstruction of a new, wider North Torrey Pines Road bridge over the Los Peñasquitos Lagoon mouth, along with related widening and improvements to the road north and south of the bridge, bus stops, and new pedestrian ramps down to the beach on both sides of the road. The western pedestrian ramp constructed with the new bridge is the ramp that was undermined in 2017.

In November 2014, the Coastal Commission approved CDP Amendment No. 6-01-172-A1 authorizing the City of San Diego to construct a 6.5-foot long, 81 square foot concrete extension on the sandy beach at the end of the existing sidewalk and demolish and reconstruct adjacent portions of the sidewalk to regrade it in line with current ADA requirements. The project also included restacking a portion of the rip rap revetment on the north side of the sidewalk that had deteriorated and scattered out onto the beach. Restacking would open 500 square feet of sandy beach area. The City never initiated the approved project, and the amendment approval subsequently expired. The City's current permit application would carry out the same project.

In early 2017, a portion of the western pedestrian ramp leading from North Torrey Pines Road down to the beach that was constructed pursuant to CDP No. 6-01-172 collapsed due to erosion of the underlying earthen slope from wave action. In April 2017, the Commission approved Emergency CDP No. G-6-17-0028 authorizing the construction of a 60-foot long retaining wall under the undermined ramp segment and the reconstruction of the damaged segment of the ramp and railings, which was completed shortly thereafter. No new shoreline protection was approved or added as part of that emergency authorization. The City's current permit application seeks permanent authorization to retain the 60-foot long retaining wall.

## **B. Public Access and Recreation**

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 30212 of the Coastal Act stated, in part:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile*

*coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

[...]

*(b) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

Section 30213 of the Coastal Act states, in part:

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

[...]

Section 30604 of the Coastal Act states, in part:

[...]

*(c) Every coastal development permit issues for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific findings that the development is in conformity with the public access and public recreation policies of Chapter 3 (commending with Section 30200).*

Torrey Pines State Beach is a popular visitor destination point for local and regional beachgoers. Historically, there has been a relatively wide, sandy beach adjacent to the Los Peñasquitos Lagoon mouth, though the width of the beach varies greatly over the course of the year due to storms and extreme tide events. The seasonal fluctuations in sand elevation can create gaps of up to four feet in height between the western end of the public sidewalk under North Torrey Pines Road and the sandy beach (Exhibit 4). These elevation differences are at times great enough to impede access by beach wheelchairs and, in more extreme cases, by lifeguard vehicles that use the sidewalk to access the beach north of the lagoon mouth. The proposed reconstruction of the sidewalk and related seaward extension is intended to ensure beach access is available for the public as well as emergency vehicles year-round.

The City's proposal would demolish the 12-foot wide, approximately 120-foot long sidewalk under North Torrey Pines Road and reconstruct it with a more gradual eight percent grade westward slope. In order to ensure that the western end of the sloped sidewalk matches all foreseeable beach elevations over the course of a year, the sidewalk would be extended seaward 6.5 feet, occupying 81 square feet of what is currently sandy beach area. The proposed design will terminate at the lowest expected



sand elevation as projected by the nearby Scripps Institution of Oceanography's (SIO) periodic monitoring site in La Jolla, five miles to the south. According to SIO's monitoring, the lowest sand elevation was observed in 1998 following a major El Niño storm event at 1.49 meters NAV88 (2.78 feet NGVD29), with a standard deviation further lowering the elevation to 1.23 meters NAV88 (1.94 feet NGVD29). The City's engineers designed the ramp's westernmost ending elevation to meet this projected sand level so as to be reasonably certain that even in extreme storm events, it would be likely that beach access would still be available for beach wheelchairs and emergency vehicles.

Before selecting the proposed design, the City reviewed a variety of alternative proposals that would improve access to the beach. A design that would not have demolished the existing sidewalk but rather append a new ramp to its western end would have encroached approximately 15 feet seaward. A "no encroachment" alternative that involved no westward extension of the sidewalk but still designed to meet the aforementioned lowest expected sand level would require to City to substantially regrade the sidewalk from a much farther landward starting point in order to achieve the uniform eight percent grade required by the ADA. This landward starting point would encroach into the recently rebuilt comfort station that State Parks completed pursuant to a separate Commission permit (CDP No. 6-18-0648). Furthermore, the more landward footprint would be located outside of the project boundaries of the original Environmental Impact Report (EIR) that was created for the bridge reconstruction related to CDP No. 6-01-172. This would require the City to amend the original EIR, or complete a whole new EIR, a timely and costly undertaking. Finally, "soft" alternatives at the western end of the sidewalk such as piling sand, placing sand bags, or installing mesh ramps provide only temporary solutions and require frequent maintenance to provide adequate access for the public and emergency vehicles due to wave action and the adjacent lagoon mouth.

While this proposal represents a seaward encroachment of the existing sidewalk, the City has demonstrated that the proposed project is the least environmentally damaging feasible design that addresses both the City's goals and the Commission's concerns regarding public access and beach encroachment. The 81 square feet of beach area that will be occupied by the new sidewalk is situated at its western end, where large number of beach visitors crossing this area, as well as emergency vehicles, traverse. Thus, this is not a space where the public sits or camps out but is instead a stretch already used to access the remainder of the beach.

Related to the City's reconstruction of the sidewalk, the City is also proposing to restack the stretch of rip rap revetment located north of the sidewalk. Due to wave action, over the years, the rip rap along this segment of beach has scattered, occupying sandy area that could be used by the public and impeding emergency vehicle access (Exhibit 4). The City anticipates that restacking the rip rap will open up approximately 500 square feet of sandy beach area for public use. While the rip rap will be restacked, no new shoreline protection, rip rap or otherwise, is proposed or approved as part of this project.

Because the existing sidewalk under North Torrey Pines Road will be reconstructed at a lower grade, the southernmost segments of the two pedestrian ramps on either side of the road that were built along with the new bridge pursuant to CDP No. 6-01-172 will also be rebuilt with a new grade to maintain their connection with the sidewalk. It is the westernmost of these two ramps that was undermined by wave action approximately 200 feet north of the subject sidewalk in early 2017 and for which the Commission approved emergency CDP No. G-6-17-0028 authorizing the City to construct a 60-foot long retaining wall. The retaining wall was constructed shortly thereafter and the western ramp restored to full public use. The City is now applying to permanently authorize the retaining wall and to repair and maintain it in its approved configuration in the future, as wave action is likely to damage it over time. The approved retaining wall has no tiebacks or deep footings and was designed to backfill the void created by the tidal erosion of the earthen slope under this segment of the ramp. The retaining wall is substantially vertical and only extends a few feet seaward of the pedestrian ramp at the base. While the City's original project proposal also included the placement of 105 linear feet of new rip rap revetment in front of the retaining wall, after discussions with Commission staff regarding the impacts such a substantial occupation of recreational space on a popular but narrow sandy beach would have on public access, the City withdrew that portion of the proposal, and thus no new shoreline protection is currently proposed.

Because a substantial portion of the earthen slope under the western pedestrian ramp eroded away during the winter storms (Exhibit 3), the retaining wall is necessary to support the pedestrian ramp and keep it open for public use. If the wall were removed, the ramp would be undermined and be closed to the public. Given the elevated configuration of North Torrey Pines Road above Torrey Pines State Beach, these ramps provide pedestrian and disabled access from North Torrey Pines Road and its bus stops down to the beach. There is currently no crosswalk across North Torrey Pines Road, so if the western pedestrian ramp were closed, the public would be required to either forge new informal paths down the steep embankments abutting the road, discouraging access and likely contributing to erosion, or jaywalk across a busy coastal road to access the eastern pedestrian ramp, creating a public safety hazard. Thus, the emergency retaining wall is the least impactful measure that maintains public access down to the beach.

While the design of the proposed development is consistent with the Coastal Act's public access policies, **Special Condition No. 1** requires the submittal of approved final project plans to ensure that the final design conforms to the approved footprint and does not encroach any further into public space or include any new shoreline protection. A separate public access concern relates to temporary access impacts during construction. Because construction activities and staging can affect public access through the occupation of public parking and blockage of public accessways, **Special Condition No. 1** prohibits construction during the summer months from Memorial Day weekend to Labor Day of any year, unless the City shows that the proposed summer work will not impede public access. The condition also requires that the use of public parking areas for construction staging or storage be minimized. Past discussions with the City indicated that up to 10 parking spaces, out of approximately 550 spaces in the

north parking lot, would be needed for the project. Because the work will occur outside of the peak summer season and ongoing public use of the restrooms and sidewalk will be preserved, the use of these spaces during construction is not expected to adversely impact public access. While the Commission acknowledges that some use of the sandy beach will be required to construct the project, the final staging and access plan required in the condition should reflect the minimum width necessary to assure an adequate construction corridor and public safety for people recreating on the adjacent beach and assure no equipment is stored on the beach overnight.

**Special Condition No. 4** requires that the re-stacked rip rap revetment, sidewalk, and retaining wall be maintained in good condition in the future to assure ongoing maximization of usable sandy beach area by the public and access for the public and emergency vehicles. The condition requires inspection of these facilities once a year, after winter rains but before the summer season. If repair work appears necessary, the condition requires the applicant to contact the Commission to determine if permits are required.

In conclusion, the Commission finds that the proposed project, which occurs on public beach and parklands minimizes adverse impacts to sandy beach while providing and enhancing public access opportunities through the reconstruction of the sidewalk, restacking of the rip rap revetment, and retention of the retaining wall. To the extent consistent with public safety, vertical access will remain available throughout the construction period, and later access west of the site will be maintained. Therefore, the Coastal Commission finds the proposed development, as conditioned, consistent with the public access and recreation policies of Chapter 3 of the Coastal Act.

### **C. Water Quality**

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 purpose.*

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 the protect riparian habitats, and minimizing alteration of natural streams.*

The proposed development involves the demolition and reconstruction of public infrastructure adjacent to a coastal lagoon and the ocean. Runoff from the existing sidewalk and ramps already flows west onto the adjacent beach, and this will not change. While the 6.5-foot sidewalk extension and the 60-foot long pedestrian ramp retaining wall do increase the amount of impervious surface area compared to the existing infrastructure, it does not represent a significant increase in impervious area. Furthermore, compared to other public infrastructure such as roads and highways, the subject pedestrian ramp and sidewalk do not collect the types of pollutants that commonly cause concern, such as automotive chemicals. The sidewalk and ramp are recreational walkways used by pedestrians and bicyclists, with sporadic use by emergency vehicles for ingress and egress to and from the beach. Thus, it is not anticipated that the development will introduce substantial chemicals or pollutants onto the beach or coastal waters.

The biggest potential risk to water quality is from the necessary demolition and reconstruction activity. The demolition of the existing sidewalk and regrading of the area could lead to soil erosion and runoff into the adjacent waters. Additionally, the use of heavy machinery could introduce oils, fuels, and other hazardous chemical leaking or spilling into the area. The improper staging and storage of equipment or debris creates the risk that a storm event could wash materials into the lagoon or ocean. All of this could substantially adversely impact the off-shore habitat within the lagoon or near-shore marine area.

To protect marine resources and coastal water quality from construction activity, **Special Condition No. 2** details the BMP measures that the City must incorporate into a final Construction Pollution Prevention Plan to be submitted for approval prior to issuance of the permit. The condition regulates the timing and manner of construction and describes the best management practices to contain and remove debris and other pollutants that may arise during the course of construction.

Thus, the proposed development, as conditioned, will be constructed in a manner that will reduce adverse impacts to coastal water quality to the greatest extent feasible and can be found consistent with Sections 30230 and 30231 of the Coastal Act.

## **D. Coastal Hazards**

Section 30253 of the Coastal Act states, in part, that new development shall:

- 1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- 2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms among bluffs and cliffs.*

Section 30235 of the Coastal Act states:

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

The project site is located below North Torrey Pines Road located at the mouth of the Los Peñasquitos Lagoon where it meets the Pacific Ocean. The approximately one-mile long stretch of North Torrey Pines Road in the project vicinity is bordered by beach and coastal bluffs to the west and lagoon and steep slopes to the east. The subject sidewalk under North Torrey Pines Road was originally constructed in the mid-1960s, but substantial reconstruction and improvements were authorized by CDP Nos. 6-99-14 and 6-01-172, the latter as part of the bridge reconstruction. In its approval of CDP No. 6-01-172 for the demolition and reconstruction of the North Torrey Pines Road bridge and construction of related improvements including the two pedestrian ramps on each side, new abutments and retaining walls, the Commission identified this segment of road as being very vulnerable to tidal forces and sea level rise. The Commission also identified that the maintenance of the current road alignment would likely contribute to the narrowing of the beach due to its inability to migrate westward.

The Coastal Act prohibits new development that will require shoreline protective devices that significantly alter natural landforms. Instead, development must be sited to account for current and future coastal hazards so as to avoid the need for shoreline protection over its economic life. The reconstructed bridge with its pedestrian ramps and sidewalks was deemed to be a new structure, not an existing one, at the time of its approval. However, while the new bridge incorporated some shoreline protection in the form of rip rap revetment and retaining walls, the Commission found the new bridge approvable in part because the structurally deficient bridge it was replacing had a multiple footings with a significantly larger footprint within the lagoon mouth and, being constructed prior to the Coastal Act, would have been eligible for substantial shoreline protection if required to remain. The Commission also recognized that given the general vicinity, any landward relocation would invariably involve impacts to the adjacent lagoon.

The proposed reconstructed sidewalk will not serve as a shoreline protective device; its at-grade design allows inflows of high tides and discharges of lagoon flows during flood events. The southern boundary of the sidewalk along the lagoon mouth does contain grouted rip rap approved under CDP No. 6-99-14, but that revetment is not being modified in this project and serves as much, if not more, to protect the northern abutment of the North Torrey Pines Road bridge than the sidewalk. The related restacking of the scattered rip rap to open up 500 square feet of sandy beach to the north of the sidewalk will also help to restore natural shoreline processes.

While the 60-foot long retaining wall built under the western pedestrian ramp pursuant to the 2017 emergency CDP does not have any tie backs or deep footings, it does serve

a role of both supporting the pedestrian ramp and protecting it from wave action. Solid walls, like other forms of shoreline protection such as rip rap, adversely impact shoreline processes by occupying beach area, preventing the landward migration of the beach, and reflecting the wave energy back onto the beach, exacerbating scour. However, removal of the retaining wall would undermine the pedestrian ramp and require its closure due to safety risk. Further, the retaining wall does not extend further seaward than the existing pedestrian ramp. As such, it represents the minimum necessary to protect the existing public access to the shoreline.

A sea level rise analysis conducted by the City as part of this application confirmed that, under anticipated sea level rise scenarios the pedestrian ramp, and North Torrey Pines Road in general, will experience stronger and more frequent wave attack, leading to further erosion and undermining of the earthen slopes that support the road's alignment. While the City originally proposed as part of this project to place additional rip rap in front of the emergency retaining wall, that component was removed from the project, eliminating further impacts to the beach area. However, because of the importance of North Torrey Pines Road to regional circulation and public access to this difficult to reach stretch of coast, the City should be planning for longer term solutions to maintain shoreline access in this area. **Special Condition No. 4** puts the City on notice that a long-term plan, including a detailed alternatives analysis, is required to be submitted with any coastal development permit application or amendment request submitted for future changes or modification beyond repair and maintenance of the proposed facilities.

Because the City is proposing to construct and retain development in an area long-known to be subject to coastal hazards, the risk of future damage from coastal processes cannot be eliminated entirely. In order to ensure that the City has notice of the risks inherent in its proposed development, **Special Condition No. 3** requires the City to execute a hold harmless agreement, assuming the risks of future damages and waiving any liability on the part of and indemnifying the Commission regarding approval of the proposed development. To ensure that adverse impacts from the shoreline protection present on the site are minimized to the greatest extent feasible, **Special Condition No. 4** requires the City to conduct periodic inspections of the revetment and retaining wall and conduct appropriate restacking or removal of debris as appropriate, subject to the exemptions and permitting requirements of state regulations.

Thus, the Commission finds that the reconstruction of the sidewalk, restacking of adjacent rip rap, and retention of the 60-foot. long retaining wall are permissible and consistent with Sections 30253 and 30235 of the Coastal Act.

## **E. Local Coastal Planning**

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The Commission has certified a LUP for the Torrey Pines planning area of the North City LCP segment, and the City of San Diego has assumed coastal development permit authority for most of the community. However, the Los Peñasquitos Lagoon area and adjacent beaches are areas of the Commission's retained jurisdiction. The LUP identifies the project area as "open space." The proposed development is consistent with the certified LUP and, as conditioned, has been found consistent with the applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the project will not prejudice the ability of the City of San Diego to continue implementation of or make amendment to their certified LCP.

## **F. California Environmental Quality Act**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be 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. Because the proposed development is reconstruction or modification of a previously reviewed and constructed bridge facility and related sidewalks and ramps, the City of San Diego deemed the project as substantially conforming to the original Sensitive Coastal Resource Permit (LDR No. 93-0420) and conducted a CEQA Section 15162 consistency analysis with an addendum to Mitigated Negative Declaration No. 98-0335, which were prepared for the original bridge development'

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing construction staging and storage, construction pollution prevention plans, and future maintenance will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

- Mitigated Negative Declaration 98-0335