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Prepared December 3, 2021 for the December 16, 2021 Hearing

TO: Coastal Commissioners and Interested Persons

FROM: Kate Huckelbridge, Deputy Director, North Coast District
Bob Merrill, District Manager
Melissa Kraemer, District Supervisor

SUBJECT: **County of Humboldt LCP Amendment LCP-1-HUM-21-0030-1
(Samoa Peninsula Wastewater Project)**

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission certify proposed Humboldt County LCP Amendment LCP-1-HUM-21-0030-1 with suggested modifications.

This LCP amendment is project-driven for the Samoa Peninsula Wastewater Project (SPWP, described in [Exhibits 3 and 4](#)) and would allow for the expansion of sewer services generally south from the town of Samoa to rural areas outside of the town's urban limit line over an approximately 4.5-mile-long area ([Exhibits 1-2](#)). The proposed expansion of sewer services, including the collection, treatment, and disposal of wastewater, is necessary to correct public health and water quality problems in Fairhaven and other areas within the Peninsula Community Services District (PCSD) boundary (shown in [Exhibit 7](#)) resulting from existing failing and failure-prone on-site wastewater treatment systems (OWTS). Existing septic and leach field systems in the area predominantly pre-date current standards for adequate soil conditions and groundwater separation. The near-sea-level ground elevation and influence of tidal waters results in a shallow groundwater table that is susceptible to daily fluctuations of sea level, and, coupled with the fast-draining sandy soils that comprise the peninsula, prevents adequate treatment of wastewater in a manner that protects marine resources and water quality consistent with sections 30230 and 30231 of the Coastal Act.

The LCP amendment as submitted ([Exhibits 4-5](#)) would accommodate the SPWP by (1) adding exceptions to the LUP policies that prohibit extension of sewer services to rural areas; and (2) reclassifying residential lands in Fairhaven to require that future residential development on undeveloped lots that would be facilitated by the SPWP, as well as future accessory dwelling units on any lot in the area, must meet certain

standards for minimizing geologic and flood risks (the reclassified area subject to the special standards for minimizing geologic and flood risks is shown in [Exhibit 8](#)).

The proposed LUP amendment as submitted attempts to balance restoring water quality by allowing sewer service extensions to existing failing and failure-prone systems with minimizing risks to life and property associated with future new development in a highly vulnerable area. Extending sewer collection lines to the area could lead to future development on infill lots in Fairhaven, which are vulnerable to coastal hazards and known to contain ESHA in some areas ([Exhibit 9](#)). The affected area is at risk of tsunami inundation from waves generated by infrequent but extreme large-magnitude earthquakes that originate from the Cascadia Subduction Zone offshore from the North Coast. Minimizing risks to life and property from tsunami hazards in Fairhaven is challenging, because there are few dunes or other landforms in the area high enough to serve as a safe evacuation refuge during a tsunami. The area also is vulnerable to flooding from sea-level rise as early as 2040. There has been no new development in Fairhaven since 2006 due to the inability to construct OWTS's that comply with County and Regional Water Board water quality protection standards. There are about 61 existing homes in Fairhaven, approximately 75% of which were built prior to 1970.

Staff believes that the LUP amendment as submitted will protect and restore water quality and marine resources consistent with sections 30230 and 30231 of the Coastal Act, and the IP amendment as submitted is consistent with and adequate to carry out the water quality protection policies of the LUP. However, staff also believes that the LUP amendment as submitted does not minimize risk to life and property from significant geologic and flood hazards. Staff recommends suggested modifications to the LUP amendment ([Appendix A](#)) and IP Amendment ([Appendix B](#)), including modifications that would (1) require the PCSD to disclose to each residential property in Fairhaven that the connection to sewer service does not convey or imply any entitlement or commitment for CDP authorization to be granted for any expansion or replacement of existing development on the subject property, and the PCSD must provide a plan for providing such notice to any successors and assigns of such existing development; (2) prohibit the allowance of the various uses allowed under the LCP on the Fairhaven lands that could subject more people and development to hazard risks in this area of high geologic and flood hazards; (3) require applicants for new development and redevelopment in Fairhaven to execute and record a deed restriction against their property acknowledging the coastal hazard risks to which their development is exposed, assuming the risks of developing in hazardous locations, and acknowledging the possibility that no shoreline protection may be approved to protect the development; and (4) require that the replacement of existing homes and improvements to existing homes in Fairhaven also be required to meet to the various special restrictions that would apply to new development on infill lots in Fairhaven.

County staff has indicated its agreement with the Commission staff's recommended suggested modifications summarized above and discussed in the findings below. Thus, staff recommends that the Commission reject the proposed LUP and IP amendments as submitted and approve the amendments only as modified to ensure that the LUP

amendment is consistent with the Chapter 3 policies of the Coastal Act and the IP amendment is in conformance with and adequate to carry out the certified LUP policies.

The resolutions and motions are located on Pages 6 and 7. [See Appendices A and B](#) for suggested modification language.

Staff Note: LCP Amendment Action Deadline

On March 2, 2021, the County of Humboldt transmitted the subject LCP amendment application to the Commission. After the subsequent receipt of additional information, the North Coast District office filed the LCP amendment submittal as complete on June 14, 2021. On September 9, 2021, the Commission granted a one-year extension to the 90-day time limit for Commission action on the proposed LCP amendment to October 20, 2022.

Additional Information

For further information, please contact Melissa Kraemer at the Commission's North Coast District Office in Arcata at Melissa.Kraemer@coastal.ca.gov. Please mail correspondence to the Commission at the letterhead address. Please also send a copy of all correspondence or other documents electronically to NorthCoast@coastal.ca.gov. Commission staff will distribute to the Commissioners any copies of written materials received from interested parties by 5:00 pm on the Friday before the scheduled Commission meeting.

Table of Contents

- I. MOTIONS AND RESOLUTIONS.....6**
 - A. Denial of the LUP Amendment as Submitted 6
 - B. Certification of the LUP Amendment with Suggested Modifications 6
 - C. Denial of the IP Amendment as Submitted 7
 - D. Certification of the IP Amendment with Suggested Modifications..... 7
- II. SUGGESTED MODIFICATIONS..... 8**
 - A. Suggested Modification 1: Modifications to the LUP Amendment 8
 - B. Suggested Modification 2: Modifications to the IP Amendment 8
- III. PROCEDURAL ISSUES 8**
 - A. Standard of Review 8
 - B. Public Participation 8
 - C. Procedural Requirements 9
- IV. AMENDMENT DESCRIPTION, SETTING, AND BACKGROUND 9**
 - A. Amendment Description and Purpose 9
 - B. Amendment Setting 12
 - C. Background 12
 - 1. Samoa Redevelopment & Peninsula CSD Formation 12
 - 2. The Community of Fairhaven 15
 - 3. The Community of Finntown 16
 - 4. Future LCP Update to Address SLR and Coastal Hazards 16
- V. CONSISTENCY ANALYSIS 18**
 - A. Protecting & Restoring Water Quality in an Inherently Vulnerable Area 18
 - 1. Policy Summary 18
 - 2. Minimizing Adverse Effects of Wastewater Discharges 19
 - 3. Perpetuating Development in Vulnerable Areas 23
 - 4. Water Quality Consistency Analysis – Approval as Submitted..... 29
 - 5. Hazards Consistency Analysis – Approval with Suggested Modifications 34
 - B. Expanded Public Works Facilities & Protection of Priority Uses 44
 - 1. Policy Summary 44
 - 2. LUP Consistency Analysis – Approval with Suggested Modifications 48
 - 3. IP Consistency Analysis – Approval as Submitted 52
 - C. Environmentally Sensitive Habitat Areas 52
 - 1. Policy Summary 52
 - 2. LUP Consistency Analysis – Approval as Submitted 53
 - 3. IP Consistency Analysis – Approval as Submitted 56
 - D. Archaeological Resources 57
 - 1. LUP Consistency Analysis – Approval as Submitted 57
 - 2. IP Consistency Analysis – Approval as Submitted 59

VI. ENVIRONMENTAL JUSTICE CONSIDERATIONS..... 59
VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) 65

APPENDICES

- [Appendix A – Suggested Modifications to the Land Use Plan Amendment](#)
- [Appendix B – Suggested Modifications to the Implementation Plan Amendment](#)
- [Appendix C – Substantive File Documents](#)

EXHIBITS

- [Exhibit 1 – Regional Location](#)
- [Exhibit 2 – Vicinity Map](#)
- [Exhibit 3 – Project Description \(from Final EIR\)](#)
- [Exhibit 4 – Project Maps \(from Final EIR\)](#)
- [Exhibit 5 – Adopted LUP Amendments and Resolution of Transmittal \(Resolution 21-19\)](#)
- [Exhibit 6 – Adopted IP Amendments and Zoning Map Changes \(Ordinance 2665\)](#)
- [Exhibit 7 – Peninsula Community Services District Service Area](#)
- [Exhibit 8 – Area Where Q Combining Zone Special Restrictions Apply](#)
- [Exhibit 9 – Fairhaven Existing and Potential Infill Development](#)

I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, first reject the LUP and IP components of the amendment as submitted and then approve both components if modified as suggested in the staff report. The Commission needs to make four motions to adopt the staff recommendation.

A. Denial of the LUP Amendment as Submitted

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

Motion 1: I move that the Commission certify Land Use Plan Amendment No. LCP-1-HUM-21-0030-1 as submitted by the County of Humboldt.

Resolution 1: The Commission hereby denies certification of the Land Use Plan Amendment No. LCP-1-HUM-21-0030-1 as submitted by the County of Humboldt and adopts the findings set forth below on the grounds that the submitted land use plan amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the land use plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan amendment.

B. Certification of the LUP Amendment with Suggested Modifications

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

Motion 2: I move that the Commission certify Land Use Plan Amendment No. LCP-1-HUM-21-0030-1 for the County of Humboldt if modified as suggested in this staff recommendation.

Resolution 2: The Commission hereby certifies the Land Use Plan Amendment No. LCP-1-HUM-21-0030-1 for the County of Humboldt if modified as suggested and adopts the findings set forth below on the grounds that the land use plan amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no

further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan amendment if modified.

C. Denial of the IP Amendment as Submitted

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

Motion 3: I move that the Commission reject Implementation Program Amendment No. LCP-1-HUM-21-0030-1 as submitted by the County of Humboldt.

Resolution 3: The Commission hereby denies certification of Implementation Program Amendment No. LCP-1-HUM-21-0030-1 as submitted by the County of Humboldt 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 as amended. 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.

D. Certification of the IP Amendment with Suggested Modifications

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.

Motion 4: I move that the Commission certify Implementation Program Amendment No. LCP-1-HUM-21-0030-1 for the County of Humboldt if modified in accordance with the suggested changes recommended by staff.

Resolution 4: The Commission hereby certifies the Implementation Program Amendment No. LCP-1-HUM-21-0030-1 for the County of Humboldt if modified as suggested on grounds that the implementation program, as amended, conforms with and is adequate to carry out the provisions of the certified land use plan as amended. Certification of the implementation program amendment will comply 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.

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, described below and presented in full in [Appendices A and B](#), which are necessary to make the requisite Coastal Act and LUP consistency findings. If the County of Humboldt accepts the suggested modifications within six months of Commission action, by formal resolution of the County Board of Supervisors, the modified amendment will become once the Executive Director has determined that the County's action is legally adequate and reported that determination to the Commission at a Commission meeting.

A. Suggested Modification 1: Modifications to the LUP Amendment

All suggested modifications to the LUP amendment are shown in [Appendix A](#).

B. Suggested Modification 2: Modifications to the IP Amendment

All suggested modifications to the IP amendment are shown in [Appendix B](#).

III. PROCEDURAL ISSUES

A. Standard of Review

Pursuant to Coastal Act section 30512(c), to certify the proposed amendment to the LUP portion of the County of Humboldt's LCP (Humboldt Bay Area Plan segment), the Commission must find that the LUP as amended meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act. Pursuant to Coastal Act section 30513, to certify the proposed amendment to the IP portion of the County of Humboldt LCP, the Commission must find that the IP as amended would be in conformity with and adequate to carry out the policies of the certified LUP.

B. Public Participation

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The County Planning Commission and Board of Supervisors held public hearings on the subject amendment on January 7, 2021 (Planning Commission)¹ and February 6, 2020 (Board of Supervisors).² The hearings were noticed to the public consistent with sections 13551 and 13552 of Title 14 of the

¹ An agenda and link to video of the PC public hearing is available from the County's meeting calendar website: <https://humboldt.legistar.com/MeetingDetail.aspx?ID=829946&GUID=E426378D-E8C3-4E2D-A417-36C93FFDA9D1&Search=>

² An agenda and link to video of the BOS public hearing is available from the County's meeting calendar website: <https://humboldt.legistar.com/MeetingDetail.aspx?ID=815875&GUID=12101326-8AC3-43F1-9357-D22B7E9AA8E6&Search=>

California Code of Regulations (CCR). Notice of the subject amendment has been distributed to all known interested parties.

Additional public meetings and workshops on the related Samoa Peninsula Wastewater Project and related LCP amendment were held by the County in cooperation with the Samoa Peninsula Fire Protection District in the affected communities on 5/16/2018 and 2/26/2019 and virtually via Zoom on 11/12/2020.

C. Procedural Requirements

Pursuant to section 13544 of the Commission’s regulations, if the Commission denies the LCP amendment as submitted but then approves it with suggested modifications, as recommended by staff, the LCP amendment will not take effect until the County accepts and agrees to the Commission’s suggested modifications, the Commission Executive Director determines that the County’s acceptance is consistent with the Commission’s action, and the Executive Director reports the determination to the Commission at the next regularly scheduled public meeting. If the County does not accept the suggested modifications within six months of the Commission’s action on LCP-1-HUM-21-0030-1, then the LCP amendment is not effective within the coastal zone.

IV. AMENDMENT DESCRIPTION, SETTING, AND BACKGROUND

A. Amendment Description and Purpose

This LCP amendment is project-driven and would allow for the expansion of sewer services on the Samoa Peninsula generally south from the town of Samoa (population 258),³ to rural areas outside of the town’s urban limit line over an approximately 4.5-mile-long segment of the Samoa Peninsula, which includes the majority of the industrial lands along the western shoreline of Humboldt Bay, the communities of Finntown (estimated population 28) and Fairhaven (estimated population 187), the Samoa Field Airport (which includes a “lobby bar”/restaurant), and the County’s Samoa Boat Ramp and Campground (capacity 25 tent sites and 13 RV sites). The LCP amendment would also allow for the extension of sewer services to the Peninsula Union School (approximately 180 students and staff), located adjacent to the northeast of Samoa. The area to be served is within the boundaries of the Peninsula Community Services District (PCSD).⁴

The proposed expansion of sewer services includes the collection, treatment, and disposal of wastewater to correct public health and water quality problems resulting

³ U.S. census (2010).

⁴ The PCSD was approved by Humboldt Local Agency Formation Commission (LAFCo) in 2017 (the new CSD was reorganized from the previously existing Samoa Peninsula Fire Protection District), approved by voters within the service area in the November 7, 2017 election, and officially formed on April 13, 2020.

from existing on-site sewage disposal systems.⁵ Currently, the only wastewater collection and treatment system south of Manila is within the town of Samoa.⁶ All existing residential, industrial, commercial, and public facility uses outside of the Samoa urban limit line south of Manila rely on individual onsite wastewater treatment systems that discharge to individual leach fields.⁷ Existing septic and leach field systems in the area predominantly pre-date current standards for adequate soil conditions and groundwater separation. The near-sea-level ground elevation and influence of tidal waters results in a shallow groundwater table that is susceptible to daily fluctuations of sea level, and, coupled with the fast-draining sandy soils that comprise the peninsula, prevents adequate treatment of wastewater compliant with current North Coast Regional Water Quality Control Board (RWQCB) and County Division of Environmental Health (County DEH) regulations.

In 2017, the County received grants from the State Water Resources Control Board and the State Department of Housing and Community Development to plan and design alternatives for providing community sewer service to the residential and industrial uses on the Samoa Peninsula and prepare an Environmental Impact Report (EIR) pursuant to CEQA to address and evaluate the potential environmental impacts of the project and incorporate mitigation measures where feasible. The “project” (as evaluated under CEQA)⁸ known as the “Samoa Peninsula Wastewater Project” (SPWP) that necessitates and would be facilitated by the proposed LCP amendment is described below. The “project” includes proposed physical development for the expansion of sewer services and certain proposed policies and standards to mitigate the potential adverse environmental effects of the sewer service expansion (see [Exhibits 3-4](#)):

- Project Short-Term Phase – The construction and operation of a wastewater collection system to existing residential, industrial, commercial, and public facility uses outside of the Town of Samoa within the PCSD service area that currently are served by onsite wastewater treatment systems to address public health and water quality problems. Collected wastewater would be routed to the wastewater treatment facility within the Town of Samoa for treatment and disposal through that permitted facility to the ocean 1.5 miles offshore through an existing outfall. To comply with state and local law, the PCSD must allow all residential lots within

⁵ Community water service already is provided to communities and businesses on the Samoa Peninsula by the Humboldt Bay Municipal Water District, which maintains pipelines that extend from the Mad River near Arcata for treated water (domestic use) and raw water (industrial use) on the peninsula.

⁶ The existing wastewater treatment facility (WWTF) in Samoa was constructed in 2020 to replace the original system that predated the Coastal Act and which was non-compliant with current water quality regulations. Treated wastewater effluent from the facility is transmitted via pipelines to “Manhole 5” on the former Samoa Pulp Mill property (now the Harbor District’s Redwood Marine Terminal II property) south of the Town (outside of the existing urban boundary) where it discharges to the Pacific Ocean through an existing outfall line that extends ~1.5 miles offshore.

⁷ The DG Fairhaven Power facility is the one exception. This facility discharges its treated wastewater to the existing ocean outfall cited above.

⁸ The County adopted the Final EIR for the Project on October 6, 2020.

300 feet of the proposed new sewer mains to connect to the expanded sewer system. Therefore, the short-term phase of the project also includes the imposition of interim performance standards that new residential development (including new single-family residences and accessory dwelling units on lots in Fairhaven located within 300 feet of a sewer main installed pursuant to the project) would be required to meet to address the risks of flooding from sea level rise and tsunamis, and the potential ESHA impacts of such development.

- Project Long-Term Phase – Comprehensive planning and amendments to the LCP to address the exposure of any new development served by the sewer service expansion to coastal hazards (including flooding exacerbated by sea level rise and tsunami inundation) and promote the implementation of programs to support coastal hazard adaptation and resilience for planned uses around Humboldt Bay. In addition, the comprehensive planning and LCP amendment process would add additional protections from new development for ESHA and other coastal resources.

The LCP amendment as submitted would accommodate the project described above by adding exceptions to the policies that prohibit extension of sewer and water services to rural areas for the SPWP and would reclassify residential lands in Fairhaven to require that future residential development on undeveloped lots that would be facilitated by the SPWP, as well as future accessory dwelling units (ADUs) on any lot in the area, must meet certain standards for minimizing geologic and flood risks. The specific changes proposed to the LCP (Humboldt Bay Area Plan and Zoning Map) by the County under the current LCP amendment involve the following (see [Exhibits 5 and 6](#)):

1. Policy 3.22-B: Amend HBAP Chapter 3 [Rural Development Policies and Standards] policy 3.22-B, Public Services-Rural which restricts the extension of utility lines outside of the Urban Limit Line established by the Samoa Town Master Plan to allow for extension of sewer service within the boundaries of the Peninsula Community Services District for the Samoa Peninsula Wastewater Project (SPWP) in compliance with various requirements related to ESHA protection and minimizing risks of geologic and flood hazards.
2. STMP (New Development) Policy 9: Amend HBAP Chapter 4 Samoa Town Master Plan (STMP) New Development Policy 9 to allow for an exception to the currently certified policy which prohibits extension of wastewater services from Samoa to lands outside of the urban boundary of Samoa, to permit the collection and treatment of wastewater from service connections established pursuant to HBAP policy 3.22-B.
3. Rezone Lands of Fairhaven: Amend IP sec. 311-7, Designation and Adoption of Zoning Maps, to rezone property in Fairhaven from “Residential Single Family\No Further Subdivision Allowed” (RS\X) to “Residential Single Family\No Further Subdivision Allowed with a Qualified (Q) combining zone” (RS\X-Q), where special restrictions apply in accordance with IP sec. 313-32.1.3. The special restrictions that would be added by the Q combining zone would apply to all

parcels in the zone that could be served by the proposed sewer service expansion, which are those lots located within 300 feet of a sewer main installed pursuant to the SPWP. The restrictions would require that CDPs granted for principally permitted uses (single family residences) on undeveloped parcels and for ADUs on all parcels within the affected lands only be granted when certain findings can be made that (1) there is no less environmentally damaging feasible alternative and environmental effects will be mitigated to the extent feasible; (2) on the basis of site-specific hazard analysis, the proposed development will not create a hazard to life, the general welfare, or coastal resources for the life of the development; and (3) the development is consistent with the Coastal Act and the LUP tsunami hazard policies. In addition, the Q combining zone would require that the CDP granted for such development require that the applicant (1) acknowledge and assume the risks of developing in an area subject to geologic and flood hazards; and (2) waive any rights to shoreline protection to protect any authorized residential development.

B. Amendment Setting

The Samoa Peninsula is an approximately 10-mile-long, one-mile-wide coastal bar (referred to as the North Spit) that separates Humboldt Bay from the Pacific Ocean ([Exhibits 1-2](#)). The City of Arcata is located approximately three miles east of the peninsula's northern end, and the City of Eureka is located approximately two miles away across Humboldt Bay to the southeast of the central portion of the peninsula. The peninsula includes over 1,000 acres of public recreational lands (including beaches, dunes, and a public boat ramp and campground); ~950 acres of coastal-dependent industrial lands (partially vacant and underutilized); four unincorporated residential communities (Manila, Samoa, Fairhaven, and Finntown, which combined have a current population of approximately 1,200); a K-through-8th-grade public school (Peninsula Union School), a small public airport owned by the City of Eureka; and a Coast Guard station.

C. Background

1. Samoa Redevelopment & Peninsula CSD Formation

A previously certified LCP amendment allowing for the redevelopment of the town of Samoa and the associated formation of the PCSD created the opportunity to provide sewer services to the coastal dependent industrial lands and to other existing land uses within this segment of the Samoa Peninsula to correct public health and water quality problems associated with the use of on-site sewage disposal systems. On March 10, 2011, the Commission certified with suggested modifications Samoa Town Master Plan (STMP) LCP Amendment No. HUM-MAJ-1-08 submitted by Humboldt County.⁹ The

⁹ To access the posted staff reports related to the certification with suggested modifications of the Samoa Town Master Plan LCP Amendment No. HUM-MAJ-1-08 reference this link: <https://documents.coastal.ca.gov/reports/2011/3/Th7a-3-2011.pdf>.

LCP amendment involved changing the industrial land use designations and zoning districts within the former company town of Samoa (~200 acres) established in the late 1800s, which, prior to 2000, had been part of the Louisiana-Pacific/Simpson Samoa holdings associated with the Samoa pulp mill and industrial timber operations. In 2001, the lands of Samoa were purchased by Samoa Pacific Group LLC/Danco Development (owner/developer) which had plans to redesignate/rezone, subdivide, and redevelop the area pursuant to the STMP.¹⁰ At the time that the LCP amendment was proposed, the town of Samoa was comprised of approximately 99 existing vintage redwood millworker residential cottages and other historic structures constructed between 1895 and 1930. The STMP provides for the renovation and reuse of the existing cottages/residences and several other historic structures as well as the development of new low- and medium-density residential units, a new 20-acre Business Park, several visitor-serving lodging units (bed and breakfast and vacation rental units), new public facilities (including a new on-site sewage treatment plant and an emergency response vehicle storage site), and coastal access and recreational amenities (including parking and trail improvements).

The Commission's certification of the STMP LCP amendment included numerous suggested modifications related to adequacy of services, lot legality, geologic and flood hazards, water quality, ESHA, visual resources, priority uses, and other issues. The LCPA was effectively certified on August 10, 2012,¹¹ and since 2016 the County has approved several CDPs for new development in Samoa pursuant to the updated LCP policies related to the STMP, including CDPs for (1) the merger and initial redivision of Samoa lands into two "master parcels" (including one parcel to support the new wastewater treatment facility (WWTF) and a planned affordable housing project and the remainder parcel including the balance of the Town lands); (2) development of a new WWTF to serve existing and future development in Samoa; (3) the development an 80-unit affordable housing project; (4) the phased "master subdivision" of the Town lands into 332 parcels; and (5) several developments required as part of the early phasing of new development under the STMP including (though not limited to) lower-cost visitor-serving facilities, construction of the emergency vehicle storage building, and improvements to playgrounds, sports fields, trails, and coastal access facilities.

The redevelopment of Samoa necessitated the replacement of outdated, failing infrastructure serving the existing residential and commercial development in the town with expanded capacity to serve future new development allowed under the STMP. The

¹⁰ The County prepared and circulated a series of environmental documents for the "Samoa Town Master Plan", including, but not limited to, the following: Draft Master Environmental Impact Report (MEIR) (which incorporated the County's Redevelopment Plan Draft Program EIR) & Appendices (January 2006), Final MEIR for Draft MEIR (April 2006), Recirculation Draft 1 MEIR (May 2006), Recirculation Draft 2 MEIR (March 2007), Recirculation Draft 3 MEIR & Appendices (October 2007), Final Master Environmental Impact Report (MEIR) (February 2008), Draft Addendum to the MEIR (June 2014), and Final Addendum to the MEIR (February 2015).

¹¹ To access the Executive Director's determination that the County's actions were legally adequate in accepting the Commission's suggested modifications on LCP Amendment No. HUM-MAJ-1-08), see <https://documents.coastal.ca.gov/reports/2012/8/F11a-8-2012.pdf>.

existing town of Samoa had been served by a failing on-site sewage waste treatment system that was contributing to pollution of groundwater and other coastal waters. In addition, a portion of the historic town (25 cottages) disposed of sewage effluent directly to the sand dunes adjacent to the County's Samoa Beach Park on the west side of New Navy Base Road.

As certified with suggested modifications by the Commission in March of 2011, the STMP LCP amendment included policies requiring the design and construction of a new sewage waste system for the town and abandonment of the old systems, including the system west of New Navy Base Road.

In consideration of designs for the new WWTF, the RWQCB determined that the disposal of treated wastewater effluent from the Town through an existing outfall to the ocean would be more protective of water quality than disposal to a land-based system (i.e., leach fields) due to the soil and groundwater characteristics in Samoa. Accordingly, in 2019, in response to a pending action by the RWQCB (which was finalized in April of 2020),¹² the County approved a CDP to allow for the extension of pipelines from the Samoa WWTF to the former Samoa Pulp Mill property adjacent to but outside of the urban limit line of the town to allow for the disposal of treated wastewater effluent from the Town through the existing ocean outfall line that extends from the former pulp mill property and terminates 1.5 miles offshore of Samoa. In June of 2020, following the approval of the discharge of treated wastewater effluent from Samoa to the ocean by the RWQCB, the Commission approved De Minimis Waiver No. 1-19-0022-W authorizing the discharge treated wastewater effluent from Samoa. The new WWTF in Samoa has since been permitted by the County, constructed, and is serving existing development in Samoa.

To support the redevelopment of Samoa, as required by policies added under the STMP LCP amendment, an existing fire district was reorganized/expanded to manage the town infrastructure, including water, wastewater, stormwater, fire protection, and parks. The existing Samoa Peninsula Fire Protection District (SPFPD)¹³ applied to the Humboldt County Local Agency Formation Commission (LAFCo) for a "reorganization" to dissolve the SPFPD and form a new community services district. The Peninsula Community Services District (PCSD) was approved by LAFCo in 2017 and approved by

¹² The RWQCB's adopted order is accessible from this link:

https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2020/20_0005_Samoa%20WWTF_NPDES.pdf

¹³ According to the Preliminary Engineering Report prepared in support of the SPWP (GHD & SHN 2018), the SPFPD was formed in 1994 when the Samoa Fire Brigade (formed in 1902) merged with the Fairhaven Fire District (formed in 1952). The SPFPD was organized and governed by the Fire Protection District Act of 1987 (Health and Safety Code section 13800 et seq.) and had been providing fire protection for the southern part of the Samoa Peninsula, including Fairhaven, Finntown, the industrial properties, and the Town of Samoa. The main fire station is in Fairhaven, with a secondary station in Samoa.

voters within the service area in the November 7, 2017 election. The PCSD was officially formed on April 13, 2020.

The reorganization of the existing district led the County DEH and the RWQCB to propose expanding the new services district to other parts of the Samoa Peninsula to enable existing development with onsite wastewater treatment systems outside of Samoa to connect to the new WWTF in Samoa (permitted both by the RWQCB and the Commission) and discharge treated wastewater effluent through the outfall to the Pacific Ocean rather than to a land-based disposal system. The service area of the PCSD as approved by LAFCo is shown in [Exhibit 7](#).

2. The Community of Fairhaven

The community of Fairhaven is located approximately three miles south of Samoa in a rural unincorporated area adjacent to the western shoreline of Humboldt Bay. According to the DEIR prepared for the SPWP (sec. 4.4-7):

To the south of the Samoa lies the town of Fairhaven, named for Fairhaven Connecticut, from whence came George M. Fay and his brother Nathan. The Fay brothers built a shingle mill here in the 1860s, and their property is shown on county maps from 1865-1898. In 1872, Hans D. Bendixsen bought a piece of the Fays' land in Fairhaven, where he relocated his new shipbuilding facility...

The certified LUP designates a portion of the Fairhaven area "Residential/Exurban" (RX), the stated purpose of which is "to allow development of rural community neighborhoods not depending on urban levels of service." The existing zoning is "Residential Single Family\No Further Subdivision Allowed" (RS\X). According to the County, there currently are 61 existing single-family residences with on-site wastewater systems in Fairhaven.¹⁴

Lands to the south and east of the residential portion of Fairhaven are planned and zoned for Industrial/Coastal-Dependent uses, lands to the north are planned and zoned Industrial/General uses, and lands to the west are Public Facilities (lands further west also are planned and zoned for Industrial/Coastal-Dependent uses).

As discussed in the findings below, much of the Fairhaven area is in an area highly vulnerable to tsunami inundation and other flood risks exacerbated by sea level rise. In addition, parts of the Fairhaven area contain wetlands, sand dunes, and other environmentally sensitive habitats.

¹⁴ A 2017 "Legal Parcel Study Analysis" for Fairhaven completed by the County identifies 61 single family residences in Fairhaven. The 2018 Planning and Design Study for the Samoa Peninsula Wastewater Project by GHD and SHN estimates 66 single family residences in Fairhaven.

3. The Community of Finntown

Finntown is a very small, rural, unincorporated area adjacent to the Bay just north of Fairhaven with ten existing single-family residences served by onsite wastewater systems. According to the DEIR prepared for the SPWP (sec. 4.4-7):

A large area on the north side of Fairhaven became known as Finntown after numbers of emigrant Finnish families settled there. A park just north of Finntown gained popularity after it was purchased and developed in 1910 by Walter Coggeshall, who is known in the area for running ferries from Eureka to various points on the bay. New Era Park at that time contained a dance pavilion with an elevated bandstand, a high viewing platform, a picnic area and barbecue pits. The pavilion burned down in the late 1920s; the site was later buried beneath wood chips for the old Georgia-Pacific pulp mill.

Today, Finntown is nestled between the privately owned Fairhaven Business Park property and the California Redwood Company's wood chip export facility. Because the entirety of Finntown is planned and zoned "Industrial/Coastal-Dependent" (MC) under the County's certified LCP, the existing residences are considered legal non-conforming uses. There also are several additional small undeveloped parcels in Finntown of uncertain lot legality and which may be too small to support MC uses. The MC designation and zoning does not allow for new residential construction in Finntown except for Caretaker's Residences as a conditionally permitted use to serve principal MC uses.

As discussed in the findings below, Finntown is also in an area highly vulnerable to tsunami inundation and other flood risks exacerbated by sea level rise and may contain environmentally sensitive habitat areas.

4. Future LCP Update to Address SLR and Coastal Hazards

As mentioned above, the CEQA document adopted for the SPWP mentions (without going into detail) a "long-term phase" involving the comprehensive planning and amendments to the LCP "to address the exposure of new development [on infill lots in Fairhaven] to coastal hazards, including sea level rise and tsunami inundation, and to protect coastal resources, including ESHA, and the implementation of programs to support coastal hazard adaptation and resilience for planned uses around Humboldt Bay." The County has been working on a comprehensive update to the Humboldt Bay Area Plan (HBAP)¹⁵ portion of its certified LCP for the past several years, in part using funding allocated through the Commission's LCP grant program. To date the County has received multiple grants from the Commission and the Ocean Protection Council

¹⁵ Due to the size of the coastal zone in Humboldt County, the County's LCP includes six separate certified Land Use Plans (LUP) and an Implementation Plan (certified coastal zoning regulations and zoning maps).

related to SLR and coastal hazard planning and adaptation, including, but not limited to, the following tasks:¹⁶

- tasks related to tsunami safety-planning and policy updates and updates to industrial/coastal dependent mapping, land use designations, and policies;
- SLR vulnerability analysis for the HBAP planning area;
- development of a policy framework to respond to projected inundation relating to coastal flooding resulting from the degraded condition of shoreline structures and projected sea level rise in the years 2030, 2050, and 2100;
- “Communities at Risk” study focusing on vulnerabilities and potential adaptation strategies for the communities of Fairhaven (and Finntown), King Salmon, and Fields Landing; and¹⁷
- feasibility study to develop options for implementing a Humboldt Bay regional SLR adaptation planning effort.

The above-mentioned “Communities at Risk” study focused on Fairhaven, Finntown, and other vulnerable communities in the LUP planning area. The study describes the vulnerabilities and adaptive capacity for each community and provides a discussion of potential adaptation strategies developed through public workshops and community stakeholder engagement.¹⁸ Concerns expressed during public workshops with local residents of Fairhaven and Finntown included concerns related to SLR and its effects on onsite wastewater systems, SLR impacts to insurance and home loans, and concerns that any shoreline protection built to protect the area would still leave the community vulnerable to rising groundwater issues.

To date no LCP amendments related to SLR adaptation for the HBAP have been submitted to the Commission for certification except for policy updates related to CDI lands (LCP Amendment No. LCP-1-HUM-16-0040-1 approved in August 2017).

¹⁶ For details on the Commission grant awards to Humboldt County, see the Commission’s website links for Round 1, Round 2, Round 4, and Round 6 grants: <https://www.coastal.ca.gov/lcp/grants/>.

¹⁷ Laird 2018 (revised 2019). The Communities At Risk report is accessible from this link: <https://humboldt.gov/DocumentCenter/View/81418/Humboldt-Bay-Area-Plan-Communities-at-Risk-SLR-Vulnerability-Assessment-12-02-2019-?bidId=>

¹⁸ Commission staff participated in stakeholder workshops held in King Salmon and Fairhaven in 2018.

V. CONSISTENCY ANALYSIS

A. Protecting & Restoring Water Quality in an Inherently Vulnerable Area

1. Policy Summary

Section 30230 of the Coastal Act (which is codified as a policy in LUP sec. 3.30-B-8) states as follows:

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

Section 30231 of the Coastal Act (codified as a policy in LUP sec. 3.30-B-8) states as follows (emphasis added):

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

Section 30235 of the Coastal Act (codified as a policy in LUP sec. 3.30-B-8) states as follows:

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 shoreline sand supply.

Section 30253 of the Coastal Act (codified in part as policies in LUP sec. 3.17 and 3.29 for urban and rural areas, respectively) states as follows (in applicable part):

New development shall do all of the following:

- a. Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- b. 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 along bluffs and cliffs...*

LUP sec. 3.12-B-1 describes the “Serviceable Area” of a sewer utility in part as follows:

- a. *The serviceable area of a utility providing water or sewer service within an Urban Limit shall be construed as all parcels within 300 feet by the shortest feasible route of an existing service line with capacity to serve the permitted development of said parcels as indicated in the Area Plan; except that, where the total capacity of the water or sewer system cannot serve the aforesaid development of all such parcels, the serviceable area shall be that portion of such parcels on which permitted development can be served within the capacity of the system as designated in an approved Public Works Plan as provided by 3.12 B 2...*
- b. *The serviceable area within the Humboldt Bay Planning Area is defined as follows and includes: Generally, three hundred (300) feet by the shortest feasible distance from the existing water and sewer system lines.*

LUP sec. 3.21-B-2-b describes the planned density of Fairhaven as follows:

This area, although divided into urban size parcels, has high groundwater and has severe septic system constraints. It is currently serviced with water provided by the Humboldt Municipal Water District. Creation of new parcels shall not be permitted.

2. Minimizing Adverse Effects of Wastewater Discharges

All existing residential, industrial, commercial, and public facility uses on the Samoa Peninsula south of Manila and outside of the town of Samoa urban limit line rely on individual onsite wastewater treatment systems (OWTS’s) that discharge to individual leach fields. The existing septic and leach field systems predominantly pre-date current standards for adequate soil conditions and groundwater separation. The near-sea-level ground elevation and influence of tidal waters results in a shallow groundwater table that is susceptible to daily fluctuations of sea level, coupled with the fast-draining sandy soils comprising the peninsula, prevents adequate treatment of wastewater compliant with current North Coast Regional Water Quality Control Board (RWQCB) and County Division of Environmental Health (County DEH) regulations. Preventative maintenance of the systems is uncommon, and failing systems are rarely identified until surface seepage is reported to the County DEH.

As discussed above, in cooperation with the State Water Resources Control Board, RWQCB, County DEH, and Peninsula Community Services District (PCSD), the County developed the Samoa Peninsula Wastewater Project (SPWP) to address public health and water quality problems. The SPWP involves the construction and operation of a wastewater collection system to serve existing residential, industrial, commercial, and public facility uses outside of the town of Samoa but within the PCSD service area that currently are served by onsite wastewater treatment systems. The State Water Board is financing the project in part through the Clean Water State Revolving Fund. According to the State Water Board, the primary purpose of the CWSRF is “to implement the Clean Water Act and various state laws by providing financial assistance for wastewater treatment facilities necessary to prevent water pollution, recycle water, correct nonpoint

source and storm drainage pollution problems, provide for estuary enhancement, and thereby protect and promote health, safety and welfare of the inhabitants of the state.”¹⁹

As explained in the Draft Environmental Impact Report (DEIR) prepared for the SPWP (GHD and SHN January 2019, sec. 3.3.1), the County DEH began approving the use of the Wisconsin mound OWTS (an above-grade pressurized dispersal system) in 1991 to replace aged failing systems. While this type of OWTS was at that time and remains today the best available technology for leachate disposal in areas of high groundwater,²⁰ the County DEH and the RWQCB determined that mound systems, while providing better treatment than standard leach fields, still do not comply with the Water Quality Control Plan (North Coast Basin Plan) requirements for the area, which sets specific vertical separation requirements between disposal lines and groundwater to ensure protection of beneficial uses of the groundwater (e.g., domestic wells). As a result, beginning in 1993 and continuing to today, the RWQCB and County DEH instituted a cap on the total number of mound systems that may be installed in the Fairhaven area (no more than six) until sufficient monitoring data has been collected demonstrating that permitting additional mounds will not degrade water quality for beneficial uses.²¹ To date, such groundwater monitoring for septic leachate contamination has not been completed.

In addition to the six permits that were issued from the 1990s to 2006 for new residential construction in Fairhaven using Wisconsin mounds, the County DEH also has issued 14 emergency permits for additional Wisconsin mounds in Fairhaven and Finntown to replace failed standard septic systems. On average, one existing OWTS fails each year in these areas.

Under more recent regulations for OWTS’s adopted by the County (known as the County’s Local Agency Management Program or LAMP), which were adopted to comply with the RWQCB’s OWTS Policy, Fairhaven is identified as being within a Variance Prohibition Area. As explained in the DEIR sec. 3.3.1:

In the Humboldt LAMP, the Fairhaven area is identified as having multiple challenging conditions. Due to these issues, Fairhaven is within a Variance Prohibition Area. Variance Prohibition Areas (VPA) have conditions which require special consideration to protect public health and water including high groundwater elevations, extremely coarse or restrictive soils, and high septic or water well density. Replacement of failing systems in VPAs will likely require above-grade

¹⁹ March 14, 2019 comment letter on DEIR for the SPWP from Caitlyn Oswalt, Environmental Scientist, SWRCB, Sacramento.

²⁰ For a description of the Wisconsin mound system, see https://soils.wisc.edu/sswmp/SSWMP_15.24.pdf.

²¹ The cap on the allowance of Wisconsin mounds was applied to the Fairhaven area but not also to the Finntown area, because no new residential construction is possible in Finntown due to the land use designation and zoning of that area as Industrial\Coastal-Dependent (existing residences in Finntown are considered legal non-conforming).

pressurized dispersal systems, and new OWTS design proposals within these areas must strictly adhere to the regulations to ensure adequate treatment prior to dispersal. Variances cannot be granted for new OWTS construction. It is unlikely that site conditions found in Fairhaven would support the design of new septic system OWTS that meet the requirements of the County regulations. Any discharge to land outside the jurisdiction of the local county regulations would require review and approval by the NCRWQCB. Additionally, proposals for future infill development specifically in Fairhaven are subject to submittal of a cumulative impact report that assesses groundwater mounding and organic and nitrogen impacts that are likely to result from the development...

As mentioned above, to date, the cumulative impact report that assesses groundwater mounding and organic and nitrogen impacts in the Fairhaven area has not been completed. As a result, no new residential development has been permitted in Fairhaven since 2006.²²

The County's Housing Element identifies Fairhaven as an unincorporated "legacy community," which is defined²³ as a geographically isolated inhabited area containing no less than ten housing units that has existed for at least 50 years, with a median household income of less than 80 percent of the state-wide average, and that is not located within the Sphere of Influence of a city. State housing law directs cities and counties to update the land use element of their General Plan to identify such communities, analyze the water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies of such communities, and analyze alternatives that could make the extension of services to identified communities financially feasible.

In addition, RWQCB, in implementing its Action Plan for the Humboldt Bay Area to protect commercial oyster farms in the Bay and other beneficial uses from bacterial pollution, encourages and supports efforts to eliminate failure-prone onsite sewage disposal systems through sewerage (among other measures).

To implement these state agency directives, the County received grants from both the State Water Board and the State Department of Housing and Community Development (Community Development Block Grant)²⁴ in 2017 to plan and design alternatives for providing community sewer service to the Samoa Peninsula, resulting in the development of the SPWP and this project-driven LCP amendment request.

²² According to the County, approximately 75% of the existing homes in Fairhaven were constructed prior to 1970.

²³ Per state housing law:
https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65302.10.&lawCode=GOV.

²⁴ The purpose of the HCD grant was to determine the number of individual parcels in the Fairhaven area potentially eligible for wastewater service to help inform the final Rate Study.

The following existing development occurs in the approximately 4.5-mile-long stretch of the Samoa Peninsula outside of the Town of Samoa within the boundaries of the PCSD that would be served by extended sewer lines constructed under the SPWP:

- **Residential**: There are approximately 75 existing residences that rely on existing OWTS's in Fairhaven (planned and zoned for single-family residential uses) and Finntown (planned and zoned for coastal-dependent industrial uses with a total of 10 existing residences – all considered legal non-conforming uses).
- **Industrial**:²⁵ Developed industrial properties with OWTS's include the DG Fairhaven Biomass Power Plant (an industrial operation located between Fairhaven and Samoa), the Fairhaven Business Park (formerly Simpson Mill, which currently supports existing coastal-dependent aquaculture and interim, temporary, non-coastal-dependent commercial businesses), Redwood Marine Terminal (RMT)-I (which currently supports coastal-dependent and commercial fisheries operations), RMT-II (the former Samoa Pulp Mill, which current supports coastal-dependent businesses and several interim, temporary, non-coastal-dependent businesses), and the California Redwood Company wood chip export facility.
- **Public Institutional**: The Peninsula Union School (~118 students and staff) is immediately north of (and outside of) the Samoa urban boundary and currently relies on an OWTS. In addition, the Fairhaven Fire Station, which serves the Samoa Peninsula, is located in Fairhaven and relies on an OWTS.
- **Public Recreational**: The County's Samoa Boat Ramp and Campground, located approximately one mile south of Fairhaven, has capacity for 25 tent sites and 13 RV sites. It includes a coin-operated shower and bathroom.
- **Other**: The Samoa Field Airport (originally developed in the 1940s as a Navy airfield for operating blimp airships) is a small public airport located west of Fairhaven. Currently owned by the City of Eureka but in an unincorporated area, the airport includes one paved runway, space for aircraft parking, lodging facilities (including laundry facilities), a "lobby bar"/restaurant, and a drag strip (leased to an association that hosts recreational drag races from May to September each year). A separate privately owned property east of the Samoa Field Airport and adjacent to Humboldt Bay currently is planned and zoned for coastal-dependent industrial uses but is developed with an existing (pre-Coastal Act) single family residence (currently operated as a vacation rental though without the benefit of the necessary CDP from the County for the operation).

The LUP amendment as proposed will allow for an exception to the LUP policies that limit extension of sewer service to rural areas to allow for the extension of sewer service

²⁵ The existing certified LUP currently allows for extension of sewer service outside of Samoa to serve industrial uses.

to existing residential structures in Fairhaven and Finntown that are served by onsite septic systems. Proposed policy changes to LUP section 3.22-B-1 include in part the following:

The immediate provision of public sewer service by the SPWP to structures existing as of January 1, 2020 that are served by onsite septic systems shall be allowed and shall not be deemed to encourage or facilitate development nor constitute or be construed to be an amendment or extension of any mapped Urban Limit Line.

Also:

Further extensions of the public sewer mains within that portion of Fairhaven planned Residential/Exurban, beyond what is constructed as part of the SPWP shall not be allowed without an amendment to the Humboldt Bay Area Plan

As discussed below, these proposed policy changes attempt to balance (1) allowing extension of sewer service outside of the urban area to existing development with failing and failure-prone onsite wastewater systems (consistent with section 30231 to reduce ongoing discharges of inadequately treated wastewater and thereby help restore water quality) with (2) minimizing risks to life and property in this highly vulnerable area associated with new development that could connect to the sewer line extensions (consistent with section 30253).

3. Perpetuating Development in Vulnerable Areas

The development pattern in Fairhaven is checkerboard-like, with developed lots interspersed among undeveloped lots ([Exhibit 9](#)). Many small (less than 6,000 square feet) vacant lots exist within 300 feet of the proposed sewer main. As previously discussed, currently vacant lots in Fairhaven are unable to be developed due to lack of adequate services.²⁶ Once the SPWP is constructed, vacant lots within 300 feet of a sewer main would be entitled to connect to the sewer services, pursuant to LUP sec. 3.12-B-1 and the (non-certified) California Building Code (CBC) as implemented by the County. CBC Title 24, Part 5 California Plumbing Code, Section 713.4 states:

The public sewer shall be permitted to be considered as not being available where such public sewer or a building or an exterior drainage facility connected thereto is located more than 200 feet (60960 mm) from a proposed building or exterior drainage facility on a lot or premises that abuts and is served by such public sewer. [HCD 1] For residential occupancies, the public sewer may be considered as not being available by the Authority Having Jurisdiction.

The County amended its (non-certified) regulations decades ago to be even more restrictive (which the CBC allows for) than the CBC section cited above, requiring

²⁶ As discussed above, no new residential development has been permitted in Fairhaven since 2006 due to the inability to develop onsite wastewater treatment systems that comply with local and state water quality protection standards.

connections of a building or place within 300 feet of a public sewer line.²⁷ The County's sewer connection regulations [Title VI, Div. 1, Section 611-4(a)] state in applicable part:

Every building or place which is within 300 feet of an approved public sewer shall be connected to the public sewer by the owner in accordance with and subject to requirements and/or conditions set forth by the public sewer authority. A separate connection for each building or place may be required. The measurement of the 300 feet shall start at a point where the public sewer authority's jurisdiction terminates and continue to the nearest point of the property...

Based in part on the requirements of the referenced CBC sections, the certified LCP and other County regulations provide entitlements for vacant lots within 300 feet of sewer mains to connect to hook up. LUP sec 3.12-B-1 defines the serviceable area of a utility as those parcels within 300 feet of the utility line. The purpose of the LUP and CBC connection requirement is to protect and improve water quality by limiting the development of new private OWTS's and supporting the abandonment of existing failure-prone private systems in areas that can be served by public wastewater treatment systems.

The proposed LUP amendment as submitted attempts to balance restoring water quality by allowing sewer service extensions to existing failing and failure-prone systems with minimizing risks to life and property associated with future new development in this highly vulnerable area. Proposed policy changes to LUP section 3.22-B-1 state in part the following (**emphasis added**):

Upon the extension of sewer service to the portion of Fairhaven planned Residential/Exurban as part of the SPWP, permits for new residential development including Accessory Dwelling Units in the Fairhaven area that is located within 300 feet of a SPWP sewer main, **may only be approved after the Humboldt Bay Area Plan has been amended consistent with the Coastal Act to ensure new infill development is sited and designed to the greatest extent feasible to protect life, property and coastal resources from sea level rise and tsunami inundation hazards, and to protect Environmentally Sensitive Habitats...**

The proposed policy language recognizes that extending sewer collection lines to the area could lead to future development on infill lots in Fairhaven, which are vulnerable to coastal hazards and which are known to contain ESHA in some areas (the issue of ESHA in the Fairhaven area is discussed further in Finding V-C). Because the County recognizes that future infill development may occur prior to when the referenced LUP amendment is adopted by the County and transmitted to the Commission for certification, and because of the County and CBC requirements to connect buildings

²⁷ Pursuant to Health and Safety Code Section 179571, the County cannot adopt less stringent regulations than those provided by the CBC and can only adopt regulations that are more stringent.

(that could be built in the future on infill lots) to a public sewer line if structures are within 300 feet of the public sewer line, the policy allows for the following exception:

Exception: Permits for new residential development that is located within 300 feet of a SPWP sewer main may be approved before the above Humboldt Bay Area Plan Amendments subject to the following:

(i) performance standards, adopted by ordinance, that will ensure that such development will be protective of public health, safety and welfare, and coastal resources relative to sea level rise and tsunami inundation, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts; and

(ii) the requirement that property owners acknowledge the current and future projected sea level rise and tsunami hazards to which their development is exposed and assume the risks of developing in hazardous locations, and acknowledge that shoreline armoring structures will not be necessary to protect the proposed development and further acknowledge the possibility that no such protective structures would be granted approval for construction in the future.

New development on infill lots within 300 feet of a sewer main installed under the SPWP would result in new residential development in an inherently hazardous area affected by the hazards discussed below.

a. Seismic and Faulting Hazards

Northwestern California is one of the most seismically active regions in the continental United States. The Gorda plate is being actively subducted beneath the North American plate north of Cape Mendocino, along the southern part of what is commonly referred to as the Cascadia Subduction Zone (CSZ). There are several active faults in the LCP amendment area capable of generating large-magnitude earthquakes, including megathrust earthquakes of magnitudes as much as 9.2 on the Richter scale along the CSZ. The active faults include Little Salmon (~1 mile to the southwest), Fickle Hill (~6.5 miles to the northeast), Mad River (~9 miles to the northeast), the CSZ (~34 miles to the west), and the San Andreas (~50 miles to the south).²⁸ Potential impacts associated with these hazards include displacement of the ground surface along a fault during an earthquake (surface fault rupture), strong ground shaking, liquefaction, lateral spreading, and landslides.

b. Tsunami Hazards

²⁸ Information obtained from the DEIR for the SPWP (SCH #2018042083) prepared for the County of Humboldt by GHD and SHN, January 2019.

The subject area is located within the mapped tsunami inundation area²⁹ and is at risk of tsunami inundation from waves generated from a variety of local and distant sources. Based on available inundation modeling, the area would not be inundated by smaller, more frequent tsunamis but would be inundated by more infrequent and extreme events, such as a CSZ event.³⁰

In the Humboldt Bay area, the time window between tsunami generation and local inundation could be on the order of a few minutes due to proximity to the CSZ, a local source for tsunami waves. In the case of a locally generated tsunami (originating from the CSZ source), the only warning residents, employees, and visitors in the area would receive would be a natural warning (strong, long-lasting shaking from an earthquake, which could last several minutes) occurring 10 to 15 minutes before inundation by the tsunami. As a result, there would be very little time for evacuation between the time the shaking stops and the associated tsunami waves inundate the area.

Minimizing risks to life and property from tsunami hazards in Fairhaven is challenging, because there are few dunes or other landforms in the area high enough to serve as a safe evacuation refuge during a tsunami.³¹ In addition, a recent tsunami evacuation drill coordinated in Fairhaven by the Redwood Coast Tsunami Work Group revealed that the several dunes near Fairhaven that exceed 40 feet in elevation and that are high enough to serve as a refuge point are challenging for residents to reach within the targeted time frame estimated to be available after ground shaking stops and before the tsunami arrives (approximately 10 minutes).³²

c. Other Flooding Hazards and Sea-Level Rise

According to the Federal Emergency Management Agency (FEMA) National Flood Insurance Program flood insurance rate map for Humboldt County, the majority of the area that would be affected by the LCP amendment is within an area of minimal flood hazard (Zone X). However, portions of the area near Fairhaven and the Samoa Field Airport are low-lying and within the mapped 100-year floodplain with a base flood elevation of 11 feet (NAVD88).

²⁹ Based on current maps published by the California Geological Survey:
<https://www.conservation.ca.gov/cgs/tsunami/maps/humboldt>.

³⁰ A CSZ event (magnitude 8.0 or greater) has an approximately ~270-year to 500-year average return period. Evidence suggests the last major CSZ quake occurred in January 1700 (~magnitude 9.0).

³¹ The evacuation map for Fairhaven is available from this link:
https://rctwg.humboldt.edu/sites/default/files/brochure_northspit_fairhaven_1.pdf

³² An article about the tsunami evacuation drill in Fairhaven coordinated this year by the Redwood Coast Tsunami Work Group is accessible here: <https://www.times-standard.com/2021/10/24/lori-dengler-shakeout-helps-to-promote-tsunami-safety/>

Due to the beach and dune sand deposits that comprise and underly the Samoa Peninsula, a lens of freshwater groundwater, which is recharged by local precipitation, exists at relatively shallow depths. Groundwater elevations generally are influenced by tidal fluctuations in Humboldt Bay and the Pacific Ocean.

Flood risks are expected to worsen and be exacerbated by projected sea level rise (SLR) in the coming decades. The State of California has undertaken significant research to understand how much SLR to expect over this century and to anticipate the likely impacts of such SLR. In 2017, a working group of the Ocean Protection Council's (OPC) Science Advisory Team released *Rising Seas in California: An Update on Sea-Level Rise Science*. This report synthesized recent evolving research on SLR science, including a discussion of probabilistic SLR projections as well as the potential for rapid ice loss leading to extreme SLR. This science synthesis was integrated into the OPC's *State of California Sea-Level Rise Guidance 2018 Update* (State SLR Guidance). This guidance document provides statewide recommendations for state agencies and other stakeholders to follow when analyzing SLR in association with projects. Notably, the guidance provides a set of regional projections recommended for use when assessing potential SLR vulnerabilities for a project. Taken together, the Rising Seas report and State SLR Guidance account for the current best available science on SLR for the State of California.³³

The State SLR Guidance provides SLR projections for 12 tide gauges in the state and recommends using the projections for the gauge closest to the project site. In this case, the North Spit tide gauge at Humboldt Bay is the applicable gauge. The amount of SLR projected at the North Spit tide gauge for the year 2100 ranges from 4.1 feet (under the "low-risk aversion" scenario) to 7.6 feet (under the "medium-high risk aversion" scenario) to 10.9 feet (under the "extreme risk aversion" scenario).³⁴

Assuming no changes to the existing shoreline, the Fairhaven area will be vulnerable to flooding from daily high tides with 3.3 to 4.9 feet of SLR, from monthly

³³ In addition, the Commission's adopted SLR Policy Guidance, as updated with science updates in November 2018, references the best available science throughout the document, including the 2018 OPC SLR Guidance.

³⁴ The OPC projections are based on different scenarios related to future emissions and concentrations of greenhouse gases, aerosols, and other climate drivers. The projections for relative SLR on Humboldt Bay take into account the combined effects of regional eustatic SLR and vertical land motion (tectonic uplift and subsidence). As recommended by the OPC guidance, for the year 2100, the "low risk aversion" scenario (~17% chance of being exceeded) is derived from taking the upper range of the 66% probability range for "RCP-8.5," which is the "Representative Concentration Pathway" that assumes there will be no significant efforts to reduce emissions globally. The "medium-high risk aversion" projection is derived from the upper range of the 0.5% probability range for RCP-8.5 (and it equates to a 1 in 200 chance, or a 0.5%, chance of being exceeded). The "extreme risk aversion" projection is based on presumed ice sheet loss in Greenland and the Antarctic (no associated probability at this time). Given the range of many uncertainties incorporated into the models, these projections are not precise but are intended to reflect a precautionary approach. While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea level change is clear.

maximum tides (i.e., flooding ~12 times per year) with 1.6 to 3.3 feet of SLR, and from King Tides (flooding ~4 times per year) with ~1.6 feet of SLR. In some parts of Fairhaven, existing groundwater is shallow to emergent, and groundwater conditions are expected to remain similar until sea level rises by 3.3 to 4.9 feet.

Considering the medium-high risk aversion SLR scenarios (also the H++ scenarios), 1.6 feet of SLR will occur by 2040 (by 2035 for the H++ scenario), 2.5 feet will occur by 2055 (by 2045), 3.3 feet will occur by 2065 (by 2055), and 6.6 feet will occur by 2095 (by 2075). Consideration of the medium-high risk scenario generally is consistent with the State SLR Guidance, which recommends a precautionary approach to SLR adaptation planning. With approximately 1.6 feet of sea level rise, most residential areas in Fairhaven could be flooded on a yearly basis during large storms and king tides (MAMW).

Once the SPWP is constructed to improve water quality, vacant lots within 300 feet of a new sewer main would be entitled to connect to the sewer services (see [Exhibit 9](#) for a map of existing and potential infill development in Fairhaven). Although no lots could be developed beyond the growth that's planned for under the existing certified LCP, construction of the SPWP would mean that some new residential development could occur in an inherently hazardous location.

Estimating the number of infill lots that could be developed in Fairhaven once the sewer system is extended is difficult due to the complicated subdivision history of the area and lot legality issues. Parcels in the residential portion of Fairhaven originate from a large landholding of the Humboldt Realty Company. In 1908, a Map entitled "Map of South Fairhaven" was filed that depicted the land with numerous blocks and lots (a total of 225 individually numbered lots). Under the state Subdivision Map Act, this map is considered antiquated and not a legal subdivision map. According to the County, there is no record of any subdivision approval being granted for the land in this area. Accordingly, any determination of the number of parcels requires an examination of the title history and deeds to determine the number of parcels that have historically been conveyed as individual parcels.

The County completed a Legal Parcel Study Analysis in 2017 in support of the SPWP,³⁵ which examined chain of title and deeds for many of the Fairhaven properties. The report notes the following:

The research shows that the Humboldt Realty Company held title to a large portion of the entire area depicted on the Map of South Fairhaven until 1948 when they sold their remaining interest. Eventually, the majority of this land was entered into tax default status and sold at tax auction to various property owners. Many of these lands have been purchased and defaulted upon multiple times throughout their history. An examination of the various tax auctions and private conveyances was

³⁵ The study was funded by the State Department of Housing and Community Development Block Grant Program.

used to approximate how many separate parcels were created prior to applicable county and state requirements for such parcel creation activities. Parcels that continue to exist in these configurations would be considered to be legal parcels for which development permits may be issued subject to building code and coastal permitting requirements. Parcels that were created after applicable county and state requirements are not eligible for issuance of such development permits and are not included in this analysis. The methodology also included an examination of development permits that have been issued on properties, thereby likely qualifying the parcels for legal standing under Section 66499.34 of the Subdivision Map Act.

Based on its research, the County report concludes that in addition to the ~61 parcels in South Fairhaven that have been developed with existing single-family residences and on-site wastewater disposal systems, there are approximately 90 undeveloped parcels (“infill lots”) that “have a high probability of being determined to be legal parcels” and approximately 26 additional undeveloped parcels that evidence suggests may be of legal status but which require additional research for a final determination of their status.³⁶ The report notes that “These findings are based on incomplete information and may not be used for official determination purposes. Because the entire deed history for most parcels has not been examined, the county cannot make an official determination of legal parcel status pursuant to the Subdivision Map Act.”

4. Water Quality Consistency Analysis – Approval as Submitted

a. Approval of LUP Amendment as Submitted

Protection and Restoration of Water Quality by Reducing Discharges from Inadequate and Failing Onsite Septic Systems

As discussed, the primary purpose of the project is to restore water quality and protect human health from groundwater pollution associated with failing and failure-prone OWTS’s. Extending sewer service to existing structures within the boundaries of the PCSD will in the short-term greatly reduce and in the long-term entirely eliminate³⁷ the

³⁶ While the County’s 2017 “Legal Parcel Study Analysis” for Fairhaven identifies approximately 90 undeveloped lots that likely will be determined to be legal and where future single-family residences potentially could be built, the Planning and Design Study for the Samoa Peninsula Wastewater Project (GHD and SHN 2018) estimates the potential to construct approximately 62 new single-family residences in Fairhaven.

³⁷ The immediate connection of OWTS’s to the extended sewer system in most cases will be voluntary (it will be mandatory for those entities under enforcement compliance agreements with the County, such as Hog Island Oyster Co.), but because connection fees will be waived by the PCSD (paid for by the State Water Board for construction of the SPWP) for immediate connections, according to the County (in a 4/19/2021 response letter to Commission staff): “The consistent and ongoing outreach program by the Peninsula CSD indicates that the voluntary connection program (connect now at no cost, except for the monthly service fee, or connect later and pay all connection costs plus the monthly service fee) will encourage nearly all property owners to connect at the time the project is constructed. The Regional Water Quality Control Board (RWQCB) has indicated that they support a voluntary connection program similar to what they have approved for the Willow Creek CSD wastewater project and for a project in

discharge of wastewater on the Samoa Peninsula in manner that pollutes groundwater resources and ultimately Humboldt Bay. As discussed, the existing Wisconsin mound systems that currently are used for wastewater treatment and disposal on the peninsula outside of the town of Samoa are incapable of adequately treating wastewater due to their inability to meet the vertical separation requirements between disposal lines and groundwater. The RWQCB, in implementing its Action Plan for the Humboldt Bay Area to protect commercial oyster farms in the Bay and other beneficial uses from bacterial pollution, encourages and supports efforts to eliminate failure-prone OWTS's through sewerage (among other measures).

Therefore, the Commission finds that the LUP amendment as submitted will protect and restore water quality and marine resources consistent with sections 30230 and 30231 of the Coastal Act.

Protection of Water Quality from Construction Related Impacts

The physical development associated with the sewer line extensions and treatment facilities that would be facilitated by the proposed LUP amendment could itself result in impacts to water quality and marine resources, if not implemented with appropriate mitigation measures. As discussed in the adopted FEIR for the project, the scope and extent of additional wastewater infrastructure needed to serve the proposed sewer extension area was evaluated in detail. The evaluation included an analysis of the environmental effects associated with the net increase of wastewater treatment/disposal infrastructure over the levels approved under the Samoa WWTF (added infrastructure to Samoa WWTF related to secondary treatment and solids dewatering) as well as the construction of the ~23,000 linear feet of collection lines and related infrastructure (manholes, pressure main, cleanout stations, pump stations, backup generators).

Construction of the project that would be facilitated by the proposed LUP amendment would involve excavation, soil stockpiling, grading, and the installation of sewer infrastructure. This includes sewer infrastructure both in the town of Samoa (including a sequencing batch reactor system, ultraviolet disinfection system, and a solids treatment system for onsite dewatering of settled solids consisting of a polymer injection system, a roll-off style dewatering container, and solids drying beds) and sewer lines and associated infrastructure outside of Samoa within the boundaries of the PCSD as shown in [Exhibit 4](#).

The proposed project site includes former industrial lands (i.e., the lands in Samoa that now are planned and zoned for Public Facilities uses within which necessary improvements to the Samoa WWTF for the SPWP would be located) and active

Lewiston... The Peninsula CSD has the authority and would require connection to the public wastewater system as part of the future sale of any property within the District. The County and the Peninsula CSD believe that this approach will result in most if not all property owners connecting to the system immediately and the remainder connecting within five to ten years. If a mandate is required, the project may not be approved and there would be no available option to correct ongoing and worsening public health and water quality issues associated with the OWTS."

roadways. Many of these areas are covered with old asphalt, fractured concrete, compacted gravel on former log decks, and railroad infrastructure. Although installation of the wastewater collection system is proposed to occur within previously disturbed areas and existing roadways to minimize impacts to sensitive coastal habitat, ground disturbance may occur out to 10 feet beyond existing edge of pavement.

Construction generally would consist of trenching within existing roadways, laying pipe in the trench, backfilling, compacting, and repaving over the trench. Trenches would typically be between 5 feet to 12 feet deep and 3 feet wide and would be dug with an excavator. The excavated asphalt and excess soil would be hauled offsite in 10-yard dump trucks. Various types of heavy equipment would be used for excavation, backfilling, potholing, compacting, and transporting materials associated with construction activities. If needed, temporary groundwater dewatering would be conducted to provide a dry work area. Dewatering would involve pumping water out of the trench. Groundwater would typically be pumped to Baker tanks (or other similar type of settling tank). Following the settling process provided by a tank, the groundwater would typically be pumped to a bag and cartridge filter system (or similar system) before being discharged to a permitted location. After the collection system piping is installed and trenches are backfilled, repaving would occur. It is estimated that approximately 3 acres of pavement surface restoration would be required.

The above-described construction-related activities could have potential direct or indirect impacts on water quality, including sedimentation, erosion, handling hazardous materials, and dewatering. Because there would be no in-water work associated with construction, including no crossings of drainage courses connected to Humboldt Bay or the ocean, there would be no potential for direct impacts to marine water quality from construction activities. However, the CEQA document completed for the SPWP identifies numerous wetlands located along the roadways in the vicinity of the planned route of the collection lines (wastewater system improvements in Samoa would be located at least 100 feet from any wetlands or coastal waters). Without the implementation of appropriate mitigation measures, construction of the pipeline extensions and improvements to the approved Samoa WWTF could directly impact wetlands and could generate discharges to wetland and water resources that could potentially violate water quality standards or waste discharge requirements.

Implementation of the SPWP would require implementation of the wetland protection and water quality mitigation measures identified in the adopted CEQA document as appropriate and adequate to reduce the potential for water quality impacts during construction to less than significant levels: These adopted mitigation measures include, but are not limited to, the following:

- Protect wetlands during construction by installing high visibility construction fencing prior to the start of construction for any construction activities within 100 feet of delineated wetlands. The fencing shall be installed under the direction of a qualified biologist to establish a no-disturbance buffer to protect the wetlands. The fencing shall be checked weekly by a biological monitor to ensure its continued correct placement and stability.

- Prepare and implement a stormwater pollution prevention plan (SWPPP) specific to the project prepared by a qualified SWPPP practitioner that includes Best Management Practices (BMPs) selected to achieve maximum pollutant removal, including, but not limited to, BMPs related to (1) soil stabilization and erosion control practices (e.g., hydroseeding, erosion control blankets, mulching); (2) dewatering practices; (3) sediment control practices (temporary sediment basins, fiber rolls); (4) temporary and post-construction on- and off-site runoff controls; (5) BMPs for protection of adjacent wetlands; (6) waste management, handling, and disposal control practices; and (7) spill contingency measures.
- Prepare and implement a construction Soil and Groundwater Management Plan (SGMP) prior to start of construction activities that identifies and addresses the potential for encountering and avoiding constituents of concern (COC) that could be inadvertently mobilized by sewer line installation to industrial sites. Portions of the project area, in particular on industrial sites, contain areas of known soil and groundwater contamination related to historical activities (mill operations, industrial land uses, areas of fill materials of unknown origins, and petroleum hydrocarbon releases from leaking underground storage tanks). Possible COCs that could be present in soils and groundwater include pentachlorophenol (PCP), semi-volatile organic compounds (SVOCs), dioxins/furans, polychlorinated biphenyls (PCBs), petroleum hydrocarbons, metals, and aerially deposited lead (ADL).

The SGMP would require a pre-construction sampling and analysis plan component that would detail the necessary laboratory analysis and numbers, depths, and locations of borings required for sampling to pre-characterize the site prior to finalizing construction plans for sewer line routes. Any planned construction areas within or adjacent to documented sites with the potential to harbor legacy COC would require pre-characterization prior to any activities that could disturb soil or groundwater. Data generated from the soil pre-characterization would then be used to prepare a project-specific construction-period health and safety plan and identify areas where impacted soil and/or groundwater management for worker protection may be necessary. The plan also must include follow-up measures to be taken in the event impacted soil or groundwater is inadvertently encountered during construction activities. The SGMP would be required to identify each potential COC, stop-work actions if encountered, person(s) responsible for initiating follow-up measures, and notification, coordination, removal, and disposal processes (as appropriate). If impacted soil and groundwater is encountered during construction, appropriate measures for worker protection shall be implemented per the Health and Safety Plan.

The certified LUP includes as codified policies Coastal Act sections 30230 and 30231. To be approved, any CDP for future development that would be facilitated by the LUP amendment, including extension of sewer lines pursuant to the SPWP would have to be found consistent with these policies and could be conditioned to require adherence to the adopted CEQA mitigation measures for protecting the biological productivity and

quality of coastal waters and wetlands. Therefore, the proposed LUP amendment as submitted is consistent with Coastal Act sections 30230 and 30231.

Protection of Coastal Waters from Discharge of Treated Wastewater Effluent

While the existing ongoing water pollution associated with the disposal of wastewater to substandard onsite systems will be curtailed through the provision of public sewer access in the area, the collected wastewater from the onsite systems would ultimately be routed through the Samoa WWTF and disposed of through the existing ocean outfall that extends 1.5 miles offshore from Samoa. As previously discussed, the RWQCB determined that the disposal of treated wastewater effluent to the ocean is more protective of water quality on the Samoa Peninsula than disposal to a land-based system (i.e., leach fields) due to soil and groundwater characteristics in the area. According to the existing NPDES permit for the Samoa WWTF,³⁸ the existing facility is designed to provide wastewater treatment for an average dry weather flow of 52,800 gallons per day (gpd) and a peak daily wet weather flow of 75,600 gpd, which corresponds to the maximum projected flows from the completion of all phases of the STMP Master Plan development project. Treated wastewater effluent discharges to the ocean through the existing RMT II ocean outfall pipeline. Currently DG Fairhaven Power, an industrial operation located between Fairhaven and Samoa, also discharges approximately 170,000 gpd of treated processed water through the ocean outfall. The expansion of sewer services facilitated by the LCP amendment would add approximately 45,000 gpd of wastewater to the system that would ultimately be discharged through the ocean outfall. The CEQA analysis completed for the SPWP explains that the RWQCB's NPDES permit for the Samoa WWTF would be amended and updated to accommodate the future increased flow associated with the SPWP. The RWQCB's amended and updated permit will include specifications for effluent discharge to meet mandatory standards for protecting ocean water quality and beneficial uses. The CEQA document concludes that because discharges from the ocean outfall are regulated by existing standards established for the purpose of protecting the ocean, and the additional flow from the project would contribute a small fraction of the existing discharge and approved Samoa WWTF discharge, the impact to the ocean environment from increased discharge from the project would be less than significant.

The Commission is not in this action evaluating a CDP application for the SPWP, which will first be reviewed by the County and potentially by the Commission on appeal. For purposes of the proposed LCP amendment the Commission finds that future development and operation of an extended sewer line that discharges wastewater into the ocean, can be conditioned in a manner that would protect the biological productivity and quality of coastal waters, wetlands, and estuaries. Therefore, the LUP amendment is consistent with sections 30230 and 30231 of the Coastal Act.

³⁸ A copy of the NPDES permit for the Town of Samoa WWTF is accessible here: https://www.waterboards.ca.gov/northcoast/board_info/board_meetings/04_2020/pdf/5/200401%20Samoa%20Draft%20NPDES%20Clean.pdf

b. Approval of IP Amendment as Submitted

To certify a proposed amendment to a certified IP, the IP as amended must conform with the certified LUP as amended and adequately carry out all applicable LUP policies. As noted above, the certified LUP includes as codified policies Coastal Act sections 30230 and 30231 and any CDP issued by the County for the development of the sewer system improvements and future development in the area to be served by the sewer system improvements must be found consistent with the requirements of sections 30231 and 30230 to protect water quality to be approved. As discussed above in findings of consistency of the LUP amendment with the Coastal Act, best management practices and other water quality protection measures consistent with section 30231 and 30230 have been identified in the EIR that could be required through conditions of any CDP granted for the sewer system improvements and future development in the area to be served by the sewer system improvements. Therefore, the Commission finds that the IP amendment as submitted is consistent with and adequate to carry out the water quality protection policies of the LUP.

5. Hazards Consistency Analysis – Approval with Suggested Modifications

a. Denial of LUP Amendment as Submitted and Approval with Suggested Modifications

As discussed above, the LUP amendment as submitted would allow for extension of sewer service outside of the urban boundary of Samoa to low-lying residential lands within the boundaries of the PCSD (the existing certified LUP already allows for extension of sewer service outside of Samoa to serve industrial uses in Fairhaven, Finntown, and elsewhere). These proposed policy changes include policy language that attempts to balance allowing sewer service extensions to existing failing and failure-prone systems to protect water quality while minimizing the risks to life and property associated with the new development in this highly vulnerable area that would be facilitated by the proposed LCP amendment as submitted. The subject area is at risk of tsunami inundation from infrequent but extreme tsunami events where the time between tsunami generation and inundation of residential areas could be only a few minutes due to proximity to the Cascadia Subduction Zone, a local source for tsunami waves. In this context, minimizing risks to life and property from tsunami hazards in the Fairhaven area is challenging, because there are few dunes in the area high enough to serve as a safe evacuation refuge for residents during a tsunami, and as demonstrated by a recent evacuation drill, it is challenging for residents to reach the identified dunes that are high enough to serve as a refuge point in the target time frame estimated to be available after ground shaking stops and before the tsunami arrives (approximately 10 minutes). The subject area also is vulnerable to sea-level rise, and the best available science and precautionary sea-level rise scenarios project that residential lots in Fairhaven area will be vulnerable to flooding from daily high tides by 2065 and to monthly maximum tides by 2040.

There are approximately 65 existing residences in Fairhaven housing an estimated 187³⁹ people. According to estimates provided by the County, there are approximately 100 vacant infill lots (which could support an additional approximately 250 to 300 people) located within 300 feet of a sewer main planned to be installed under the SPWP. Once the SPWP is constructed for the purpose of protecting water quality, vacant lots within 300 feet of a sewer main would be entitled to connect to the public sewer service.

Although the existing certified LCP disallows subdivisions in the Fairhaven residential area, and no lots could be developed beyond the growth that's planned for under the existing certified LCP, construction of the SPWP will allow for some residential development to occur in a location subject to various sea level rise influenced hazards.

The Coastal Act allows for new development in hazardous locations; however, section 30253 requires that new development minimize risks to life and property, assure stability and structural integrity and not contribute significantly to erosion or destruction of the site or require the construction of shoreline protective devices that would substantially alter natural landforms. The LUP amendment as proposed includes certain policies to minimize hazard risks. One such measure is a design requirement for the sewer extension project that would be facilitated by the LUP amendment:

The SPWP shall be designed and constructed in conformance with specific recommendations contained in a geotechnical report that considers high groundwater levels, projected sea level rise, the effects of seismic events including strong ground shaking, liquefaction, other ground failure and tsunami inundation, to prevent damage to, or flotation of, pipelines, pump stations, and other wastewater facilities subject to these hazards, and to prevent sanitary sewer overflows.

Other policies designed to minimize hazard risks include (1) a prohibition on further extensions of public sewer mains beyond what is constructed as part of the SPWP without a further LCP amendment; and (2) a requirement that with any new residential development in the area, property owners must acknowledge the coastal hazard risks to which their development is exposed, assume the risks of developing in hazardous locations, and acknowledge the possibility that no shoreline protection may be approved to protect the development.

These proposed policies will reduce some risk to life and property from future development that would be facilitated by the proposed LUP amendment. However, significant risk remains, and various other measures are available to further minimize risk to life and property. For example, access to a reliable publicly maintained sewer system in Fairhaven could encourage property owners to expand or replace existing residences in this highly vulnerable area. As discussed, most of the existing residential development in Fairhaven occurred prior to 1970. Property owners are entitled to repair and maintain their existing structure for its remaining life and make minor improvements

³⁹ Assumes 2.84 persons per household based on 2010 census data for Samoa.

to structures to meet current standards. However, allowing for expansion of the intensity of residential use on these highly vulnerable lots or allowing for replacement of homes that could extend the residential use on the lots another 75 to 100 years into the future when flooding and inundation risks from sea level rise would become untenable would not minimize risks to life and property in an area of high geologic and flood risk as required by Coastal Act Section 30253.

In addition, providing sewer service could allow the development of accessory dwelling units (ADUs) on lots in Fairhaven developed with existing residences and on infill lots in the future in connection with the development of primary residences. Due to the ongoing wastewater treatment challenges over the years described above, to date no ADUs have been built in Fairhaven. While LUP section 3.17-B-3 of the existing certified LCP currently imposes strict design standards for additional dwelling units (and subdivisions) in areas vulnerable to tsunamis (e.g., new homes must have occupiable floors above the predicted tsunami run-up elevation calculated at maximum tide plus a minimum of 3 feet to account for future SLR plus one foot of freeboard space), the Commission finds that even allowing ADUs in the area built to these standards will result in more people living in an inherently hazardous area at risk of flooding exacerbated by sea level rise and a catastrophic tsunami event with known challenges for residents to safely evacuate. By allowing for ADUs, the LUP amendment as submitted does not minimize risk to life and property in areas of high geologic and flood hazard.

Finally, while it's useful that the LUP amendment as submitted includes a requirement that applicants for new residential development must acknowledge the coastal hazard risks to which their development is exposed, assume the risks of developing in hazardous locations, and acknowledge the possibility that no shoreline protection may be approved to protect the development, this requirement does not go far enough to ensure that risks to life and property are minimized. Without requiring such acknowledgement and assumption of risk to be recorded against the property deed as covenants, conditions and restrictions on the use and enjoyment of the property, potential buyers of the property, lending institutions, and insurance agencies could have false expectations that the property is safe for an indefinite period of time and for further development indefinitely into the future or that a protective device could be constructed to protect the approved development in the future if needed.

For all the reasons discussed above, the Commission finds that the LUP amendment as submitted does not minimize risk to life and property from significant geologic and flood hazards. As a result, the LUP amendment as proposed is inconsistent with Coastal Act section 30253 and must be denied unless modified as suggested below.

As discussed above, the CEQA document adopted for the project acknowledges that the LCP will be further amended in the future to include additional policies to address the exposure of new development to coastal hazards, including sea level rise and tsunami inundation. In considering these future amendments, which will involve development of policies and programs to support coastal hazard adaptation and resilience for planned uses around Humboldt Bay, the County and the Commission at

that time will have the opportunity to revisit the issue of ADUs and additional dwellings in vulnerable areas.

Suggested Modification 1 ([Appendix A](#)) adds language to policy 3.22-B-1-(b) related to permitting extension of sewer service to existing structures. The added language specifies that as a condition of approval for a CDP to construct the SPWP, the PCSD shall be required to disclose to each property within the portion of Fairhaven planned Residential/Exurban receiving a sewer connection and containing existing development that the connection to sewer service does not convey or imply any entitlement or commitment for CDP authorization to be granted for any expansion or replacement of the existing development on the subject property. In addition, the District shall be required to provide a plan for providing such notice to any successors and assigns of such existing development. Suggested Modification 1 also adds language to policy 3.22-B-1-(b) related to new development to expressly prohibit the construction of ADUs on lots to minimize risks from geologic and flood hazards. Suggested Modification 1 also adds a requirement that applicants for new development and redevelopment in the Fairhaven area must execute and record a deed restriction against their property acknowledging the coastal hazard risks to which their development is exposed, assuming the risks of developing in hazardous locations, and acknowledging the possibility that no shoreline protection may be approved to protect the development.

Finally, for clarity, Suggested Modification 1 deletes policy language in the proposed amendment to Policy 3.22-B-1 that new residential development within 300 feet of a SPWP sewer main may only be approved after the Humboldt Bay Area Plan component of the County's LCP has been amended. The referenced future amendment is the LCP update that is currently being developed by the County, in part to address development in hazardous areas vulnerable to flooding exacerbated by sea level rise and tsunami inundation. After prohibiting such development until the amendment has been approved, the proposed policy language provides an exception indicating that such development proposed before the future Humboldt Area Plan amendment can in fact be approved subject to the standards discussed above. Given this exception, the language stating that certain development can only be approved after a future LCP amendment is confusing. The language is also unnecessary. Any new policies requiring measure to reduce hazard risks of developing in areas vulnerable to sea level rise and tsunami inundation that might be approved as part of the future LCP Update will become part of the standard of review for reviewing coastal development permits for development in hazardous areas after effective certification of the LCP amendment.

As modified by Suggested Modification 1, the LUP amendment will ensure that expansion of residential use within the inherently hazardous area to be served by the sewer facilities to be facilitated by the LCP amendment will be minimized and that property owners and future purchasers of residential lots in the affected area to be served by the sewer facilities will be adequately informed of the risks and liabilities associated with development on those properties. Therefore, the Commission finds that as modified, the LUP amendment minimizes risks to risks to life and property in an area of high geologic and flood risk consistent with section 30253.

b. Denial of IP Amendment as Submitted and Approval with Suggested Modifications

Summary of Applicable Certified LUP Policies

The certified LUP includes as codified policies Coastal Act sections 30230, 30231, 30235, and 30253 (among various others). The certified LUP maps apply the “Residential Exurban” land use designation to the residential community of Fairhaven, which is described in LUP sec. 4.10-B as follows:

RX: RESIDENTIAL/EXURBAN

PURPOSE: To allow development of rural community neighborhoods not depending on urban levels of service

PRINCIPAL USE: residential single-family with neighborhood commercial services as allowed by Section 3.28C of this document ⁴⁰

GROSS DENSITY: see Section 3.21B for a gross density for each specific geographical area

LUP sec. 3.21-B-2-b describes the planned density of Fairhaven as follows:

This area, although divided into urban size parcels, has high groundwater and has severe septic system constraints. It is currently serviced with water provided by the Humboldt Municipal Water District. Creation of new parcels shall not be permitted.

The existing certified zoning of the portion of Fairhaven planned RX is Residential/Single-Family – No Further Subdivision Allowed (RS-X). The existing certified IP (sec. 313-6 and 313-169 et seq.) lists the following uses as principally permitted in the RS-X zone: Single Family Residential, Second Residential Unit, Cottage Industry, and Minor Utilities to serve these uses. The RS zone also lists the following uses as conditionally permitted: Manufactured Home Park; Guest House; Essential Services; Community Assembly; Public Recreation and Open Space; Oil and Gas Pipelines; Major Electrical Distribution Lines; Minor Generation and Distribution Facilities; Bed and Breakfast Establishments; Neighborhood Commercial; Private Institution; Private Recreation; Timber Production; Cottage Industry; Surface Mining; Fish and Wildlife Management; Wetland Restoration; and Coastal Access Facilities.

LUP section 3.17-B-3 related to tsunamis applies broadly throughout the Humboldt Bay Area Plan planning area and applies both to new subdivisions as well as to development projects that could result in one or more additional dwelling units within a potential tsunami run-up area (emphasis added):

⁴⁰ The referenced section on neighborhood commercial services is inapplicable to the Fairhaven area.

*Tsunamis—New development below the level of the 100-year tsunami run-up elevation described in *Tsunami Predictions for the West Coast of the Continental United States* (Technical Report H-78-26 by the Corps of Engineers) shall be limited to public access, boating, public recreation facilities, agriculture, wildlife management, habitat restoration, and ocean intakes, outfalls, and pipelines, and dredge spoils disposal. New subdivisions or development projects which could result in one or more additional dwelling units within a potential tsunami run-up area shall require submission of a tsunami vulnerability report which provides a site-specific prediction of tsunami run-up elevation resultant from a local Cascadia subduction zone major earthquake. Such developments shall be subject to the following standards or requirements:*

- 1. New residential development shall not have habitable living space below the predicted tsunami run-up elevation calculated at maximum tide plus a minimum of three (3) feet to account for future sea level rise plus one foot of freeboard space.*
- 2. New residential development shall be required to meet the requirements of a Tsunami Safety Plan (TSP) based on the Tsunami-Ready Guidelines of NATIONAL WEATHER SERVICE INSTRUCTION 10-1802, October 6, 2004, Appendix D.*
- 3. The Approving Authority shall only authorize residential development proposed on legal lots in areas located within a tsunami run-up inundation area if the pertinent decisionmakers adopt specific findings at the time of approval of such development stating that the guidelines set forth in the Tsunami-Ready Guidelines of the NATIONAL WEATHER SERVICE INSTRUCTION 10-1802, dated October 6, 2004, Appendix D, have been reviewed and have been fully met or implemented as applied to the specific location of the proposed development.*
- 4. A Tsunami Safety Plan (TSP) for the subject site has been prepared by a California licensed professional civil engineer with substantial coastal hazard analysis experience specifically including evaluating tsunami hazards stating that if the reviewing engineer's recommendations are met, the site will be safe for the subject development from catastrophic failure or inundation caused by a local great Cascadia Subduction Zone earthquake event and accompanying tsunami. The final plans and designs shall be reviewed and stamped by the reviewing California licensed professional engineer to confirm that all pertinent recommendations set forth in the subject final TSP have been incorporated into the final plans and designs.*

Finally, LUP section 3.30-B-12 related to Shoreline Protection Structures is similar to section 30235 of the Coastal Act (which also is codified as a policy of the LUP) but is more specific, stating in applicable part as follows:

Shoreline protection structures, including revetments, breakwater, bulkheads, graving yards, groins, seawalls, and other such construction, that alter natural shoreline processes may be permitted

- a. *to protect existing principal structures or public facilities in areas subject to damage from wave action where relocation of the structures is not feasible,*
- b. *when required to serve coastal dependent uses,*
- c. *to reconstruct existing bulkheads and revetments,*
- d. *...*
- e. *Permanent shoreline structures, other than revetment of existing dikes, shall be permitted only when based on a comprehensive study of area-wide shoreline processes which assesses long term effects of the structures on sand transport, downdrift beaches, circulation patterns and flow rates, including effects such as erosion, shoaling, or reflection of wave energy on adjacent shorelines. It is the policy of the County to prefer beach nourishment and vegetative protection where feasible, to permanent structural shoreline stabilization. Temporary shoreline structures may be permitted in emergencies provided that any temporary structure is either 1) incorporated into a permanent structure, or 2) removed upon construction of a permanent structure...*

Consistency Analysis

As discussed above, the project-driven LUP amendment would add an exception to a policy that prohibits extension of sewer and water services to rural areas for the SPWP. As proposed, and as suggested to be modified, the LUP amendment imposes various requirements on the SPWP and associated development as well as future potential development that would be facilitated by the project. These LUP policy requirements include (but are not limited to) the following:

- New ADUs on all lots shall be prohibited to minimize risks to life and property from tsunami and SLR hazards;
- Other than connections to industrial uses and interim conditionally permitted uses, sewer service may only be provided to (i) structures and uses that were legally existing as of October 6, 2020 [which is the date that the FEIR for the SPWP was adopted by the County] and (ii) new single-family residences on legal lots in the portion of Fairhaven planned Residential/Exurban located within 300 feet of a SPWP sewer main.
- For connections to structures and uses that were legally existing as of October 6, 2020, as a condition of approval for a CDP to construct the SPWP, the PCSD shall be required to disclose to each property owner within the portion of Fairhaven planned Residential/Exurban receiving a sewer connection and containing existing development that the connection to sewer service does not convey or imply any entitlement or commitment for CDP authorization to be granted for any expansion or replacement of the existing development on the subject property. In addition, the District shall be required to provide a plan for providing such notice to any successors and assigns of such existing development.

- Sewer connections for new development on vacant lots must conform to the following (**emphasis added**):
 - the new development shall meet certain performance standards, **adopted by ordinance**, that will ensure that such development will be protective of public health, safety and welfare, and coastal resources relative to hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, tsunami inundation, and other geologic and flood hazards, and will be protective of ESHA, based on site-specific investigations prepared by qualified experts; and
 - property owners must execute and record a deed restriction that acknowledges and agrees to: (a) the current and future projected geologic and flood hazards to which their development is exposed and will be exposed over the economic life of the development, (b) assume the risks of developing in hazardous locations subject to geologic and flood hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, tsunami inundation, and other geologic and flood hazards, (c) acknowledge that, as new development, the property owners do not have any right to shoreline protection to protect the proposed development from such flood hazards under the LCP or the Coastal Act, and (d) further acknowledge that shoreline protection is unlikely to be authorized for the development due to inconsistencies with LCP and Coastal Act policies protecting public access, recreation, beach and water quality, among others.

As submitted, the IP amendment includes performance standards (“adopted by ordinance”) to which new residential development must conform. These standards would be applied through a zoning map change (the adopted ordinance is included as Exhibit 6). The County proposes to rezone the lands in Fairhaven that currently are zoned RS-X to add a Qualified combining zone (RS-X/Q) where special restrictions would apply to the subject area (the Q zone map change is shown on page 6 of Exhibit 6). Within the combining zone area, the ordinance as submitted specifies that the special restrictions would apply to those lands that are undeveloped (“infill lots”) and within 300 feet of SPWP sewer main as described in the October 6, 2020 FEIR project. This subset of lands is shown in [Exhibit 8](#). There would be no special restrictions on existing developed lots with onsite wastewater systems to be sewered under the SPWP other than for the construction of ADUs. This contrasts with the proposed LUP policies as suggested to be modified, which apply both to developed lots in Fairhaven as well as infill lots and other lands within the current boundary of the PCSD.

As proposed, any CDP for uses on the subject lands (i.e., for new development on infill lots and to ADUs on all lots) requires three main findings to be approved:

1. “There is no less environmentally damaging feasible alternative, adverse environmental effects have been mitigated to the extent feasible, and required

mitigation will maintain or enhance the functional capacity of the wetlands or Environmentally Sensitive Habitats to the extent feasible, if present.”

2. “The proposed development is consistent with the Coastal Act and consistent with adopted Humboldt Bay Area Plan sea level rise development policies, or absent such policies, a qualified professional with expertise in coastal resources has prepared a site-specific sea level rise hazard analysis for the proposed development that includes a range of sea level rise projections; that shows how sea level rise may impact the development and how the development may impact coastal resources considering sea level rise; and demonstrates that the proposed development will not create a hazard to life, health, safety, the general welfare, or coastal resources for the life of the project;” and
3. “The proposed development is consistent with the Coastal Act and consistent with the adopted Humboldt Bay Area Plan tsunami hazard policies revised based on the Guidelines for Evaluating and Mitigating Tsunami Hazards in California adopted by the State Mining and Geology Board in accordance with the Seismic Hazards Mapping Act of 1990, or absent such policies, the proposed development meets the requirements of Humboldt Bay Area Plan Section 3.17 Hazards, B. Development Policies, 3. Tsunamis, subsections 1 through 4.”

In recognition that new residential development in Fairhaven will be subject to significant SLR and tsunami risks, performance standards #2 and #3 cited above requiring new residential development on infill lots and to ADUs on all lots to be consistent with the existing LUP hazard policies, which include most of the Chapter 3 policies of the Coastal Act as well as LUP section 3.17-B-3 (see full policy above) related to tsunamis. This LUP policy requires development projects that could result in one or more additional dwelling units within a potential tsunami run-up area to meet various standards. As the standards of LUP sec. 3.17-B-3(1)-(4) apply to Fairhaven, the requirements include:

1. New homes must have occupiable floors at least 25 feet above ground level. [The maximum height of homes allowed in the coastal zones under the existing certified LCP is an average of 35 feet.
2. As there is no Tsunami Safety Plan (TSP) based on the Tsunami-Ready Guidelines of NATIONAL WEATHER SERVICE INSTRUCTION 10-1802, October 6, 2004, Appendix D as cited in the LUP policy (which was originally adopted in 1982), this requirement translates to requiring new homes to meet the NWS TsunamiReady® requirements, which involve community evacuation drills, education, signage, and other community requirements that are in process for the Fairhaven community as a whole.

3. This requirement essentially is the same as #2 above, and the community will soon be able to meet this standard.⁴¹
4. To meet the minimum Tsunami Safety Plan standards required by the policy, homes in most of Fairhaven would need to have habitable areas ~25 feet above ground level, and the supporting structure would have to withstand the hydrodynamic forces of a tsunami and its debris safely without catastrophic failure. Design features would need to include at least the following: a deep foundation or drilled shafts to avoid scour; structural columns and shear walls that are designed to resist lateral loads and debris impact as well as oriented to the anticipated direction of flow; and non-structural breakaway walls (to reduce the resistance to the water, the hydrostatic and hydrodynamic forces, and the buoyancy effect). It is likely very costly to meet the “safe from catastrophic failure or inundation” standard.

Thus, the existing LUP policies already impose certain standards for additional dwelling units in highly vulnerable areas such as Fairhaven to minimize risk to life and property, and the IP amendment as submitted requires that new development in Fairhaven on infill lots must meet these standards.

Although the proposed IP standards in some ways conform with the LUP policies as modified requiring that new development minimize risk, in other ways the IP amendment as proposed fails to conform with the certified LUP as conditionally certified. First, there are no prohibitions on the allowance of several conditional uses currently allowed in the area (in the Single Family/Residential (RS) zone) under the existing certified LCP, such as guest house, manufactured home park, bed and breakfast establishment, community assembly, neighborhood commercial, private institution, and private recreation. If any of these uses were to be developed in the area in the future, such uses/development would have the effect of attracting more people and development to an inherently hazardous area vulnerable to flood hazards exacerbated by sea level rise and at risk of a catastrophic tsunami event with known challenges for residents and visitors to safely evacuate.

Second, the special restrictions proposed under the IP amendment as submitted do not address the potential redevelopment of existing homes in Fairhaven. As previously mentioned, most of the existing residential development in Fairhaven occurred prior to 1970. Property owners are entitled to repair and maintain their existing structure for its remaining life and make minor improvements to structures to meet current standards. But the replacement of 50% or more of a structure constitutes a new replacement structure (CCR sec. 13252(b)), and such substantial alterations must be evaluated as new development. As proposed, no special restrictions would apply to residential redevelopment projects on existing developed lots in Fairhaven. However, allowing for replacement of homes that could extend the residential use on the lots another 75 to

⁴¹ E.g., see: <https://www.times-standard.com/2021/10/24/lori-dengler-shakeout-helps-to-promote-tsunami-safety/>

100 years into the future when flooding and inundation risks from sea level rise would become untenable would not minimize risks to life and property in an area of high geologic and flood risk as required by Coastal Act Section 30253 which has been incorporated as a policy of the certified LUP.

Third, the IP amendment as proposed allows for the development of new ADUs in the area, whereas the LUP as suggested to be modified would prohibit new ADUs to minimize the size of the population that could inhabit this area known to be at risk of a catastrophic tsunami event that currently is challenged by a lack of feasible alternatives for safe evacuation.

Thus, the proposed IP changes include internal inconsistencies and do not conform with and adequately carry out the certified LUP as conditionally certified for the reasons discussed below. Therefore, the IP amendment as submitted must be denied pursuant to section 30513 of the Coastal Act. However, the Commission suggests Suggested Modifications (shown in Appendix B) to conform the proposed new IP standards consistent with the LUP policies as conditionally certified

Suggested Modification 2 ([Appendix B](#)) remedies the above issues by (1) prohibiting the allowance of the various uses that could subject more people and development to hazard risks in this area of high geologic and flood hazards (i.e., prohibiting ADUs, guest houses, manufactured home parks, bed and breakfast establishments, community assembly, neighborhood commercial, private institution, and private recreation uses); and (2) requiring that the replacement of existing homes and improvements to existing homes in Fairhaven also be required to meet to the various special standards that would apply to new development on infill lots in Fairhaven. With these suggested modifications, the proposed IP map amendment conforms with and is adequate to carry out the hazard minimization policies of the certified LUP.

Therefore, the Commission finds that IP amendment as modified conforms with and adequately carries out the water quality protection and hazard minimization policies of the certified LUP.

B. Expanded Public Works Facilities & Protection of Priority Uses

1. Policy Summary

Section 30250(a) of the Coastal Act (which is codified in part as policies in LUP sec. 3.11 and 3.21, for urban and rural areas, respectively) states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where

50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcel.

Section 30254 of the Coastal Act (codified as policies in LUP sec. 3.12 and 3.22, for urban and rural areas respectively) states (emphasis added):

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

Section 30101 of the Coastal Act defines “coastal-dependent development or use” as:

...any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

Section 30220 of the Coastal Act (codified as a policy in LUP sec. 3.27) states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act (codified as a policy in LUP sec. 3.27) states:

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

Section 30222 of the Coastal Act (codified as a policy in LUP sec. 3.27) states:

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

Section 30222.5 of the Coastal Act states:

Oceanfront land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.

Section 30223 of the Coastal Act (codified as a policy in LUP sec. 3.27) states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30234 of the Coastal Act (codified as a policy in LUP sec. 3.13) states in applicable part:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided...

Section 30255 of the Coastal Act (codified as a policy in LUP sec. 3.13) states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Section 30260 of the Coastal Act (codified as a policy in LUP sec. 3.14-B-3) states:

Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

Section 30701(a) of the Coastal Act provides that:

The Legislature finds and declares that:

(a) The ports of the State of California, including the Humboldt Bay Harbor, Recreation, and Conservation District, constitute one of the state's primary economic and coastal resources and are an essential element of the national maritime industry.

LUP sec. 4.10-A describes uses allowed on lands designated Industrial/ Coastal-Dependent (MC) (emphasis added):

MC: INDUSTRIAL/COASTAL-DEPENDENT

PURPOSE: *to protect and reserve parcels on or near the sea for industrial uses dependent on, or related to, the harbor.*

PRINCIPAL USE: any coastal-dependent industrial use that requires access to a maintained navigable channel in order to function, including, but not limited to: public docks, water-borne carrier import and export operations, ship building and boat repair, commercial fishing facilities, including berthing and fish receiving, and fish processing when product is for human consumption (fish waste processing and fish processing of products for other than human consumption are considered coastal-related uses) marine oil terminals, OCS service or supply bases, ocean intake, outfall or discharge pipelines and pipelines serving offshore facilities, aquaculture and aquaculture support facilities.

CONDITIONAL USES: visitor-serving recreational facilities that require channel access, including, but not limited to marinas serving other than solely commercial vessels, fishing piers, and boat launching facilities; coastal-related industrial uses, including, but not limited to fish waste processing and fish processing and treatment facilities, electrical generating facilities or other facilities which require an ocean intake, outfall, or pipeline. Such facilities shall not be sited on sites with channel access unless associated with a terminal. Alterations, improvements, and relocations of existing general industrial uses within the MC designation. Interim uses that will allow for greater use of underutilized MC lands while at the same time avoiding impacts to their long term coastal-dependent industrial use and other priority uses conditionally permitted on MC designated lands, including for visitor-serving recreational facilities that require channel access and coastal-related industrial uses.

As cited above, the Coastal Act prioritizes protection of certain priority uses over other competing uses without priority. The Coastal Act provides that coastal-dependent developments, including coastal-dependent industry (CDI), coastal-related developments, and coastal recreation uses, shall have priority over other developments on or near the shoreline. Generally, these priority land uses include uses that by their nature must be located on the coast to function, such as ports and commercial fishing facilities, and uses that encourage the public's use of the coast, such as various kinds of visitor-serving recreational facilities. Coastal-dependent industrial facilities are encouraged to locate or expand within existing sites, and CDI is given priority over visitor-serving commercial recreational facilities that enhance public opportunities for coastal recreation. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support. Coastal-related developments may include facilities that support commercial fishing and aquaculture (e.g., storage and work areas, berthing and fish receiving, areas for fish processing for human consumption, and aquaculture support facilities).

CDI lands around Humboldt Bay are coded "MC" on certified land use planning and zoning maps. Over 600 acres are certified MC lands within the County's CDP jurisdiction, with several hundred additional acres locally zoned MC in the Commission's retained CDP jurisdiction (areas within the Commission's jurisdiction include historically filled tidelands along the bay shoreline and tideland areas where several of the existing

industrial docks that support CDI uses are located). Lands in both jurisdictions either currently support or have in the past supported CDI uses and infrastructure, including industrial docks, ship repair yards, forest product shipping export operations, commercial fishing facilities, and aquaculture nursery and production facilities. Unlike several other ports in the coastal zone (i.e., San Diego, Long Beach, Los Angeles, and Hueneme), the standard of review for land use and development on the Port of Humboldt Bay outside of the Commission's retained jurisdiction is not a certified Port Master Plan, but rather the certified LCP.

In cases where existing or planned public works facilities can accommodate only a limited amount of new development, Coastal Act section 30254 prioritizes "*services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses.*" Coastal Act section 30254 also directs in part that (1) public works facilities shall be designed and limited to accommodate development and uses permitted consistent with the Coastal Act, and (2) expansion of public works facilities shall not induce new development inconsistent with the Coastal Act. Essentially, the Coastal Act discourages "leapfrog" development [section 30250(a)] and prioritizes certain uses over other competing uses, especially in cases where service capacity is limited.

2. LUP Consistency Analysis – Approval with Suggested Modifications

a. Priority Use Lands in the Area Affected by the LUP Amendment

Lands that support priority uses in the area affected by the LCP amendment include (1) several hundred acres of coastal-dependent industrial (CDI) lands along the bay frontage, including the Fairhaven Business Park, Redwood Marine Terminal (RMT)-I (which currently supports coastal-dependent and commercial fisheries operations), RMT-II (the former Samoa Pulp Mill, which current supports coastal-dependent businesses and several interim, temporary, non-coastal-dependent businesses), and the California Redwood Company wood chip export facility; (2) existing CDI lands that front the ocean and which currently include the Samoa Field Airport; and (3) the County's Samoa Boat Ramp and Campground, located approximately one mile south of Fairhaven. In addition, the Fairhaven Fire Station, an essential public service that serves the Samoa Peninsula, is in Fairhaven.

While the existing certified LUP allows sewer service extensions outside of the urban limit line for industrial uses (including CDI uses), to date no such extensions have occurred. That would change with the implementation of the SPWP, which would be facilitated by the proposed LCP amendment and which is being financed in part by State Water Resources Control Board. The SPWP was designed as a financially feasible means for rate payers in the service area (with the State and federal grant monies paying for construction and some initial connection costs) to consolidate

wastewater collection and treatment for all the lands within the boundaries of the PCSD.⁴²

To date, the lack of financially feasible options for constructing compliant onsite wastewater systems for domestic and commercial waste that comply with water quality regulations has in some cases constrained new coastal-dependent development in the area due. For example, since 2018, Hog Island Oyster Company, which leases property on CDI land in Fairhaven for its commercial oyster nursery (seed operation) has been under a compliance agreement with County DEH to temporarily vault and pump waste [i.e., discharge process waste (seed wash-down water) and domestic sewage (from up to eight employees) to a large tank, which must be routinely pumped and transported by truck for discharge to the City of Eureka's WWTF]. The County agreed to allow this temporary sewage management arrangement for Hog Island given the "low intensity" nature of the operations. However, the commercial aquaculture business is unable to construct its planned production facility (oyster harvesting and production) without constructing an OWTS with advance pre-treatment or without the SPWP constructing collection lines and related wastewater infrastructure necessary to connect the aquaculture facility to the Samoa WWTF.

b. Connecting Interim Conditionally Permitted Uses on MC Lands and Coastal-Dependent Uses

The LUP amendment as submitted includes changes to policy 3.22-B-1(b)(1) that would allow sewer service extensions outside the urban limit line not only to industrial uses throughout the Humboldt Bay Area Plan planning area, as is currently allowed under the existing certified LUP, but also to interim conditionally permitted uses in the MC zone and to coastal-dependent uses anywhere in the Humboldt Bay Area Plan planning area.

The proposal to allow connections to interim conditionally permitted uses on MC lands is consistent with the purpose of the MC designation under the existing certified LUP (cited above) and with the protection of CDI uses, as required by sections 30255 and 30260 of the Coastal Act. Under the existing certified LCP, interim conditionally permitted uses are non-coastal-dependent uses that may be permitted on vacant or underutilized MC lands (subject to issuance of both a CDP and conditional use permit) for a limited time period (typically one to seven years) only if a determination is made that the use will not interfere with or have a detrimental impact on existing or future CDI uses or other priority uses. As required by existing LCP standards for interim uses, such uses may only propose new structures and improvements on MC lands that preserve or enhance the utility of the site for future CDI uses. The proposed allowance of sewer

⁴² The preliminary rate study completed for the project (SHN and GHD, May 2018) estimated that monthly sewer rates for residential homes would be approximately \$62. Fairhaven and Finntown qualify for 100% grant funding for financing of the SPWP through several sources, including the Division of Financial Assistance of the SWRCB's Small Community Grant Fund, the USDA Rural Development Program, and Community Development Block Grant Funds. Because of this, there will be no charge to property owners to connect their OWTS to the new sewer system in these areas.

service extensions to interim conditionally permitted uses on MC lands will enhance the utility of the MC lands for future CDI uses on the site.

However, the proposal to allow for sewer extensions to coastal-dependent uses outside of the Samoa Peninsula area that is the subject of this LCP, amendment is not consistent with various sections of the Coastal Act including section 30250(a), because such extensions could result in growth-inducing effects in other rural areas within the Humboldt Bay planning area that have not been evaluated. For example, extending sewer lines for a coastal-dependent use a mile or more into the rural farmland areas around Liscom Slough and Mad River Slough west of Arcata containing large areas of seasonal wetlands and/or areas with a high groundwater table where OWTS's cannot be used could encourage additional residential and other development that may not be consistent with Coastal Act and LCP wetland fill and agricultural conversion policies and which would not concentrate development consistent with section 30250(a). Although extension of such a sewer line may be warranted under certain circumstances to serve a coastal-dependent use, the growth inducing effects of such sewer extensions and feasible mitigation measures to avoid development that is inconsistent with Coastal Act and LCP polices have not been evaluated for areas outside of the PCSD area on the Samoa Peninsula that is the subject of the current LCP amendment. Therefore, the Commission finds that the LUP amendment as submitted is inconsistent with section 30250(a) and other Chapter 3 policies of the Coastal Act and must be denied unless modified as suggested below.

Suggested Modification 1 ([Appendix A](#)) deletes the allowance for sewer extensions to coastal-dependent uses outside of the Samoa Peninsula area. As modified, the LUP amendment would avoid growth inducing effects for development that is inconsistent with Section 30250(a) and other Chapter 3 policies of the Coastal Act.

c. Scaling Sewer System Improvement to Accommodate Development Consistent with the Coastal Act

Section 30254 of the Coastal Act sets limitations on the approval of new or expanded public works facilities such that their development is scaled to accommodate needs generated by levels of development found by the Commission to be consistent with the Coastal Act. As described in the adopted FEIR for the project, the scope and extent of additional wastewater infrastructure needed to serve the proposed sewer extension area was evaluated in detail. This analysis included an evaluation of the environmental effects associated with the net increase of wastewater treatment/disposal infrastructure over the levels approved under the Samoa WWTF (added infrastructure to Samoa WWTF related to secondary treatment and solids dewatering) as well as the construction of the collection lines and related infrastructure (man-holes, pressure main, cleanout stations, pump stations, backup generators), and consideration of the added discharge of treated wastewater through the ocean outfall for treated effluent disposal.

The CEQA document describes the following additional wastewater infrastructure needed for the SPWP based on an average daily flow of approximately 67,000 gallons per day at full implementation of the SPWP (i.e., assuming connections to all existing developed uses and well as connections to new homes on infill lots in Fairhaven): (1) a

collection system (wastewater pipelines installed in-road and three pump stations); (2) improvements to the Samoa WWTF itself, including a sequencing batch reactor system, ultraviolet disinfection system, and a solids treatment system for onsite dewatering of settled solids consisting of a polymer injection system, a roll-off style dewatering container, and solids drying beds, and (3) a pipeline installed in the road connecting the approved Samoa WWTF to the existing ocean outfall pipe at the Redwood Marine Terminal II south of the Town of Samoa. Wastewater would enter the collection system and be conveyed to the approved Samoa WWTF where wastewater would receive primary treatment of screening and grit removal (the project would use the approved Samoa WWTF headworks for primary treatment of screening and grit removal, and no improvements to the primary facilities would be needed), followed by secondary treatment with an SBR system, followed by disinfection by a UV system. Solids accumulated during the treatment process would be dewatered onsite and hauled to either an appropriately permitted landfill or composting operation via an approximately five cubic yard truck (this is the same manner by which solids are approved to be handled under the approved Samoa WWTF).

The specific area in Samoa where the improvements to the WWTF would be located for the SPWP was identified as an ~7,000-square-foot area within an area planned and zoned for PF uses under the STMP LUP. The plans show that there is sufficient land base in the PF area to accommodate the STMP wastewater facilities plus the entirety of facilities needed for Samoa at planned buildout under the STMP LCP policies.

Therefore, the Commission finds that the sewage treatment facilities that would be facilitated by the proposed LCP amendment have been designed and limited to the scale necessary to provide the capacity necessary to serve the intended users allowed under the certified LCP as amended. Therefore, the Commission finds that the proposed LUP is consistent with the requirements of Section 30254 of the Coastal Act that public works facilities be designed and limited to accommodate development and uses permitted consistent with the Coastal Act.

d. Inducement of Coastal Act-Inconsistent Development

Finally, Coastal Act section 30254 requires that new and expanded public works facilities not induce development inconsistent with the Coastal Act. Such inconsistent development that an extension of sewer and water lines could facilitate could include the inducement of premature or discontinuous growth inconsistent with the certified LCP. However, the proposed amendment would be confined to providing sewer connections only to (1) industrial uses, (2) existing uses outside of the town of Samoa within the PCSD service area that currently are served by onsite wastewater treatment systems to address public health and water quality problems, and (3) limited new connections within the portion of Fairhaven planned RX for infill lots within 300 feet of a sewer main installed under the SPWP. As previously cited, the certified LCP plans for the density of Fairhaven as “urban size parcels” designated for Residential Exurban uses, which allow for single family residences as a principally permitted use. As proposed, and as modified under **Suggested Modification 1** ([Appendix A](#)), further extensions of the public sewer mains are prohibited without a further LCP amendment.

This limitation will preclude the approval of CDPs for lateral connections to the adjacent lands and thus the extension of urban services that would be facilitated by this amendment will not induce growth inconsistent with Coastal Act policies.

In addition, the LCP amendment could be viewed as “inducing” growth in flood-prone hazardous areas vulnerable to sea level rise or in areas with sensitive habitat in a manner that is inconsistent with the Coastal Act’s hazards and/or ESHA policies. As discussed above, there has been an effective moratorium on residential development in Fairhaven since 2006 due to the cap imposed by the County DEH and RWQCB on the construction of new OWTS’s in Fairhaven. Although expansion of the treatment facility that the LCP amendment is intended to facilitate would allow for residential development to occur in Fairhaven, as noted above and in earlier findings, the existing certified LCP anticipates development of this residential neighborhood, and no connections beyond the planned neighborhood will be allowed. Furthermore, as suggested to be modified by staff, the LUP amendment ensures that any future development that may occur after construction of the SPWP will minimize risks to life and property and will be consistent with the Coastal Act’s hazards and ESHA policies to the extent required by law.

Thus, the Commission finds that that expansion of the Samoa wastewater collection and treatment public works facilities that the approved LCP amendment would facilitate to serve development allowed under the certified LUP as amended would not induce development inconsistent with the Coastal Act as required by section 30254.

3. IP Consistency Analysis – Approval as Submitted

As previously discussed, the scope of proposed IP changes includes adding a Q-combining zone that imposes additional restrictions on the uses that may be allowed under the base Residential Exurban zone in the Fairhaven area. These further restrictions will help ensure that only uses that can be accommodated by the design capacity of the proposed sewer improvements that would be facilitated by the LCP amendment will be developed. Thus, the IP amendment as submitted will help ensure that the proposed public works facilities will be scaled and limited to accommodate development allowed under the certified LUP as amended, consistent with Section 30254 of the Coastal Act, a policy that is incorporated into the certified LUP. Therefore, the Commission finds that the IP map amendment as submitted is consistent with and adequate to carry out the public works facilities policies of the certified LUP.

C. Environmentally Sensitive Habitat Areas

1. Policy Summary

Section 30107.5 of the Coastal Act defines “environmentally sensitive area” as:

... any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30240 of the Coastal Act (which is codified in part as a policy in LUP sec. 3.30) states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.

LUP sec. 3.30-B-1 identifies ESHA as follows:

a. Environmentally sensitive habitats within the Humboldt Bay Planning Area include:

- (1) Wetlands and estuaries, including Humboldt Bay and the mouth of the Mad River.*
- (2) Vegetated dunes along the North Spit to the Mad River and along the South Spit.*
- (3) Rivers, creeks, gulches, sloughs and associated riparian habitats, including Mad River Slough, Ryan Slough, Eureka Slough, Freshwater Slough, Liscom Slough, Fay Slough, Elk River, Salmon Creek, and other streams.*
- (4) Critical habitats for rare and endangered species listed on state or federal lists.*

2. LUP Consistency Analysis – Approval as Submitted

a. Protection of ESHA from Construction Related Impacts

The CEQA document completed for the SPWP evaluated biological resources within the vicinity of the sewer line extension route that would be facilitated by the proposed LUP amendment. Surveys for special-status plants, animals, and natural communities were conducted in the SPWP project area in 2017 and 2018. The following sensitive natural communities and rare species were documented within and around the LCP amendment area: beach pine forest, salt grass flats, Pacific silverweed marshes, slough sedge swards, salt rush swales, dune mat vegetation, coastal dune willow thicket, coastal brambles vegetation, wax myrtle scrub, dark-eyed gilia, short-leaved evax, and several species of raptors and other sensitive birds.

Construction of the SPWP that would be facilitated by the LUP amendment could have potential direct or indirect impacts on sensitive species and natural communities. Although installation of the wastewater collection system is proposed to occur within the existing roadways to minimize impacts to sensitive coastal habitat, ground disturbance may occur out to 10 feet beyond existing edge of pavement. As previously discussed, the construction of the collection system would generally consist of trenching within existing roadways, laying pipe in the trench, backfilling, compacting, and repaving over the trench. Trenches would typically be between 5 feet and 12 feet deep and 3 feet wide

and would be dug with an excavator. The excavated asphalt and excess soil would be hauled offsite in 10-yard dump trucks. Various types of heavy equipment would be used for excavation, backfilling, potholing, compacting, and transporting materials associated with construction activities. If needed, temporary groundwater dewatering would be conducted to provide a dry work area. After the collection system piping is installed and trenches are backfilled, repaving would occur.

The CEQA document identified several mitigation measures appropriate to protect ESHA and prevent impacts that would significantly degrade adjacent ESHA during construction. These include, but are not limited to, the following:

- If construction occurs during the breeding season (January 15 to August 31), a qualified biologist shall conduct preconstruction surveys for sensitive nesting birds. If active nests are found, the biologist shall establish protective no-disturbance buffers determined in consultation with CDFW and buffers shall be maintained during construction.
- Protect rare plants and sensitive natural communities during construction by having a qualified botanist conduct seasonally appropriate pre-construction rare plant surveys in areas within 100 feet of construction activities and install high visibility construction fencing to establish a no-disturbance buffer to protect sensitive plants and communities. The fencing shall be checked weekly by a biological monitor to ensure its continued correct placement and stability.

As noted above, Section 30240 of the Coastal Act has been incorporated as a policy of the LUP in sec. 3.30. Construction activities related to extension of sewer lines pursuant to the SPWP would have to comply with the requirements of this policy, including the requirements that ESHA shall be protected against any significant disruption of habitat values and that development adjunct to ESHA be sited and designed to prevent impacts which would significantly degrade the ESHA and be compatible with continuance of the ESHA. Future development could be conditioned to require adherence to the adopted CEQA mitigation measures for protecting ESHA. Encroachment into ESHA would be prohibited, ESHA would be protected against significant disruption of habitat values, and the development of the SPWP adjacent to ESHA would be required to prevent impacts that would significantly degrade the ESHA consistent with section 30240.

b. Potential Impacts to ESHA from Future Development on Infill Lots

In addition to potential impacts to ESHA during construction of the SPWP, ESHA could be impacted by future residential development on infill lots in Fairhaven that could occur once they are allowed to connect to the SPWP. As discussed previously, once the SPWP is constructed for the purpose of protecting water quality, vacant lots within 300 feet of a sewer main would be entitled to connect to the public sewer service.

In support of the LCP amendment application, the County compiled reconnaissance-level information about the land cover on vacant parcels that are located within 300 feet of the proposed SPWP collection system in the portion of Fairhaven planned Residential/Exurban. This “reconnaissance” was prepared using (1) results from the

SPWP DEIR⁴³; (2) 2019 Aerial Imagery and Digital Surface Model available through the City of Eureka⁴⁴; and (3) field observations of vacant parcels performed by a County biologist while walking along roads of Fairhaven (including Broadway, Bendixon St. Lindstrom Ave, Lincoln Ave, Park St, and Duprey St.).

According to the results of the reconnaissance coupled with documented occurrences of sensitive species and natural communities in the California Natural Diversity Database RareFind 5,⁴⁵ some of the infill lots in the Fairhaven area display evidence of possible ESHA, including wetlands, vegetated dunes, sensitive natural communities, and/or rare plants.⁴⁶

The LUP amendment as submitted recognizes the potential for the presence of ESHA on infill lots and includes certain measures to protect ESHA. The proposed policy states in relevant part:

Upon the extension of sewer service to the portion of Fairhaven planned Residential/Exurban as part of the SPWP, permits for new residential development including Accessory Dwelling Units in the Fairhaven area that is located within 300 feet of a SPWP sewer main may only be approved after the Humboldt Bay Area Plan has been amended consistent with the Coastal Act to ensure new infill development is sited and designed to ... protect Environmentally Sensitive Habitats. Exception: Permits for new residential development that is located within 300 feet of a SPWP sewer main may be approved before the above Humboldt Bay Area Plan Amendments subject to the following:

- i. performance standards, adopted by ordinance, that will ensure that such development will be protective of public health, safety and welfare, and coastal resources relative to sea level rise and tsunami inundation, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts...

...

Any future development that may be permitted on individual infill lots must be found consistent with all LCP policies, including Coastal Act section 30240, which is a codified policy of the LUP, and the above-described provisions of Policy 3.22-B-1 of the LUP as

⁴³ Accessible from this link: <https://humboldt.gov/DocumentCenter/View/71119/Appendix-E2-Biological-Resource-Reports-Wetlands-PDF>.

⁴⁴ Available via the Humboldt County WebGIS at <https://webgis.co.humboldt.ca.us/HCEGIS2.0/> by selecting "Humboldt Bay Digital Surface Model (LIDAR) and Eureka Aerial 2019 from the Layer List

⁴⁵ Subscribers can access RareFind 5 data from: <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data>

⁴⁶ As noted by the County "The information contained in this reconnaissance, other than the conclusions of consulting biologists in the Samoa Peninsula Wastewater Project Draft Environmental Impact Report January 2019, is not intended to be conclusive of the presence or absence of ESHA. That determination will be made after site specific analysis is done in support of possible future development projects."

amended. Therefore, residential development that may occur once the SPWP is constructed can be expected to protect any ESHA that may exist in the service area. However, given the fact that ESHA likely is present on some infill lots in Fairhaven, it is at least possible that in some instances residential development that is allowed to connect to the SPWP cannot avoid impacting ESHA inconsistent with the LCP's ESHA policies. If this situation were to arise, the County may need to consider in certain situations whether it is obligated to approve some amount of residential development in ESHA or in LCP-prescribed minimum ESHA buffers in the future to avoid an unlawful taking of private property.⁴⁷ However, it is not clear from the information provided that any of the undeveloped lots are so constrained by ESHA that a residence could not be constructed in a manner that abides by the LCP's ESHA policies. In addition, many site-specific conditions would need to be evaluated to determine whether a specific proposed development would need to be approved to avoid an unlawful taking of property, and it is unknown whether such a situation would actually arise. It should be noted that the LUP amendment does not facilitate the creation of any new lots in the affected area and in fact would only allow sewer connections to development on a portion of the area planned for residential development under the existing certified LCP, as only those lots within 300 feet of a sewer main installed under the SPWP would be eligible to connect to the public sewer for future development. To the extent that any development must be approved in order to avoid an unconstitutional taking of private property, doing so is contemplated by and consistent with the Coastal Act, which the Legislature declared in section 30010 does not authorize the Commission or local governments to deny coastal development permits in a manner that will take or damage private property for public use, without the payment of just compensation.

Therefore, for the above reasons, the Commission finds that the proposed LUP amendment as submitted is consistent with section 30240 of the Coastal Act.

3. IP Consistency Analysis – Approval as Submitted

As cited above, LUP sec. 3.30 includes section 30240 of the Coastal Act as a codified policy, and LUP sec. 3.30-B-1 lists the following types of ESHA in the planning area (not an exhaustive list of all potential ESHA in the area): (1) wetlands; (2) dunes; (3) riparian habitats; and (4) habitats for state or federally listed rare and endangered species.

The IP amendment as proposed requires that for new development on infill lots in the portion of Fairhaven planned Residential/Exurban, special findings related to ESHA must be made:

There is no less environmentally damaging feasible alternative, adverse environmental effects have been mitigated to the extent feasible, and required

⁴⁷ For general background on potential private property takings issues, see pages 170-172 of the Commission's adopted sea level rise policy guidance: https://documents.coastal.ca.gov/assets/slr/guidance/2018/8_Ch8_2018AdoptedSLRGuidanceUpdate.pdf.

mitigation will maintain or enhance the functional capacity of the wetlands or Environmentally Sensitive Habitats to the extent feasible, if present.

Any future development in the area will require a CDP from the County or the Commission, with the County's certified LCP or the Coastal Act (as applicable) as the standard of review. Thus, the requirement for a CDP ensures that any future proposed development will be reviewed for potential adverse impacts to ESHA consistent with LUP sec. 3.30 and Coastal Act section 30240. Therefore, the Commission finds that the IP map amendment as submitted is consistent with and adequate to carry out the ESHA protection policies of the LUP and Coastal Act section 30240.

D. Archaeological Resources

1. LUP Consistency Analysis – Approval as Submitted

Section 30244 of the Coastal Act (which is codified as a policy in LUP sections 3.18 and 3.29.1) states:

Where development would adversely impact archeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The area that would be affected by the proposed LCP amendment is located within the ethnographic territory of the Wiyot people who lived in villages along the protected shores of Humboldt Bay, the Mad River, and at other sheltered sites inland of the open coast. Today, representatives of the Wiyot Tribe are the Table Bluff Reservation Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria.

An Archaeological Survey Report was prepared for the SPWP by Roscoe and Associates (2018). According to the DEIR (sec. 4.4-7 and 4.4-8):

Two-hundred-forty-five resources have been documented within the Study Area, however none are within the project site. These include eleven Native American habitation sites, two multi-component sites, six historic-era buildings, structures and sites...

Roscoe and Associate's field investigation failed to identify any evidence of Native American habitation in the areas immediately adjacent to the paved road [where the sewer infrastructure components would be installed]. Survey of the direct excavation areas was impossible however, because they are covered by pavement and archaeological deposits could be present. The locations for four previously documented Native American Archaeological sites (P- 12-000075, 12-000076, 12-000078 and 12-000079) have not been confirmed by modern researchers and they have not been identified since 1918. The exact locations of these sites are unknown.

In October 2017, the County initiated Tribal consultation pursuant to SB 18 on the LCP amendment, sending letters to Tribes recommended by the Native American Heritage

Commission, including the Round Valley Indian Tribes of the Round Valley Reservation, Hoopa Valley Tribe, Big Lagoon Rancheria, Blue Lake Rancheria, Bear River Band of the Rohnerville Rancheria, Wiyot Tribe, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Blue Lake Rancheria, Tsnungwe Council, Yurok Tribe, and Karuk Tribe. The County received one response, from the Trinidad Rancheria, noting that the project was outside of the geographic area of concern for the Rancheria and they therefore had no interest in the project and no information to provide.

In April of 2018, the County reached out to three Wiyot area Tribes to solicit input on the Notice of Preparation of the Environmental Impact Report (EIR) for the SPWP and again in February of 2019 for input on the Draft EIR. The County received responses from the Tribal Historic Preservation Officer (THPO) of the Blue Lake Rancheria with recommendations that several sites along the planned path of wastewater collection lines for the SPWP be monitored by an experienced archaeologist during construction of the project. If Native American cultural resources are inadvertently unearthed during construction, the THPO recommended that a Tribal Monitor from one of the three Wiyot area Tribes be retained to monitor the ground disturbing activities associated with the identification and treatment (e.g., data recovery) of the resource.

In June of 2021, Commission staff also sent a referral to the Tribes regarding this LCP amendment application. The Blue Lake Rancheria THPO, the Wiyot Tribe Chairman/Cultural Director, and the Vice-Chairman of the Tribal Council of the Bear River Band of the Rohnerville Rancheria all responded to Commission staff indicating that they concur with the cultural and tribal resource measures in the Mitigation Monitoring and Reporting Plan of the adopted Final EIR for the SPWP. These measures include, among other measures, the requirement that prior to construction of the SPWP, the three Wiyot area Tribes shall be contacted and provided the opportunity to monitor ground-disturbing activities. The PCSD shall require tribal monitoring during earth-disturbing construction activities at various specified known sensitive archaeological sites in the project, including Finntown and Fairhaven. If potential tribal cultural resources are uncovered during construction, the PCSD and/or Tribal Monitor shall halt work, and workers shall avoid altering the materials and their context. The PCSD shall immediately notify the THPOs for the three Wiyot area Tribes shall and shall retain a qualified archaeologist with local experience to employ best practices for assessing the significance of the find, developing and implementing a mitigation plan if avoidance is not feasible, and data recovery and reporting in accordance with appropriate protocols for inadvertent archaeological discoveries.

Section 30244 of the Coastal Act which is included as a policy in sections 3.18 and 3.29.1 of the certified LUP requires that reasonable mitigation measures be required for development that would adversely impact archaeological resources. To be approved, future development that would be facilitated by the LUP amendment, including extension of sewer lines pursuant to the SPWP would have to comply with the requirements of these policies and could be conditioned to require adherence to the adopted CEQA mitigation measures for protecting archaeological resources. Therefore, the proposed LUP amendment as submitted is consistent with Coastal Act section 30244.

2. IP Consistency Analysis – Approval as Submitted

LUP sec. 3.18 and 3.29.1 codify section 30244 of the Coastal Act as a policy and also list the following “reasonable mitigation measures” as necessary for development projects in the planning area: (1) relocating planned structures and roads to avoid or mitigate impacts on archaeological sites; (2) providing protective cover for sites that cannot be avoided; and (3) where appropriate, and provided all parties concerned approve, permitting the removal or transfer of culturally significant material by a professional archaeologist. In addition, an Archaeological Resources (A) combining zone applies to much of the area that is the subject of the LUP amendment, including all the coastal-dependent industrial lands along the Bay frontage. This combining zone requires (under IP sec. 313-16) that the specific mitigation measures summarized above be incorporated into development projects in the area, and several additional requirements are specified for the protection of Native American graves, cemeteries, burial grounds, and ceremonial sites.

None of the special restrictions proposed by the County for the Q combining zone, as suggested to be modified by the Commission, conflict with or would prevent implementation of the mitigation measures required by the certified LUP or by the A combining zone. As noted above, any future development in the area will require a CDP from the County or the Commission, with the County’s certified LCP or the Coastal Act (as applicable) as the standard of review. Thus, the requirement for a CDP ensures that any future proposed development will be reviewed for potential adverse impacts to archaeological resources and that reasonable mitigation measures will be imposed where necessary consistent with LUP sec. 3.18 and 3.29.1 and Coastal Act section 30244. Therefore, the Commission finds that the IP map amendment as submitted is consistent with and adequate to carry out the archaeological resource protection policies of the LUP and Coastal Act section 30244.

VI. ENVIRONMENTAL JUSTICE CONSIDERATIONS

Coastal Act section 30604(h) gives the Commission, or the issuing agency, the authority to explicitly consider environmental justice, or the equitable distribution of environmental benefits throughout the state, in its permit decisions. Specifically:

30107.3 defines Environmental Justice as follows:

- (a) “Environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
- (b) Environmental justice” includes, but is not limited to, all of the following:
 - (1) The availability of a healthy environment for all people.
 - (2) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that

pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.

- (3) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.
- (4) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

30604(h) states:

When acting on a coastal development permit, the issuing agency, or the Commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

In March 2019, the Commission adopted its Environmental Justice Policy (EJ Policy)⁴⁸ to guide and inform its implementation of section 30604(h) in a manner that is fully consistent with the standards in, and furthers the goals of, the Coastal Act and certified LCPs. Recognizing the importance of a healthy environment for all people that cannot be achieved without addressing inequitable distribution of environmental burdens, the EJ Policy calls for the Commission “to ensure that low-income communities and communities of color, and other disadvantaged communities are not disproportionately affected by water contamination or overuse, or diminished environmental services such as those provided by healthy ecosystems, fully-functioning wetlands, and clean waters and lands in the coastal zone.” The Commission also recognizes in its EJ Policy the disproportionate impact that climate change and sea level rise hazards will have on communities with the least capacity to adapt and how it may exacerbate existing environmental injustices and cumulative impacts from environmental hazards. Specifically, with respect to coastal hazards and sea level rise, the EJ Policy calls for the Commission to consider the likelihood that lower-income residents and those who live in rental units may be displaced by flooding and increased vulnerability to climate-driven water quality and supply issues that may result from extreme storms and flooding.⁴⁹

⁴⁸ California Coastal Commission. (2019). Environmental Justice Policy. https://documents.coastal.ca.gov/assets/env-justice/CCC_EJ_Policy_FINAL.pdf

⁴⁹ Lower-income residents and those who live in rental units are more likely to be displaced by flooding or related impacts as compared to property owners, because they lack the funds and/or abilities to rebuild, have less control over their safety, and often have limited access to insurance. The expense of sea level rise adaptation measures for coastal communities could also heighten displacement of disadvantaged populations by increasing living expenses for sewer and water services. Low-income communities are more vulnerable to climate-driven water quality and supply issues that can result from seawater intrusion, contamination from extreme storm events, and drought.

The subject amendment raises environmental justice (EJ) concerns related to water quality and adverse exposure to coastal hazards. Because the County's LCP was certified by the Commission many years ago, it does not contain an explicit EJ policy or any policies addressing disproportionate impacts to underserved communities. However, benefits and burdens for EJ communities⁵⁰ that may result from the subject LCP amendment can be evaluated for consistency with the Commission's EJ Policy to ensure the equitable distribution of environmental benefits consistent with the Chapter 3 policies of the Coastal Act and the County's certified LCP.

As previously discussed, the subject amendment is project-driven to provide expanded sewer services on the Samoa Peninsula outside the Town of Samoa within the boundaries of the PCSD to allow for the collection, treatment, and disposal of wastewater to correct public health and water quality problems resulting from existing on-site sewage disposal systems. Several metrics identify the area that would be affected by the LCP amendment as a low-income community to which the Coastal Act's EJ provisions and the Commission's EJ Policy apply. According to CalEnviroScreen 4.0, within the census tract for the subject area (which also includes the residential communities of Finntown, Samoa, Manila, and Tyee City and scattered farmhouses in the farmed bottomlands west of Arcata),⁵¹ 41% of people are living below twice the federal poverty level (due to the high cost of living in California), and the percent of people in this area living below twice the poverty level is higher than 71% of the census tracts in California. The subject area census tract also has a median household income that qualifies it as a low-income community according to different state criteria. The California Air Resources Board identifies the census tract of the subject area as an "AB 1550 Low-income Community," which is a priority population for California Climate Investments.⁵² Additionally, according to the State Department of Water Resources, the census tract and block group containing the Fairhaven community is a "Severely Disadvantaged Community" (defined as median household income of less than 60% of state median household income of \$42,737).⁵³

⁵⁰ "Environmental justice community" and "underserved community" may be used interchangeably throughout this section when referring to low-income communities, communities of color, and other populations with higher exposure and/or sensitivity to adverse project impacts due to historical marginalization, discriminatory land use practices, and/or less capacity to mitigate adverse impacts.

⁵¹ Census Tract 6023001300, which has 1,320 people (data is from 2015 to 2019). See [CalEnviroScreen 4.0 Indicator Map for Poverty](#).

⁵² According to AB 1550, a low-income community is a census tract either at or below 80% of the statewide median income, or at or below the threshold designated as low-income by the California Department of Housing and Community Development's State Income Limits adopted pursuant to Section 50093. See AB1550 [Identification of low-income communities under ab 1550 methodology and documentation for draft maps](#).

⁵³ According to the DAC Mapping Tool with ACS 2014-2018 census block groups and tracts: <https://gis.water.ca.gov/app/dacs/>

Moreover, the County's Housing Element identifies Fairhaven as an unincorporated "legacy community," which is defined⁵⁴ as a geographically isolated inhabited area containing no less than ten housing units that has existed for at least 50 years, with a median household income of less than 80 percent of the state-wide average, and that is not located within the Sphere of Influence of a city. State housing law directs cities and counties to update the land use element of their General Plan to identify such communities, analyze the water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies of such communities, and analyze alternatives that could make the extension of services to identified communities financially feasible.

Within this low-income community, the subject amendment will help protect human health and water quality from septic systems that are failing or may fail in the foreseeable future due to sea level rise or coastal hazards by allowing for the expansion of sewer service from Samoa to existing residences in the community of Fairhaven. Existing septic and leach field systems in the area predominantly are substandard and are poorly suited for the soil and groundwater conditions that exist on the Samoa Peninsula. Preventative maintenance of the systems is uncommon, and failing systems are rarely identified until surface seepage is reported to the County Division of Environmental Health. No new residential development has been permitted in Fairhaven since 2006 due to the inability of existing onsite systems to comply with NCRWQCB and County DEH standards for the protection of groundwater quality. Existing systems in the area fail, on average, at a rate of one per year necessitating the issuance of emergency permits for the construction of Wisconsin mound systems, which also are substandard with respect to water quality protection standards for the region.⁵⁵

As discussed, the extension of sewer service outside of the urban limit line of Samoa currently is prohibited under the existing certified LUP (except for the extension of sewer service to serve industrial uses). The anticipated Samoa Peninsula Wastewater Project (SPWP) is meant to directly address this issue by constructing the necessary improvements to the existing wastewater treatment plant in the Town of Samoa and extending collection lines and related infrastructure to existing residential, industrial, and other uses on the Samoa Peninsula outside of the urban limit line and within the boundaries of the Peninsula Community Services District.

While addressing public health and water quality concerns from septic systems, the extension of sewer service and construction of infrastructure may also mobilize contaminants at industrial sites where sewer lines will be extended which has the potential to increase exposure for at risk residents in the area. According to

⁵⁴ Per state housing law:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65302.10.&lawCode=GOV.

⁵⁵ Both the North Coast Regional Water Quality Control Board and County Division of Environmental Health have stated their support for the project in recognition of the fact that extending sewer service to existing structures in Fairhaven and elsewhere on the Samoa Peninsula within the boundaries of the PCSD will address ongoing adverse water quality impacts.

CalEnviroScreen 4.0, the subject area census tract ranks highly in groundwater threats (93%), which indicates high levels of soil and groundwater pollutants. To address this and avoid adverse water quality impacts, the County identified mitigation measures for soil and groundwater management during construction (as discussed in Finding V-A).

The sewer service extension will also increase service costs that will disproportionately affect low-income residents, particularly renters in the area. Currently, residents do not pay anything for sewage treatment (other than occasional maintenance costs), and according to the preliminary rate study completed for the SPWP, estimated rates will likely be at least \$62 per month.⁵⁶ According to CalEnviroScreen 4.0, the housing burden score for this area, which is an estimate of low-income households that pay greater than 50% of their income to housing costs, identifies that 17% of low-income households are housing burdened in the area. Increases in sewage costs may disproportionately burden these households and others with less disposable income. To mitigate some of the financial burden on households, the Peninsula Community Services District is (using State and Federal grant monies) funding the construction of connecting lateral hookups to the extended sewer main sewer. However, the long-term sewage rates may still disproportionately affect renters who do not gain any benefits from the sewage lines that property owners may receive, such as increases in property values. In the subject area census tract, 47.8% of households are renter occupied.⁵⁷ Without consideration of impacts to low-income ratepayers, some may be priced out of the area over time.

By allowing for the extension of sewer service to residential properties in Fairhaven where such extension is currently not allowed, the intent of the proposed LCP amendment is to protect human health and water quality in a low-income area with less capacity to address impacts from septic systems that are substandard and failing or which may fail in the foreseeable future due to sea level rise or coastal hazards, a goal that is aligned with the Commission's EJ Policy. However, the sewer service extension will facilitate new residential development in an area subject to significant coastal hazards, including tsunami hazards and sea-level rise, as discussed in Finding V-A. The potential for new development, particularly any affordable housing types for low-income renters or residents, raises questions of whether the proposed LCP amendment will perpetuate disproportionate exposure to environmental impacts for current and any future low-income populations who are more vulnerable to coastal hazards, inconsistent with the Commission's EJ Policy, Coastal Act Chapter 3 policies, and LUP policies.

Providing for the expansion of sewer service to protect human health and water quality does not allow the Commission to disregard the Coastal Act and LCP requirements but rather must be accomplished consistent with those requirements. The subject

⁵⁶ SHN and GHD May 2018.

⁵⁷ Renter occupancy from American Community Survey Data, 2015-2019, Table DP04 Selected Housing Characteristics for Census Tract 13 in Humboldt County. As noted previously, the subject census tract includes a population of ~1,300 in the residential communities of Fairhaven, Finntown, Samoa, Manila, and Tyee City and the farm dwellings in the agricultural bottomlands west of Arcata.

amendment therefore must balance providing the public health benefits and reducing coastal resource impacts that will be alleviated by extending sewer service while also ensuring new development is safe from current and future coastal hazards, does not increase vulnerability or displace low-income residents, and is designed to protect ESHA and maintain the biological productivity and quality of coastal waters consistent with the Coastal Act and LCP.

The County has evaluated and certified an environmental document for the anticipated SPWP that demonstrates it is feasible to construct the project in a manner that would avoid siting sewer infrastructure in ESHA and that considers high groundwater levels, projected sea level rise, seismic events, liquefaction, and tsunami inundation to prevent damage to, or flotation of, pipelines, pump stations, and other wastewater facilities subject to these hazards and to prevent sanitary sewer overflows. The proposed application of the Q combining district to the Fairhaven residential area would, as modified by the Commission's suggested modifications (1) ensure that any redevelopment of existing homes and new development would be subject to special restrictions for minimizing risk to life and property; (2) prohibit the allowance of ADUs to minimize the size of the population that could inhabit this area known to be at risk of a catastrophic tsunami event that currently is challenged by a lack of feasible alternatives for safe evacuation; and (3) require that applicants for new residential development and redevelopment projects execute and record a deed restriction against their property acknowledging the coastal hazard risks to which their development is exposed, assuming the risks of developing in hazardous locations, and acknowledging that shoreline protection is unlikely to be authorized for the development due to inconsistencies with LCP and Coastal Act policies protecting public access, recreation, beach and water quality, among others. In addition, the LUP amendment as modified by the Commission adds a requirement that as a condition of approval for a CDP to construct the SPWP, the PCSD shall be required to disclose to each property within the portion of Fairhaven planned Residential/Exurban receiving a sewer connection and containing existing development that the connection to sewer service does not convey or imply any entitlement or commitment for CDP authorization to be granted for any expansion or replacement of the existing development on the subject property. These modifications minimize risk to life and property in a hazardous area that may disproportionately burden low-income populations in the area in a way that is fully consistent with the policies of the Coastal Act and fully consistent with and adequate to carry out the certified LUP while still allowing for human health and water quality benefits of providing extended sewer service to the area.

Given that there is a critical need to protect human health and water quality from septic systems that are substandard and failing or which may fail in the foreseeable future due to sea level rise or coastal hazards, and because the proposed amendment as modified addresses risks from the coastal hazards, the Commission ultimately finds the overall LCP amendment as modified consistent with the Commission's EJ Policy, as well as finding the LUP amendment as modified in conformity with the Chapter 3 policies of the Coastal Act and the IP amendment as modified consistent with and adequate to carry out the certified LUP as amended.

VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The County prepared, circulated, and adopted an environmental document for the “Samoa Peninsula Wastewater Project” on October 6, 2020.⁵⁸

As set forth in Section 21080.9 of the California Public Resources Code, CEQA exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of an LCP. Instead, the CEQA responsibilities are assigned to the Coastal Commission, and the Commission's LCP review and approval program has been found by the Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5. Therefore, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in approving an LCP amendment, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA Section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact which the activity may have on the environment [14 CCR §§13542(a), 13540(f), and 13555(b)].

The County's LCP amendment consists of both LUP and IP amendments. The Commission incorporates its findings on Coastal Act and LUP conformity into this CEQA finding as if set forth in full herein. As discussed throughout the staff report and hereby incorporated by reference, the LUP amendment as originally submitted does not meet the requirements of or conform with the Chapter 3 policies of the Coastal Act, and the IP amendment does not conform with and is not adequate to carry out the policies of the certified LUP. The Commission, therefore, has suggested modifications to bring the LUP and IP amendments into full conformance with the Coastal Act and LUP, respectively. These modifications represent the Commission's detailed analysis and thoughtful consideration of all public comments received, including with regard to potential direct and cumulative impacts of the proposed LCP amendment, as well as potential alternatives to the proposed amendment, including the no project alternative.

As modified, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of CEQA. Further, future individual projects in the area affected by the LCP amendment would require CDPs. Throughout the coastal zone, specific impacts to coastal resources resulting from individual development projects are assessed through the coastal development review process; thus, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no other feasible alternatives or

⁵⁸ See Notice of Determination accessible from this link: <https://ceqanet.opr.ca.gov/2018042083/5> and the Final EIR accessible from this link: <https://humboldt.gov/DocumentCenter/View/89551/Samoa-Peninsula-Wastewater-Project-Final-EIR-Response-to-Comments-PDF>.

mitigation measures which would substantially lessen any significant adverse impact which the activity may have on the environment [14 CCR §§ 13542(a), 13540(f), and 13555(b)].