

**CALIFORNIA COASTAL COMMISSION**

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**F14e**

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**STAFF REPORT: REGULAR CALENDAR**

**Application No.:** 5-20-0446

**Co-Applicants:** OC Re-Hab 1, LLC, and GC-8, LLC

**Agent:** George Zeber, Western Pacific Construction Services

**Location:** Cascadita Canyon extending between southbound Interstate 5 and 2640 Via Cascadita, San Clemente, Orange County (APN: 691-021-01)

**Project Description:** Landslide remediation constructed pursuant to Emergency Permit G-5-16-0061, to include: construction of new, 2,600-ft. long box culvert; import of 150,000 cu. yds. of fill to reconstruct slope; installation of gravity buttress and drainage network; and restoration of existing habitat both on-site and off-site in San Clemente.

**Staff Recommendation:** Approval with conditions.

**SUMMARY OF STAFF RECOMMENDATION**

The proposed project consists of three primary components: 1) authorization of the landslide remediation measures constructed in Cascadita Canyon pursuant to Emergency Permit No. G-5-16-0061; 2) reconstruction of the Shorecliffs Golf Course fifth and sixth golf holes damaged by the landslide; and 3) mitigation for landslide repair impacts to existing riparian habitat and wetlands.

The project site, Cascadita Canyon, is located approximately 0.2 miles inland of Poche Beach and immediately adjacent to the southbound Interstate 5 (I-5). The canyon ravine outlets into the western Via Cascadita storm drain and serves as a major conduit for runoff and nuisance waters discharged from the surrounding development. The northern and southern canyon slopes support several private residences, as well as a portion of the I-5. One of the current co-applicants, OC Re-Hab 1, LLC, owns the Shorecliffs Golf Course, which includes the canyon parcel developed with the fifth and sixth golf holes of the 18-hole Shorecliffs Golf Course. The other co-applicant, GC-8, LLC, owns the parcels of land constituting the two off-site mitigation locations ([Exhibit 1](#)). The City of San Clemente's certified Land Use Plan (LUP) does not identify Cascadita Canyon as one of the nine coastal canyons within the coastal zone of the City, nor does it identify the site as environmentally-sensitive habitat area (ESHA). However, the Commission's senior ecologist has determined that due to the presence of a U.S. Geologic Survey blueline stream in the canyon, the project site is ESHA.

On January 6, 2011, a landslide occurred along the southern slope that rendered four homes temporarily uninhabitable and damaged the Shorecliffs golf holes located within the canyon. The landslide impounded water in pools up to 20-ft. deep, which threatened to saturate and destabilize the slope supporting I-5. Litigation between Via Ballena homeowners and the property owner hindered remediation until November 2015, upon which the City, the homeowners, and the Shorecliffs Golf Course established a fund to implement necessary repairs. In September 2016, the subject property owner (OC Re-Hab 1, LLC) applied for an emergency Coastal Development Permit (emergency permit) and on November 29, 2016, the Commission approved Emergency Permit No. G-5-16-0061. The emergency permit authorized partial removal of the landslide debris; installation of a 7-ft. by 7-ft. box culvert extending 2,600 ft. from the I-5 to the Via Cascadita storm drain; import of 150,000 total cu. yds. of fill to reconstruct the southern slope; installation of a gravity buttress and drainage system for the reconstructed slope; and revegetation of the project area ([Exhibit 4](#)). The emergency permit conditions required the subject applicant to obtain a follow-up coastal development permit (CDP) to mitigate the 0.3 acres of creek (riparian habitat) and 0.41 acres of wetlands impacted by the landslide repairs. The applicant began the landslide repairs in February 2017 and completed all work in December 2019.

On October 19, 2016, OC Re-Hab 1, LLC submitted a CDP application for permanent authorization of the emergency work (CDP App. No. 5-16-0928); the application was withdrawn on August 29, 2017. The applicant subsequently worked with staff to develop a plan to satisfy mitigation requirements and to provide an adequate long-term monitoring and maintenance plan. The applicant and a new co-applicant (OC Re-Hab 1, LLC and GC-8, LLC, respectively) now propose mitigation both on-site in Cascadita Canyon and at two additional off-site locations. On-site, the applicants proposes to establish 1.18 acres of new riparian habitat, 1.35 acres of new wetlands, and 2.09 acres of new upland habitat to serve as a buffer between the wetlands and existing development ([Exhibit 2](#)). The habitat restoration consists of removal of all non-native, invasive species within the mitigation area and revegetation with four plant palettes, resulting in mitigation ratios of 3.9:1 for impacted riparian habitat and 3.3:1 for impacted wetlands on-site ([Appendix B](#)).

Coastal Act violations have occurred on the project site, including, but not necessarily limited to, failure to comply with conditions of Emergency Permit No. G-5-16-0061. Specifically, the emergency permit applicant failed to complete all emergency landslide repairs within 210 days of commencement and failed to re-submit a CDP application immediately after withdrawal of the initial CDP application, which was specifically identified as a violation of the Coastal Act in the emergency permit conditions. Emergency Permit No. G-5-16-0061 established terms for the applicant to obtain a follow-up permit in a timely manner in order to ensure that habitat impacts resulting from the emergency work were quickly remediated. However, the subject applicant did not comply with these terms, resulting in temporal impacts to the wetland and riparian areas damaged or altered by landslide repairs. In order to resolve these violations and address the temporal impacts of the subject applicant's failure to mitigate for habitat impacts pursuant to the timeframe and terms established by the emergency permit, the co-applicants have proposed additional mitigation at two off-site locations.

Thus, the applicants propose to restore a total of 7.27 acres of riparian habitat and wetlands<sup>1</sup> at two off-site locations owned by GC-8, LLC, in addition to the on-site restoration described above. Off-Site Mitigation Site 1<sup>2</sup> is located within the coastal zone, between Calle Grande Vista and the southbound I-5, and will include 3.52 acres of restored native habitat; Off-Site Mitigation Site 2<sup>2</sup> is located outside the coastal zone, between the northbound I-5 and Calle Nuevo, and will include 3.75 acres of restored native habitat ([Exhibit 1](#)). The applicants have also constructed a new, 2,500-ft. long channel winding through, and on either side of, an existing channel at Off-Site Mitigation Site 2, per the requirements of the California Department of Fish and Wildlife (CDFW) and the Regional Water Quality Control Board (RWQCB) ([Exhibit 2](#)). The new channel will enhance natural irrigation for adjacent native riparian and wetlands species.

Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicants' subsequent compliance with all terms and conditions of the permit will result in resolution of the violations described above.

As proposed, the project includes a five-year monitoring period during which all new on-site habitat will be continuously maintained and evaluated against specific success criteria. **Special Condition 1** requires the applicants to submit revised restoration plans which also applies the same five-year monitoring and success criteria to Off-Site Mitigation Sites 1 and 2.

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<sup>1</sup> The project ecological consultant determined the off-site riparian habitat and wetlands to function as a single ecologically-connected wetland system, and thus did not map each habitat type as separate communities.

<sup>2</sup> The applicants' submitted plans refer to the two off-site mitigation sites as "Off-Site Mitigation Sites 2 and 3." Commission staff have renamed these as "Off-Site Mitigation Sites 1 and 2" to improve clarity, due to the fact that there is no "Off-Site Mitigation Site 1."

As proposed, the applicants will maintain the new and restored native habitat at all three sites in perpetuity. To ensure that these measures are carried out as proposed, **Special Condition 1** also requires the applicants to adhere to the submitted recommendations of the project ecological consultant as approved by the Executive Director.

**Special Condition 2** requires the applicants to comply with all requirements from the RWQCB and the CDFW with respect to preservation and protection of water quality and the marine and terrestrial environment. If any resource agency requires changes to the project as approved by the Commission, **Special Condition 2** also requires submittal of all revisions to the Executive Director for determination whether an amendment to the subject permit is necessary.

The Shorecliffs Golf Course may be used by sensitive bird species for foraging or nesting. To minimize impacts to bird species, **Special Condition 3** specifies avian timing and avoidance measures.

**Special Condition 4** requires adherence to construction best management practices, including prohibition on the inclusion of single-use plastics in runoff and erosion management. **Special Condition 5** requires the applicants to assume all risks associated with construction in a geologically hazardous area. Lastly, **Special Conditions 6 and 7** require the co-applicants to record deed restrictions preserving the open space use of all restored habitat areas both on and off-site.

Thus, as conditioned, the proposed project is consistent with the coastal resource protection policies of the Coastal Act and with the City's certified LUP. Commission staff recommends that the Commission **APPROVE** Coastal Development Permit Application No. 5-20-0446. The motion to adopt the staff recommendation is on page 6. The standard of review is Chapter 3 of the Coastal Act, with the City's certified LUP used as guidance.

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### **Exhibits**

[Exhibit 1 – Vicinity Maps](#)

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Open Space/Habitat Use Figures](#)

[Exhibit 4 – Emergency Permit](#)

[Exhibit 5 – Site History](#)

[Exhibit 6 – Site Photos](#)

## I. MOTION AND RESOLUTION

**Motion:** I move that the Commission **approve** Coastal Development Permit Application No. 5-20-0446 pursuant to the staff recommendation.

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

**Resolution:** The Commission hereby approves Coastal Development Permit Application No. 5-20-0446 and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the Chapter 3 policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS

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

### III. SPECIAL CONDITIONS

1. **Submittal of Revised Restoration, Mitigation, Monitoring, and Maintenance Plan, Long-Term Habitat Management Plan, and Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, a revised final Restoration, Mitigation, Monitoring, and Maintenance Plan, a revised final Long-Term Habitat Management Plan, and revised project plans in substantial conformance with the "Restoration, Mitigation, Monitoring, and Maintenance Plan" dated March 13, 2021, "Long-Term Habitat Management Plan for the Shorecliffs Wetland Conservation Area" dated July 27, 2020, and the project plans dated June 5, 2019, that have been revised to include, at minimum, the following:
  - A. The project shall establish on-site no less than 1.18 acres of new creek/riparian habitat, 1.35 acres of new wetlands, and 2.09 acres of new upland habitat, in addition to off-site restoration of no less than 7.27 acres of existing native habitat.
  - B. All monitoring and reporting activity proposed for the project site within the initial five-year period shall also be required for Off-Site Mitigation Sites 1 and 2, including but not limited to: site visits twice a year, establishment of locations for comparative photograph analysis, evaluation using specific performance objectives, and preparation of an annual monitoring report no later than December 31 of each monitoring year.
  - C. All performance objectives listed for Zones A, B, and C of the project site shall be adopted for Off-Site Mitigation Sites 1 and 2, including but not limited to: at least 75% native cover by the end of the initial five-year monitoring period, absence of moderately to highly invasive species, and survival in the absence of irrigation.
  - D. If the performance objectives for Off-Site Mitigation Sites 1 and 2 are not met, the project restoration ecologist will identify the problems during the scheduled site visits, determine the cause(s) of the problems, and provide the property owner or their representative recommendations that will correct them. The project ecological consultant shall continue the monitoring and reporting measures summarized in the five-year plan until all performance objectives are met. The property owner shall be responsible for ensuring that all remedial action is taken and completed in a timely manner so that the performance standards are met.

The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- 2. Resource Agencies Approval.** The permittees shall comply with all requirements, requests and mitigation measures from the Regional Water Quality Control Board and California Department of Fish and Wildlife, with respect to preservation and protection of water quality and the marine and terrestrial environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.
- 3. Construction Timing and Sensitive Bird Species Surveys.** For any construction activities occurring between February 15 and September 1, including grading, re-vegetation, and installation of irrigation, the applicants shall retain the services of a qualified biologist or environmental resources specialist (hereinafter, "environmental resources specialist") to conduct nesting bird surveys in order to determine the presence of songbird and raptor and owl species including but not limited to the coastal California gnatcatcher (*Poliophtila californica californica*). The environmental resources specialist shall also monitor project operations. At least 30 calendar days prior to commencement of any project operations, the applicants shall submit the name and qualifications of the environmental resources specialist, for the review and approval of the Executive Director. The applicants shall ensure that all project construction operations shall be carried out consistent with the following:

  - A. A qualified environmental resources specialist with experience in conducting nesting bird surveys shall conduct the surveys 30 calendar days prior to construction activities within 500 feet of the project. A follow-up survey must be conducted 3 calendar days prior to the initiation of construction, and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first.
  - B. If an active nest of any songbird is found within 300 feet of the project, or an active nest for any raptor species is found within 500 feet of the project, the applicants shall retain the services of an environmental resources specialist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The nest shall not be removed or disturbed. The environmental resources specialist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The environmental resources specialist shall monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest(s) site(s). If construction noise exceeds a peak level of 65 dB at the nest(s) site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction shall cease and shall not recommence until either new sound mitigation can be employed or the birds have fledged.



- C. If an active nest of a federally or state-listed threatened or endangered species or bird species of special concern is found within 300 feet of the project, or an active nest for any species of raptor is found within 500 feet of the project, the applicants will notify the appropriate State and Federal Agencies within 24 hours, and appropriate action specific to each incident will be developed. The applicants will notify the California Coastal Commission by e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.
- D. The environmental resource specialist shall be present during all construction activities during the bird nesting/breeding season if an active nest is identified, until the birds have fledged.
- E. The environmental resource specialist shall require the applicants to cease work should any breach in compliance with this condition occur, or if any unforeseen sensitive habitat issues arise. The environmental resources specialist shall immediately notify the Executive Director if activities outside the scope of the subject CDP occur. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicants shall be required to submit a revised or supplemental program to adequately mitigate such impacts.

#### **4. Construction Best Management Practices.**

- A. The permittees shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:
  - 1. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
  - 2. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
  - 3. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
  - 4. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include but are not limited to the placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
  - 5. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and stored as far from a storm drain inlet and any receiving waters as possible.

B. Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

1. The permittees shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from any receiving waters and storm drain inlets as possible;
2. The permittees shall develop and implement spill prevention and control measures;
3. The permittees shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water; and
4. The permittees shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.
5. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting shall be prohibited, to minimize wildlife entanglement and plastic debris pollution. Only 100% biodegradable (not photodegradable) natural fiber netting shall be allowed.
6. The permittees shall not spray landscaping chemicals in or within 25 feet of any drainage swale, and will minimize the use of landscaping chemicals within the project to the extent feasible.
7. The permittees shall implement Integrated Pest Management (IPM) for the project to the extent feasible, to minimize the use of landscaping chemicals and to prevent the degradation of coastal water quality

**5. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agrees (i) that the site may be subject to hazards including but not limited to bluff and slope instability, sea level rise, erosion, landslides and wave uprush or other tidal induced erosion; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to

indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

## 6. Open Space/Habitat Use Restrictions

- A. After completing all native riparian habitat and wetlands revegetation in accordance with the revised final plans pursuant to **Special Condition 1**, no development as defined in Section 30106 of the Coastal Act shall occur within the restoration areas, except for the following development: habitat enhancement, and monitoring and management in accordance with the final Restoration, Mitigation, Monitoring, and Maintenance Plan and Long-Term Habitat Management Plan approved by the Executive Director in accordance with **Special Condition 1**.

The lands identified in this restriction shall be maintained by the landowner(s) in perpetuity.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the landowners shall execute and record documents in a form and content acceptable to the Executive Director, restricting use and enjoyment of the areas of land identified in subsection A of this condition. Those recorded documents shall reflect the restrictions identified in subsection A of this condition.

The recorded documents shall include legal descriptions and graphic depictions, prepared by a licensed surveyor, of both the entire project site and the restricted area. The restrictions shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restrictions. The deed restrictions shall run with the land, binding all successors and assigns in perpetuity. These deed restrictions shall not be removed or changed without a Commission-approved amendment to this coastal development permit.

7. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the co-applicants shall submit to the Executive Director for review and approval documentation demonstrating that the co-applicants have executed and recorded against the parcels governed by this permit deed restrictions, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject properties, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Properties. The deed restrictions shall include a legal description of the parcels governed by this permit. The deed restrictions shall also indicate that, in the event of an extinguishment or termination of the deed restrictions for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the

subject properties so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject properties.

## **IV. FINDINGS AND DECLARATIONS**

### **A. Project Description and Location**

The project site is a canyon extending between the southbound I-5 and Via Cascadita in the City of San Clemente within the Shorecliffs Golf Course ([Exhibit 1](#)). The Shorecliffs Golf Course is an 18-hole golf course constructed prior to the passage of Proposition 20 in 1972 and Coastal Act certification in 1976. The Shorecliffs Golf Course fifth and sixth golf holes are located within Cascadita Canyon, while an estimated 42 private residences and a portion of the I-5 are located above the southern canyon slope.

On July 21, 2006, a landslide occurred along the southern canyon slope adjacent to the northbound I-5 ([Exhibit 2](#)). The 2006 partial slope failure threatened at least three private Via Ballena residences, but was not addressed with remedial action. On January 6, 2011, a larger landslide occurred along the southern slope located west of the 2006 slope failure, rendering four pre-coastal homes (243, 245, 247, and 249 Via Ballena) temporarily uninhabitable and threatening an additional seven residences. The applicants' geotechnical reports indicate the primary cause of these slope failures as perennial runoff from surrounding development which undermined the toe of the slope. The landslide debris damaged the fifth and sixth fairways, damaged existing riparian habitat, and buried portions of an existing concrete channel that conveyed runoff to the Via Cascadita storm drain. The slope failure also created multiple pools of impounded water 15 to 20-ft. deep.

In November 2015, the Shorecliffs Golf Course property owner, Via Ballena homeowners, and City of San Clemente established a fund to implement necessary repairs. On November 29, 2016, the Commission approved Emergency Permit No. G-5-16-0061 for emergency stabilization measures, including: partial removal of the landslide debris; installation of a 7-ft. by 7-ft. box culvert, extending 2,600 ft. from the I-5 to the Via Cascadita storm drain; import of 150,000 total cu. yds. of fill to reconstruct the southern slope with a series of benches to create a 2:1 slope; installation of a gravity buttress and drainage system for the reconstructed slope; and revegetation of the project area ([Exhibit 4](#)). The emergency permit conditions required the subject applicant to mitigate impacts to the existing creek (riparian habitat) and wetlands within the project area at a minimum of a 3:1 mitigation ratio. The emergency permit also required the applicant to commence work on January 2, 2017 and complete the construction by July 31, 2017. The subject applicant began the landslide remediation measures in February 2017 and completed all work in December 2019. This will be addressed further in the 'Coastal Act Violations' subsection below.

The emergency permit applicant (OC Re-Hab 1, LLC) submitted a follow-up CDP application on October 19, 2016 and withdrew the application on August 29, 2017, following Commission staff's request for additional materials, including hydrology

reports, a long-term habitat management plan, and plant palettes for the proposed habitat restoration. The current project now includes: 1) authorization of the landslide remediation measures constructed pursuant to Emergency Permit No. G-5-16-0061; 2) reconstruction of the Shorecliffs Golf Course fifth and sixth holes through installation of new sod, irrigation, hydroseeding, and construction of a cart path; and 3) mitigation of landslide repair impacts to existing riparian habitat and wetlands.

The emergency work impacted 0.3 acres of riparian habitat (specifically, an approximately 1,200 linear ft., 11-ft. wide creek) and 0.41 acres of wetlands on the project site ([Exhibit 2](#)). On-site, the applicants propose to establish 1.18 acres of new riparian habitat, 1.35 acres of wetlands, and 2.09 acres of upland habitat, resulting in on-site mitigation ratios of 3.9:1 for impacted riparian habitat and 3.3:1 for impacted wetlands.

Off-Site Mitigation Site 1<sup>2</sup> is located north of the project site, within the coastal zone between Calle Grande Vista and the southbound I-5, and Off-Site Mitigation Site 2<sup>2</sup> is located northeast of the project site, outside the coastal zone and between the northbound I-5 and Calle Nuevo ([Exhibit 1](#)). Both off-site locations are part of the Shorecliffs Golf Course and owned by GC-8, LLC, the co-owner of the golf course. The sites were proposed due to the existing patchwork of native wetlands and riparian habitat at these locations, as well as the shared watershed. The applicants propose to restore a cumulative total 7.27 acres of existing native habitat at the two off-site locations and construct a new, 2,500-ft. long channel curving through an existing channel at Off-Site Mitigation Site 2 ([Exhibit 6, page 18](#)). The new braided channel is intended to introduce a more natural-looking meander to the existing channel and improve site drainage per the requirements of the RWQCB.

The applicants have submitted proof of approval from the CDFW, U.S. Army Corps of Engineers (USACE), RWQCB, and the City of San Clemente. The applicants have also submitted two mitigation documents prepared by restoration ecologist Dr. Edith Read: a Long-Term Habitat Management Plan (LTHMP) dated July 27, 2020, and a Restoration, Mitigation, Monitoring and Maintenance Plan (RMMMP) dated March 22, 2021.

The Shorecliffs Golf Course has an extensive history of permitted and unpermitted natural landform alteration, likely due to the amount of destabilizing runoff channeled into the canyons from surrounding commercial and residential development. [Exhibit 5](#) includes a detailed summary of the CDP history for the golf course.

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<sup>2</sup> The applicants' submitted plans refer to the two off-site mitigation sites as "Off-Site Mitigation Sites 2 and 3." Commission staff have renamed these as "Off-Site Mitigation Sites 1 and 2" to improve clarity, due to the fact that there is no "Off-Site Mitigation Site 1."

The Commission certified the City of San Clemente LUP in 1988 and, in 2018, the Commission certified an LUP amendment for a comprehensive update of the LUP. However, the City does not yet have a certified Local Coastal Program (LCP). Therefore, the Chapter 3 policies of the Coastal Act constitute the standard of review for the project, with the certified LUP used as guidance.

## **B. Coastal Hazards**

Section 13577 of the Coastal Act states, in relevant part:

(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean:

(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion...

Section 30235 of the Coastal Act states, in relevant part:

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 30251 of the Coastal Act states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Section 30253 of the Coastal Act states, in relevant 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.

The City's certified LUP contains the following relevant language and polices:

### **5.1.1 Coastal Bluffs and Coastal Canyons**

There are nine coastal canyons in San Clemente, including the two Marblehead Coastal Canyons, Palizada Canyon, Trafalgar Canyon, Toledo Canyon, Lobos Marinos Canyon, Riviera Canyon, Montalvo Canyon, and Calafia Canyon (see Figure 4-3 Coastal Canyons General Location Map)...

### 5.3.1 Hazards Review

**HAZ-10 Applicant's Assumption of Risk.** A Coastal Development Permit (CDP) for development in a hazardous area shall be conditioned when consistent with Policy GEN-8 to require the property owner to record a document (i.e., deed restriction) that waives and indemnifies the approving entity from liability for any personal or property damage caused by geologic, coastal or other hazards on such properties in relation to any development approved by the CDP and acknowledging that future shoreline protective devices to protect structures authorized by such a CDP are prohibited as outlined in HAZ-18.

**HAZ-30 Development and Uses in Hazard Areas.** New development or redevelopment and land uses shall:

- a) Minimize risks to life and property in areas of high geologic, coastal, 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...

**HAZ-32 New Development in Hazard Areas.** New development shall only be permitted where an adequate factor of safety can be provided including on sites with ancient landslides, unstable slopes, or other geologic hazards.

**HAZ-33 Development on Hillside, Canyons and Bluffs.** New development shall be designed and sited to maintain the natural topographic characteristics of the City's natural landforms by minimizing the area and height of cut and fill, minimizing pad sizes, siting and designing structures to reflect natural contours, clustering development on lesser slopes, restricting development within setbacks consistent with HAZ-41 and HAZ-47, and/or other techniques. Any landform alteration proposed shall be minimized to the maximum extent feasible. Development partially or wholly located in a coastal canyon or bluff or along the shoreline shall minimize the disturbance to the natural topographic characteristics of the natural landforms.

Section 13577(h)(1) of the California Code of Regulations defines "coastal bluff" to include bluffs "the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion[.]" The western entrance to Cascadita Canyon is located approximately 0.2 miles inland of the nearest beach, with a significant amount of commercial and residential development insulating the subject site from wave action and other sources of marine erosion. As such, the slopes forming Cascadita Canyon

are not considered coastal bluffs per the Coastal Act definition. The site is also not identified as one of the nine coastal canyons specified in the City's certified LUP.

Coastal Act Section 30251 requires that development minimize natural landform alteration and maintain visual compatibility with the surrounding area. Section 30253 requires development to minimize risks to life and property in areas of geologic instability, and prohibits any contribution to geologic stability that may necessitate future shoreline protective devices. Section 30235 specifies the forms of shoreline protection and development that are limited solely to serve coastal-dependent uses or to protect existing structures from erosion. Together, these policies, in addition to the certified LUP coastal hazards policies, ensure that natural landform alteration is limited to the minimum amount necessary in order to preserve public safety.

The applicants request authorization of emergency landslide repairs, including installation of a gravity buttress, 150,000 cu. yds. of fill, and a sub-surface drainage system extending the length of the canyon. While the repairs constitute natural landform alteration, the project will not impact natural shoreline processes due to the location of Cascadita Canyon and thus will not implicate Section 30235. Therefore, the project must be evaluated for consistency with sections 30251 and 30253.

### **Site Instability**

The applicants' emergency permit application included a geotechnical report, dated August 10, 2016, prepared by GeoKinetics. The report includes review of site boring logs, soil samples, geologic cross-sections and field reconnaissance.

The report indicates that the initial 2006 landslide (immediately east of the 2011 landslide) occurred in the absence of any significant storm event, suggesting that leaking utilities in a recently underpinned<sup>3</sup> Via Ballena home may have triggered the slope failure. In contrast, the second landslide in 2011 occurred after a period of extended rainfall. Prior to these landslides, the southern slope was characterized by weathered bedrock extending approximately 55 to 70 ft. below the residential building pads located atop the canyon. The weathered bedrock was separated from an undisturbed foundation of solid bedrock by an estimated 0.25 to 0.5-inch thick clay seam, which likely served as the basal slip surface for the 2011 landslide ([Exhibit 2, page 5](#)).

The landslide debris buried portions of the existing canyon drainage channel and created areas of impounded water 15 to 20-ft. deep, threatening the slope supporting the I-5 with saturation and future failure. Prior to the emergency repairs, the report estimated a 1.05 factor of safety for the portions of slope on either side of the collapse, indicating a relatively high risk of future landslides in the absence of remediation. The Commission's staff geologist has reviewed the project plans and information submitted by the applicants' geotechnical consultant, and concurs that the homes located above

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<sup>3</sup> 'Underpinning' is generally defined as a technique intended to strengthen the existing foundation of a structure through excavation and installation of additional concrete.



the 2011 landslide were at imminent risk of collapse. Overall, the landslides threatened the safety of the Shorecliffs Golf Course located below the slope, the private residences located above the slope, and the I-5 located partially above the slope.

### **Proposed Project and Alternatives**

The emergency landslide repairs included installation of a 7-ft. by 7-ft., 2,600-ft. long, reinforced concrete box culvert system to address damage to the existing drainage system. The repairs also included reconstructing the southern slope with a 2:1 horizontal to vertical distance ratio, installing a gravity earth buttress (i.e. in-filling the canyon up to 20-ft. in height) below the slope to prevent 'slope creep,' and constructing a network of back drains, terrace drains, and down drains on the slope face to minimize runoff erosion. The geotechnical report indicates this integrated stabilization system as necessary to achieve the desired 1.5 factor of safety in the landslide area.

The 2016 geotechnical report considered the installation of a series of tie-back anchors in the reconstructed slope as a potential alternative to the gravity buttress. The tie-back anchor system would likely have required less fill to stabilize the canyon—however, GeoKinetics determined this alternative was less cost-effective and posed more risk than the installation of a gravity buttress. Another alternative would have been no landslide remediation, or limiting repairs to solely the removal of debris. While this alternative minimizes landform alteration, it would also substantially increase the likelihood of subsequent slope failures on either side of the landslide area and leave impacts to the Cascadita Canyon drainage system unresolved, interfering with public use of the I-5 and threatening the residences on either side of the canyon.

In terms of recognizing and assuming the hazard risks for development in hazardous areas, the Commission's experience in evaluating proposed developments in areas subject to hazards has been that development has continued to occur despite periodic episodes of heavy storm damage and other such occurrences. Development in such dynamic environments is susceptible to damage due to such long-term and episodic processes. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden for damages onto the people of the State of California, Applicants are regularly required to acknowledge site hazards and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, this approval is conditioned for the applicants to assume all risks for developing at this location (see **Special Condition 5**).

### **Conclusion**

As previously discussed, the project site is historically prone to slope failure and inundation. The project will improve overall geologic stability and reduce the risk of future landslides on-site, potentially reducing the amount of long-term landform alteration necessary. Commission staff, including the Commission geologist, have reviewed the potential alternatives and concur that the construction of the proposed project, as conditioned by this CDP, will best reduce adverse visual impacts and

minimize alteration of the bluff. As proposed and conditioned, the proposed development is consistent with Coastal Act sections 30251 and 30253.

## **C. Biological Resources**

Section 30107.5 of the Coastal Act defines “ESHA” as:

“Environmentally sensitive area” means 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 30121 of the Coastal Act defines “Wetlands” as:

“Wetland” means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Section 30231 of the Coastal Act states:

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

Section 30233(a) of the Coastal Act states, in relevant part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:...

(7) Restoration purposes...

Section 30240 of the Coastal Act 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.

The City's certified LUP contains the following relevant language and polices:

#### **4.3.3 Wetlands**

**RES-41 Wetlands.** Recognize and protect wetlands for their scenic, recreational, water quality, and habitat values. The biological productivity and the quality of wetlands shall be protected and, where feasible, restored.

**RES-45 Wetland Buffer.** Buffer areas shall be provided around wetlands to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the wetland they are designed to protect and should be at least 100 feet in width, where feasible. A wetland buffer may be reduced only where it can be demonstrated that (1) the required buffer width is not possible due to site-specific constraints, and (2) the proposed narrower buffer would be sufficiently protective of the biological integrity of the wetland to avoid significant adverse impacts to the wetland given the site-specific characteristics of the resource, and the type and intensity of disturbance.

**RES-50 Other Resource Agencies Approvals.** Coastal Development Permit applications for development within or adjacent to wetlands shall include evidence of the preliminary approval of the California Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and other resource management agencies, as applicable.

**RES-90 Construction Near Nesting and Foraging Habitat.** If an active nest of any species listed pursuant to the federal or California Endangered Species Act, California bird species of special concern, or a wading bird (herons or egrets) as well as owls or raptors is found, construction activities within 300 feet (500 feet from any identified raptor nest) shall not exceed noise levels of 65 dB peak until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. The 65 dB peak noise levels may only be increased if a noise study demonstrates the ambient noise level is above 65 dB at the subject site. Nesting Bird Surveys for the above bird species during their breeding season shall be conducted by a qualified biologist prior to commencement of construction on sites where there is probable cause to believe that nesting birds may exist.

#### **4.3.4 Environmentally Sensitive Habitat Areas (ESHA)**

**RES-51 ESHA Designation.** Environmentally Sensitive Habitat Area (ESHA) means 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 easily be disturbed or degraded by human activities and developments as defined in Section 30107.5 of the Coastal Act. Three main elements must be met for an area or habitat to be considered ESHA.

**RES-55 Riparian Habitats.** Development adjacent to streams or riparian corridors shall avoid removal of native vegetation; prevent erosion, sedimentation and runoff; provide for sufficient passage of native and anadromous fish; prevent wastewater discharges and entrapment; prevent groundwater depletion or substantial interference with surface and subsurface flows; and protect and reestablish natural vegetation buffers.

**RES-59 Development Adjacent to ESHA Buffer.** Where feasible, confine development adjacent to ESHAs to low impact land uses, such as open space and passive recreation. Development in areas adjacent to ESHAs and parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

**RES-63 ESHA Mitigation.** Require mitigation in the form of habitat creation or substantial restoration for allowable impacts to ESHA and other sensitive resources that cannot be avoided through the implementation of siting and design alternatives. Priority shall be given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site. Mitigation shall not substitute for implementation of a project alternative that would avoid impacts to ESHA.

**RES-65 Conservation of ESHA.** In conjunction with new development, require that all preserved ESHA, buffers, and all mitigation areas, on-site and off-site, be conserved/dedicated (e.g., open space direct dedication, offer to dedicate (OTD), conservation easement, or deed restriction, in such a manner as to ensure that the land is conserved in perpetuity. A management plan and funding shall be required to ensure appropriate management of the habitat area in perpetuity. The City shall maintain an inventory of open space dedications or OTDs to ensure such areas are known to the public and are protected through the coastal development permit process. Require all direct open space dedications or OTDs to be made to a public agency or other appropriate entity that will manage the open space area on behalf of the public.

### **Project Site Characterization**

Coastal Act Section 30107.5 defines ESHA 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.” A U.S. Geologic Survey blueline stream has historically extended through Cascadita Canyon since prior to 1992 ([Exhibit 5](#)). While the blueline stream was disturbed by the 2011 landslide, its continued presence and proposed

restoration designates the site ESHA as defined by the Coastal Act. The blueline stream existing at Off-Site Mitigation Sites 1 and 2<sup>2</sup> also designate these sites as ESHA.

The site supports both wetlands and creek/riparian habitat ESHA. The on-site wetlands constitute areas of freshwater marsh adjacent to the creek ([Exhibit 6](#)). According to the project ecological consultant, the project site (Cascadita Canyon) encompassed 0.59 acres of wetlands and 0.52 acres of creek prior to the 2011 landslide. The creek was estimated to extend approximately 1,680-ft. long and an average of 11-ft. wide at the Ordinary High Water Mark (OHWM).

The wetlands adjacent to the creek are dominated by tule or cattail marsh (*Typha Herbaceous Alliance*). The dominant species in this community is southern cattail (*Typha domingensis*) but also includes scattered arroyo willows (*Salix lasiolepis*) and California bulrush (*Schoenoplectus californicus*). Pickleweed (*Salicornia pacifica*) and saltgrass (*Distichlis spicata*) mats occupy areas on and above the banks of the creek, some of which extend into the golf course fairway. The on-site creek primarily consists of a distinct bed and bank with scattered patches of riparian habitat composed of arrow willow thickets whose canopy extends over the golf course interspersed by areas of adjacent wetlands.

The applicants submitted a Biological Assessment conducted by Forde Biological Consultants, dated June 17, 2016, which evaluates all sensitive plant and animal species at the three restoration sites. The applicants also submitted surveys for California gnatcatcher (*Polioptila californica*) and least Bell's vireo (*Vireo bellii pusillus*) dated May 8, 2016. These survey reports were based on three field assessments conducted by qualified biologist Andrew McGinn Forde in April 2016 and did not detect any gnatcatcher or vireo occurrences on the Shorecliffs Golf Course.

Regarding sensitive species, the Biological Assessment (2016) indicates:

The biologists conducted botanical surveys during the blooming periods of the species initially determined to have potential to occur and did not find any special-status plant species. The proposed project is not expected to affect special-status plant species...

The biologists observed Allan's hummingbird at the site and woodrat houses that could potentially belong to San Diego desert woodrat. The proposed project could potentially affect individuals of these species and other special-status wildlife species including trask shoulderband snail, southern shoulderband snail, slotted lancetooth, crotch bumblebee, Southern California legless lizard, San Bernardino

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<sup>2</sup> The applicants' submitted plans refer to the two off-site mitigation sites as "Off-Site Mitigation Sites 2 and 3." Commission staff have renamed these as "Off-Site Mitigation Sites 1 and 2" to improve clarity, due to the fact that there is no "Off-Site Mitigation Site 1."

ringneck snake, Allan's hummingbird, Cooper's hawk, Costa's hummingbird, if present; however, it is not expected to affect their populations as a whole...

The Commission's senior ecologist has reviewed the biological reports submitted with this application and determined that the project site includes a range of habitat and species which constitute ESHA and the applicants must mitigate for direct impacts to native habitats.

### **Mitigation Ratios**

The project ecological consultant estimates that a total 0.52 acres of riparian habitat and 0.59 acres of wetlands existed in Cascadita Canyon prior to the landslide repairs (see [Appendix B](#) for summary table). Commission staff estimated in the emergency permit findings that the work would result in direct impacts to approximately 0.3 acres of existing riparian habitat (ESHA) and 0.41 acres of existing wetlands on-site. This would result in a total 0.71 acres of impacted habitat.

The Commission typically requires a mitigation ratio of 3:1 for impacted ESHA; in this case, riparian habitat. The project will exceed this requirement by establishing 1.18 acres of new riparian habitat on-site, resulting in a 3.9:1 mitigation ratio.

The Commission also typically requires a mitigation ratio of 4:1 for impacted wetlands. While the project does not meet this requirement, as the proposed 1.35 acres of new wetlands will result in a 3.3:1 mitigation ratio, the project site is constrained by a limited area in the canyon for restoration ([Exhibit 1](#)). Commission staff have determined that the proposed 2.09 acres of new upland habitat on-site will be sufficient to satisfy the wetlands mitigation requirement.

### **On-site Mitigation, Monitoring, and Maintenance**

As described above, the project's on-site mitigation will establish 1.18 acres of riparian habitat, 1.35 acres of wetlands, and 2.09 acres of upland habitat in Cascadita Canyon. The RMMMP (2021) states that all non-native plant species designated by the California Invasive Plant Council as moderately to highly invasive will be removed from the restoration areas. Once the removal is complete, native plant material consisting of cuttings, container stock, and seeds will be introduced to four planting zones differentiated by habitat type and plant palette (referenced in the plans as Zone A through D) ([Exhibit 2](#)).

The proposed 1.18 acres of new riparian habitat (Zone A) will be located near the western canyon entrance and include freshwater and riparian species, such as California bulrush (*Schoenoplectus californicus*) and arroyo willow (*Salix lasiolepis*). The 1.35 acres of new wetlands (Zone B) will be located adjacent to the new riparian habitat, closer to the toes of the northern and southern slopes. This habitat will consist primarily of brackish species, such as yerba mansa (*Anemopsis californica*) and California sealavender (*Limonium californicum*). Both the new riparian habitat and wetlands will be located on either side of a 20-ft. wide raised access road extending the length of the canyon. This access road is intended to preserve access to the Shorecliffs Golf Course fifth and sixth golf holes. The installation of sub-surface catch basins and open-water

channels on either side of the raised road will function as a gravity flow system, which captures nuisance flows and conveys them to the restoration areas ([Exhibit 2](#)). The gravity-flow system will render additional irrigation measures unnecessary for the on-site riparian and wetlands habitat.

Lastly, a total of 2.09 acres of new upland habitat will serve as buffers from the Shorecliffs fifth and sixth golf holes. This will include 0.75 acres on the southern slope near the western canyon entrance (Zone C) and 1.34 acres on northern and southern slopes near the eastern canyon entrance (Zone D) ([Exhibit 2](#)). The plant palette for Zone C lists nine native upland species, including California poppy (*Eschscholzia californica*) and arroyo lupine (*Lupine succulentus*). The location of Zone D within the Via Ballena residences' fuel-modification zones will necessitate periodic thinning and avoidance of "ladder fuels" that worsen potential fires, such as subshrubs and grasses. As such, the plant palette for Zone D is limited to two evergreen species: saltbrush (*Atriplex lentiformia*) and toyon (*Heteromeles arbutifolia*).

Regarding the upland habitat planting process, the RMMMP states:

With the exception of Zone D in the Restoration Area (see below), plants shall be installed in a natural-appearing pattern, i.e. not in rows. Holes for container stock should be dug at least twice as wide as the root ball, with the crown of the plant left about 0.25 inch above grade for proper drainage. If the soil is dry it shall be irrigated and allowed to drain before the plant is installed. Plants shall be irrigated after installation to ensure good soil-to-root contact. In Zone D, plants shall be installed in a natural-appearing pattern but spaced at least 15 feet apart (as measured on center) per fire department specifications for fuel modification zones adjacent to residences.

The two upland buffer areas will require irrigation separate from the gravity flow system described above. This will consist of temporary above-ground irrigation for Zone C, while Zone D will require a permanent system due to its location in a fuel-modification zone (i.e. a fire-risk zone).

The RMMMP provides the following monitoring schedule for the first 120 days following native planting:

The project's restoration ecologist will visit the restoration site twice per month (or as necessary) during the first 120-days, after planting and seeding, to monitor site conditions. They will determine if the salvaged species, cuttings, and the container stock are becoming adequately established, verify that seed application and germination has been successful, check that irrigation is adequate, and identify any problems or potential problems with regards to plan implementation. During this period, the restoration ecologist will provide recommendations in writing to the applicant's contractor regarding any necessary remedial actions. The applicant's contractor shall be responsible for ensuring that all remedial actions are taken and completed in a timely manner.

The project's restoration ecologist will provide a Completion Report to the applicant for submittal to permitting agencies within 30 days of completion of the 120-day post-restoration monitoring period. The report will include details and maps as necessary with regards to site preparation, irrigation, the number and names of plants salvaged and replanted, the species names and amount of container stock used, the species names and amount of seed applied, and any deviations from the plant palettes.

Upon completion of this initial 120-day monitoring period, a five-year monitoring period will follow as described below:

The project's restoration ecologist will visit the restoration site once during May and once during September for a period of 5 years or until they determine that the performance standards are met (see below). The restoration ecologist will establish photo points at 4 locations within the restoration site for comparative analysis between years. The restoration ecologist will determine percentage survival of salvaged species and container stock used in the restoration, relative cover of native species and non-native species, and will identify and mark non-native species so that they can be removed by the maintenance crew.

The data will be compared to performance standards are being met and shall be included in annual reports (see below). The focus of all efforts shall be the eradication of species identified by Cal-IPC as being moderately to highly invasive. An annual monitoring report shall be provided to the applicant for submittal to permitting agencies no later than December 31 of each monitoring year...

Performance Objectives: Zones A, B, and C

1. Target values for relative cover in Year 1 is 20 percent, Year 2, 30 percent, and Year 3, 40 percent;
2. Survival of the container stock shall be 75 percent in Years 1, 2, and 3;
3. Cover of native species is at least 75 percent in Year 4 and Year 5;
4. Absence of moderately to highly invasive non-native species;
5. Vegetation must survive at least 2 years without irrigation (i.e. phase out irrigation at the end of Year 3).

Zone D

Due to the fact that this zone will be maintained according to the fire department's fuel modification requirements, the only objective for this zone is to ensure that it is free of moderately to highly invasive plant species that could eventually invade native communities in the other zones. The irrigation system will remain in place for fire prevention and suppression purposes.



The applicants' ecological consultant provided a LTHMP, dated July 27, 2020, specifying the long-term habitat maintenance and monitoring following the five-year period:

The Golf Course and OC Re-Hab 1, LLC will be responsible for all long-term maintenance of the Restoration Area...

Long-term maintenance of the Conservation Area has three goals: 1) long-term health of the ecosystem; 2) self-sustainability, as much as possible in an urbanized watershed; 3) co-existence with surrounding communities in terms of preventing conditions that could lead to health or safety problems. Attaining these goals all three sites in the Conservation Area will involve a maintenance approach that balances habitat values with human health and safety issues. For example, it is expected that emergent vegetation will require periodic thinning for mosquito abatement and flood control, but this will need to be done in consultation with a qualified biologist and outside of the bird nesting season to avoid violation of Federal and State laws that protect nesting birds...

For the purpose of this Plan we have assumed a maximum of once-annual monitoring for 10 years after the initial 5-year period by a qualified biologist during the peak of nesting season (generally April-May timeframe) to evaluate habitat conditions. Each monitoring visit to cover the entire Conservation Area would take no more than 2 days of 8 hrs each, including travel time. Results will be summarized in an annual letter report. Copies of all reports will be submitted to the City of San Clemente.

In summary, the new native riparian habitat, wetlands, and upland habitat will be planted and maintained in perpetuity on the project site.

### **Off-Site Mitigation, Monitoring, and Maintenance**

In order to address the temporal impacts of the emergency permit applicant's (OC Re-Hab 1, LLC) failure to restore and mitigate for impacted habitat on-site pursuant to the timeframe and terms established by the emergency permit (discussed further in the 'Coastal Act Violations' subsection below), the applicants also propose two off-site mitigation sites. Off-Site Mitigation Site 1 is located north of the project site, in the coastal zone between Calle Grande Vista and the southbound I-5. Off-Site Mitigation Site 2 is located northeast of the project site, outside the coastal zone and between the northbound I-5 and Calle Nuevo ([Exhibit 1](#)). An email sent by Dr. Edith Read on March 4, 2021 describes the habitat on both off-site locations:

All of the areas can be described as dominated by cottonwood-willow riparian vegetation with scattered patches of emergent vegetation (bulrush, cattail). We didn't map these as separate communities since in my view they all function as one ecologically connected wetland system.

The applicants will restore a cumulative 7.27 acres of existing, native riparian habitat and wetlands, consisting of 3.52 acres at Off-Site Mitigation Site 1 and 3.75 acres at

Off-Site Mitigation Site 2. This will consist of removing all invasive, non-native species from the restoration areas and planting four native riparian, wetland, and upland species: Arroyo Willow (*Salix lasiolepis*), Cattail (*Typha domingensis*), Mulefat (*Baccharis salicifolia*), and Fremont Cottonwood (*Populus fremontii*). OC Re-Hab 1, LLC has also constructed a new, 2,500-ft. long channel braided through an existing channel at Off-Site Mitigation Site 2, per CDFW and RWQCB requirements. This new channel will create a more natural-looking meander and improve long-term establishment of adjacent native riparian and wetlands species ([Exhibit 2](#)).

The drainage channel described above will likely be sufficient to support the habitat restoration at both off-site locations; however, temporary irrigation may be installed to aid initial species establishment. Weeds will be removed from the restored habitat areas at least twice a year in the initial five-year period, during late winter through early summer.

As proposed, the two off-site locations will not be evaluated for the performance objectives described above for the project site (Cascadita Canyon). The project ecological consultant has indicated that the existing native habitat at both off-site locations will require solely the removal of invasive exotic species as necessary. However, the Commission staff ecologist does not concur with this determination and recommends the five-year monitoring and maintenance plan proposed for the project site also be adopted for Off-Site Mitigation Sites 1 and 2. This will include but is not limited to, two visits to the off-site locations each year, comparative photograph analysis, and an annual monitoring report to better determine whether long-term establishment at the off-site locations has been successful.

To ensure this five-year plan is adopted for Off-Site Mitigation Sites 1 and 2, **Special Condition 1** requires the applicants to submit a revised RMMMP and LTHMP reflecting the revisions summarized above. **Special Condition 1** also requires the project to adhere to all submitted recommendations of the project restoration ecologist as approved by the Executive Director.

Regarding the role of the RWQCB and CDFW, **Special Condition 2** requires the applicants to comply with all requirements, requests and mitigation measures from all local resource permitting agencies. If any resource agency mandates revisions to the project habitat restoration as approved by the Commission, **Special Condition 2** requires submittal of all changes to the Executive Director in order to determine if an amendment to the approved permit is required.

As proposed, all construction and vegetation removal will be scheduled to avoid the avian nesting season occurring from February 1<sup>st</sup> to August 31<sup>st</sup>. If work does occur during this timeframe, a qualified biologist shall conduct a minimum of three surveys for nesting birds to ensure no active nests will be impacted. If an active nest is identified within the subject area of work, the applicant shall implement a 300-ft. minimum avoidance buffer for all passerine bird nests, or 500-ft. minimum buffer for all protected or raptor species, and develop a specific Nesting Bird Management Plan. The Nesting Bird Management Plan shall be submitted to the CDFW prior to commencement of the

work, and the work will not begin until the CDFW has acknowledged receipt of the report and confirmed all established buffers. To ensure the nesting bird surveys and native revegetation are carried out as proposed, **Special Condition 3** requires pre-construction nesting bird surveys conducted per the CDFW guidelines.

The project also includes pre-construction surveys conducted by a qualified biologist for woodrat houses within the vicinity of all disturbance areas. If woodrat houses are present within 10 ft. of the project area, the houses shall be dismantled and placed in a pile beyond the disturbance limits.

Lastly, **Special Conditions 6 and 7** require the co-applicants to record deed restrictions maintaining the areas of habitat restoration at the project site and two off-site locations as open space/habitat use ([Exhibit 3](#)). These conditions are imposed to ensure the restored native habitat will be maintained in the event of new ownership.

The project will mitigate all impacts to biological resources through the establishment of new on-site habitat and restoration of existing off-site habitat. Therefore, as proposed and conditioned, the project can be found consistent with the Coastal Act and relevant LUP policies.

## D. Water Quality

Section 30231 of the Coastal Act states:

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

The City's certified LUP contains the following relevant language and policies:

### 4.3.2 Water Quality

**RES-19 Watershed Protection** [in relevant part]. Existing and new development shall not degrade San Clemente's coastal resources or water quality. The City shall require development projects to comply with water quality and watershed protection requirements per the San Diego Regional Municipal Separate Storm Sewer System (MS4) Storm Water Permit, (Order No. R9-2013-0001, as amended by Order No. R9-2015-0100 adopted November 18, 2015, or any amendment to or re-issuance thereof), approved by the San Diego Regional Water Quality Control Board...

**RES-26 Best Management Practices for Public Agencies.** The City shall require that public agencies use the most effective BMPs to protect natural resources at

project sites and maintenance yards when the maintenance and modification of public infrastructure involves the removal of vegetation and/or earth.

**RES-31 Creation and Restoration of Areas with Water Quality Benefits.** Where feasible, development shall be planned, sited, and designed to preserve or enhance non-invasive vegetation to achieve water quality benefits such as transpiration, interception of rainfall, pollution uptake, shading of waterways to maintain water temperature, and erosion control. New development and redevelopment shall preserve, and where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, coastal canyons, vernal pools, wetlands, and buffer zones, and the City encourages land acquisition of such areas.

**RES-32 Maintain or Enhance Natural Drainage Features.** Development shall be planned, sited, and designed to protect the absorption, purification, and retention functions of natural drainage features (e.g., stream corridors, drainage swales, topographical depressions, floodplains, and wetlands) that exist on the site. Where feasible, drainage plans shall be designed to complement and utilize existing drainage patterns and features, conveying drainage from the developed area of the site in a non-erosive manner with appropriate treatment. Disturbed or degraded natural hydrologic features shall be restored, where feasible.

**RES-34 Minimizing Pollutants and Runoff.** Site, design, and manage new development and improvements, including – but not limited to – landscaping, to protect coastal waters from nonpoint source pollution by minimizing the transport of pollutants in runoff and minimizing post-development changes in the site’s runoff volume, flow rate, timing, and duration. Review new development and improvements for potential degradation of water quality and water resources.

The Via Cascadita storm drain is located at the western entrance to Cascadita Canyon and outlets at an existing outfall location (Prima Deshecha Canada) at Poche Beach. Therefore, construction at the project site has the potential for discharge of polluted runoff into the municipal storm drain and ultimately into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters could result in direct adverse impacts to surrounding marine water quality.

The subject applicant’s emergency permit application for landslide repairs proposed measures to address water quality concerns, including the use of fiber rolls, regular street sweeping and protection of existing storm drain inlets with filter fabric and gravel bags. The project also includes hydroseeding of the reconstructed slope to reduce sediment discharge upon exposure to storms or runoff. The applicants have obtained a U.S. Army Corps of Engineers 404 permit and the San Diego Regional Water Quality Board 401 permit for the landslide repairs. Commission water quality staff have reviewed the applicants’ submitted hydrology reports, geotechnical reports, and resource permitting agency reports. Water quality staff are in substantial agreement with the proposed plans, but recommend that the applicants discontinue use of plastic

netting in any temporary erosion BMP's, to avoid wildlife entanglement and plastic pollution. Water quality staff also note that the use of landscaping chemicals in or near drainage swales can result in marine pollution.

To address these issues, the Commission imposes **Special Condition 4** prohibiting the use of landscaping chemicals in or within 25-ft. of any drainage swale. **Special Condition 4** also requires Integrated Pest Management, a site-specific combination of pest prevention and suppression strategies limiting the need for pesticides that degrade coastal water quality.

In addition to construction runoff, the project site poses a risk of potential future flooding and inundation. As previously discussed, Cascadita Canyon serves as a major conduit for run-off and nuisance waters discharged from the surrounding development and can serve as a flood retention device. Installation of an inadequate drainage system could result in pools of standing water or complete ravine inundation, posing a health risk to surrounding development.

Prior to the landslide repairs, the principal form of drainage on-site was a gunite-lined channel connecting from an eight-foot diameter, reinforced concrete pipe culvert to additional downstream culverts. A significant portion of the channel was buried by the 2011 landslide, resulting in multiple impounded pools of water and an extreme amount of sediment discharge into the Via Cascadita storm drain. The project geotechnical consultant (GeoKinetics) submitted a hydrology report dated November 9, 2017. The report provides the baseline flow rate for the existing drainage channel prior to landslide repairs and estimates maximum flowrate in the event of a 100-year storm. The 7-ft. by 7-ft., reinforced concrete box culvert system was designed to accommodate the maximum 100-year storm capacity and extends the length of the canyon.

As proposed and conditioned, the project will improve drainage on-site and minimize the effect of construction activities on the marine environment. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30231 of the Coastal Act regarding the protection of water quality and the water quality protection policies of the certified LUP.

## **E. Visual Resources**

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The City's certified LUP contains the following relevant language and polices:

### 6.3.1 Visual Resources

**VIS-1 Visual Character and Aesthetic Resources Preservation.** New development shall be designed to preserve the visual character and aesthetic resources of the City's coastal zone including preservation of the physical features of coastal bluffs and canyons, and where feasible, enhance and restore scenic and visual qualities of the coastal zone, including to and along the ocean and coastal bluffs, visually significant ridgelines, and coastal canyons, open spaces, prominent, mature trees on public lands, and designated significant public views (as identified on Figure 6-1 Scenic Gateways and Corridors, Figure 6-2-A Public View Corridors and Figure 6-2-B Public View Corridors...

The project site is located on a private canyon parcel designated as Open Space—Private in the certified LUP. The residential streets adjacent to the canyon (Via Alegre, Via Ballena, and Via Cascadita) are traveled mainly by local residents and are not considered regional corridors. There are no public trails in the canyon or in the vicinity, no public parks, or other such public vantage points with direct views of the coastal canyon through the subject site. Public views of the canyon are available along the southbound I-5; however, the project site is not designated as a public view corridor per LUP figures 6-2-A and 6-2-B.

Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas be protected and, where feasible, restored and enhanced. The certified LUP also includes policies encouraging restoration and enhancement of visually degraded areas. As discussed in the 'Coastal Hazards' subsection, the 2011 landslide resulted in visible slope damage and inundation within the canyon. The project includes reconstruction and revegetation of the collapsed slope; reconstruction of the damaged fifth and sixth Shorecliffs Golf Course golf holes; and establishment of new native habitat on-site. These measures will address the impacts of the landslide on visual resources.

To ensure the areas of habitat restoration on-site are maintained as open space use in perpetuity, the Commission imposes **Special Conditions 6 and 7** requiring the applicants to record a deed restriction. **Special Condition 6** also requires the applicants to maintain all off-site areas of habitat restoration as open space use per the figures included in [Exhibit 3](#).

As proposed and conditioned, the Commission finds the project consistent with Section 30251 of the Coastal Act and the visual resource preservation policies of the certified LUP.

## F. Cultural Resources

Section 30244 of the Coastal Act states:

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

The City's certified LUP contains the following relevant language and polices:

### **6.3.2 Historic & Cultural Resources**

**CUL-1 Cultural Resources.** Protect cultural resources, including historical, archaeological, and paleontological features in the Coastal Zone. Where necessary to protect cultural resources, new development shall include an appropriate pre-development investigation to determine, in the least destructive manner, whether cultural resources are present. The pre-development investigation shall include recommendations as to how the site can be developed and designed to avoid or minimize significant impacts to cultural resources. In situ preservation and avoidance are the preferred alternative over recovery and/or relocation in the protection of paleontological and archaeological resources. When in situ preservation or site capping is not feasible, recovery and/or relocation may be considered. Native American tribal groups with cultural affiliation to the project site area as identified by the Native American Heritage Commission shall have the opportunity to review and comment on the predevelopment plan as required by AB52 (2014). Archaeologists and representatives from Native American tribal groups shall provide monitoring during grading/excavation and construction activities of any approved development that has the potential to adversely impact any on-site significant cultural resources.

**CUL-4 Architectural, Historical, and Cultural Resource Preservation and Restoration.** Provide for the identification, preservation and restoration of the sites, structures, districts and cultural landscapes which have architectural, historical, and/or cultural significance

The project site and two off-site locations are currently developed with the Shorecliffs Golf Course and have undergone a substantial amount of grading in the past 50 years. However, a significant amount of new ground disturbance is proposed in order to install a gravity buttress and reconstruct the collapsed southern slope. The applicants' archaeological consultant produced a report, dated June 27, 2016, which analyzed the project site for the presence of cultural resources. The report included a search of archaeological resource records and archives at the South Central Coastal Information Center (SCCIC), which identified 15 studies conducted within 0.5 mile of the project area; no cultural resources within 0.5 mile of the project area were associated with any of these reports. The report also states:

In the unlikely event that unanticipated buried archaeological deposits are encountered during Project-related activities, work in the immediate vicinity of the discovery must cease until the finds can be evaluated by a qualified archaeologist.

In order to better understand the cultural significance of the project site and the surrounding project area, Commission staff engaged in tribal consultation, consistent with the Commission's Tribal Consultation Policy. Commission staff wrote to the NAHC to request an updated Sacred Lands File Check for the project site. The NAHC indicated that no known cultural records were available for the project site in the Sacred Lands File, but encouraged staff to reach out to local Native American tribes who would have a more detailed understanding of the cultural resources in the area.

Staff contacted all tribal organizations provided by the NAHC with a summary of the project and request for consultation. Commission staff received responses indicating no objection to the project and no wish for further consultation from representatives of the Agua Caliente Band of Cahuilla Indians, Juaneño Band of Mission Indians (Acjachemen Nation), and Pala Band of Mission Indians.

Therefore, the project as proposed is consistent with Section 30244 and certified LUP policies requiring preservation of cultural and archeological resources.

## **G. Coastal Act Violations**

Violations have occurred on the project site including, but not necessarily limited to, failure to comply with conditions of Emergency Permit No. G-5-16-0061, including the emergency permit applicant's (OC Re-Hab 1, LLC) failure to complete the emergency landslide repairs within 210 days of commencement and the subject applicant's failure to re-submit a CDP application immediately after withdrawal, which caused temporal impacts to the wetland and riparian areas resulting from the landslide repairs to persist.

The Commission issued Emergency Permit No. G-5-16-0061 on November 29, 2016. The conditions of approval required the subject applicant) to complete the authorized landslide remediation within 210 days of commencement (specified as January 2, 2017). The conditions of approval also state that if the follow-up CDP application is withdrawn, the work completed under the emergency permit could constitute a knowing and intentional violation of the Coastal Act.

The emergency permit applicant has confirmed that the emergency work commenced in February 2017 and all grading and installation of the site drainage system were completed in April 2019. The gravity buttress and final stabilization measures for the reconstructed slope were completed in November through December 2019. Additionally, the emergency permit applicant withdrew CDP Application No. 5-16-0298 on August 29, 2017 and did not resubmit a CDP application until August 5, 2020. Therefore, in order to address the temporal impacts of the emergency permit applicant's failure to restore and mitigate for the wetland and riparian areas impacted by the emergency work, and in order to fully resolve the violations at issue, in addition to restoring the areas impacted by the landslide repairs, the applicants propose to restore



a total of 7.27 acres of existing riparian habitat and wetlands<sup>4</sup> at two off-site locations also owned by the applicant. Off-Site Mitigation Site 1<sup>5</sup> is located within the coastal zone, between Calle Grande Vista and the southbound I-5; Off-Site Mitigation Site 2<sup>2</sup> is located outside the coastal zone, between the northbound I-5 and Calle Nuevo ([Exhibit 1](#)). The applicants have also constructed a new, 2,500-ft. long channel winding through, and on either side of, an existing channel at Off-Site Mitigation Site 2, per the requirements of the California Department of Fish and Wildlife (CDFW) and the Regional Water Quality Board (RWQB) ([Exhibit 2](#)). The new channel will enhance natural irrigation for adjacent native riparian and wetlands species.

Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicants' subsequent compliance with all terms and conditions of the permit will result in resolution of the violations described herein.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of the development undertaken on the subject site without a coastal permit, or of any other development, undertaken on the subject site without a coastal permit. In fact, approval of this permit is possible only because of the conditions included herein, and the applicant's presumed subsequent compliance with said conditions, and failure to comply with these conditions in conjunction with the exercise of this permit would also constitute a violation of this permit and of the Coastal Act. Accordingly, the applicants remain subject to enforcement action just as it was prior to this permit approval for engaging in unpermitted development, unless and until the conditions of approval included in this permit are satisfied.

## H. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit for development in an area with no certified Local Coastal Program only if the project will not prejudice the ability of the local government to prepare an LCP that conforms with Chapter 3 policies of the Coastal Act. The Commission certified the LUP for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan (IP) portion of the LCP. The suggested

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<sup>4</sup> The project ecological consultant determined the off-site riparian habitat and wetlands to function as a single ecologically-connected wetland system, and thus did not map each habitat type as separate communities.

<sup>5</sup> The applicants' submitted plans refer to the two off-site mitigation sites as "Off-Site Mitigation Sites 2 and 3." Commission staff have renamed these as "Off-Site Mitigation Sites 1 and 2" to improve clarity, due to the fact that there is no "Off-Site Mitigation Site 1."

modifications expired on October 10, 1998. The City resubmitted an IP on June 3, 1999, but withdrew the submittal on October 5, 2000. On August 2, 2019, a comprehensive update to the City's LUP was effectively certified by the Coastal Commission. The City is currently also working on resubmittal of an IP. There is no certified LCP at this time. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that conforms with Chapter 3 policies of the Coastal Act.

## **I. California Environmental Quality Act (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The City of San Clemente is the lead agency for purposes of CEQA compliance. On July 8, 2016, the City Community Development Director determined that the project is exempt from CEQA pursuant to Section 15269(c), which allows a streamlined environmental review process for specific actions deemed necessary to prevent or mitigate an emergency. The City Environmental Director found that a series of occurrences had created an emergency landslide, including "cracks, erosion, retrogression, altered drainage, impounded water caused by the previous landslides, and rainfall...[which] cumulatively contributed to the fragility of the hillside..." The City further determined that no additional environmental analysis is required under CEQA associated with the approval of the proposed project.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate potential impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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

1. Coastal Development Permit Application No. 5-92-102 and associated file documents.
2. Emergency Permit No. G-5-92-204 and associated file documents.
3. Coastal Development Permit No. 5-92-204, as amended, and associated file documents.
4. Coastal Development Permit No. 5-02-181 and associated file documents.
5. Emergency Permit No. G-5-16-0061 and associated file documents.
6. Coastal Development Permit Application No. 5-16-0928 and associated file documents.
7. City of San Clemente Certified Land Use Plan.
8. Phase I Cultural Resources Inventory, Shorecliffs Golf Club Landslide Repair Project, prepared by UltraSystems Environmental, Inc. on June 27, 2016.
9. Geotechnical Report for Via Ballena Landslide Repair, San Clemente, California, prepared by GeoKinetics on August 10, 2016.
10. Restoration, Mitigation, Monitoring, and Maintenance Plan for Via Ballena-Shorecliffs Golf Course Landslide Repair, prepared by E. Read and Associates, Inc. on January 18, 2021.
11. Long Term Habitat Management Plan for the Shorecliffs Wetland Conservation Area, prepared by E. Read and Associates, Inc. on July 27, 2020.

## APPENDIX B – MITIGATION TABLE

Figure 1—Summary of on-site habitat impacted by landslide repairs and all project mitigation, both on and off-site ([Exhibit 2](#)).

<b>Type of Habitat</b>	<b>Impacted Area (acres)</b>	<b>Proposed New Area, on-site (acres)</b>	<b>Proposed Restored Area, off-site (acres)</b>
Riparian/Creek	0.30	1.18	Not mapped separately
Wetlands	0.41	1.35	Not mapped separately
Uplands	0	2.09	Not mapped separately
Riparian/Wetlands (Combined)	0.71	2.53	7.27