

CALIFORNIA COASTAL COMMISSION

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Filed: 02/08/21
49th Day: 04/20/21
Staff: DZ-LB
Staff Report: 03/18/21
Hearing Date: 04/14/21

STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal No.: A-5-LOB-21-0016

Applicant: City of Long Beach Department of Public Works

Local Government: City of Long Beach

Local Decision: Approval with conditions

Appellant: Sierra Club Los Cerritos Wetlands Task Force

Location: All City-owned or maintained trees in the Long Beach coastal zone, Los Angeles County

Project Description: Appeal of Local Coastal Development Permit No. LCDP20-033 for the establishment of a policy for annual and emergency tree trimming activities for City-owned or maintained trees within the coastal zone. The coastal tree trimming policy will apply in the City's permitting jurisdiction and includes, but is not limited to, requirements for bird nesting surveys, monitoring, best practices, and administrative procedures.

Staff Recommendation: No Substantial Issue

IMPORTANT NOTE: This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally, and at the discretion of the Chair, testimony is limited to three minutes total per side. Please plan your testimony accordingly. Only the applicant, appellant, persons who opposed the application before the local government (or their

representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, determine that the appeal raises **no substantial issue** with respect to the grounds on which the appeal was filed because the City of Long Beach tree trimming policy is consistent with the City's certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

On January 11, 2021, the City approved Local Coastal Development Permit (LCDP) Case No. 2009-01/LCDP20-033 with conditions to establish a policy for annual and emergency tree trimming of all City-owned or maintained trees within the City's permit jurisdiction area of the coastal zone that is consistent with the Commission-approved Tree Trimming and Removal Policy for trees within the Commission's retained permit jurisdiction (CDP No. 5-08-187). The new coastal tree trimming policy includes, but is not limited to, requirements for bird nesting surveys, monitoring, best practices, and administrative procedures that are more specific than the policy contained in CDP No. 5-08-187. As described by the City, the intent of the policy is to ensure that necessary tree trimming for public safety is completed in accordance with the City's LCP, Coastal Act, Migratory Bird Treaty Act, and California Fish and Game Code.

While the Sierra Club Los Cerritos Wetlands Task Force (represented by Ann Cantrell and Anna Christensen), supports the City's effort to expand protections for trees and coastal birds, the appellant contends, generally, that certain elements of the policy are unclear or internally inconsistent and that additional protections should be added. More specifically, the appellant asserts that: the policy's appeal procedures are confusing, the tree replacement ratios are internally inconsistent, survey requirements should be more specific, monitoring reports should be reviewed by the Coastal Commission and the Sierra Club, existing data on bird nesting should be used by the City, and the policy should be more protective by specifying the percent of tree canopy that is allowed to be trimmed and modifying the dates of nesting season.

At the substantial issue stage of an appeal, the Commission accepts an appeal unless it raises no "substantial issue" as to conformity with the City's certified LCP or the public access policies of the Coastal Act, based on its evaluation of five substantial issue factors in Section 13115 of the Commission's regulations. It is not necessary for the Commission to determine that a local action is, in fact, consistent with the applicable standards of review. Nevertheless, here, the City's tree trimming policy is consistent with the City's certified LCP and the public access policies of the Coastal Act, as well as past Commission actions, and provides more specific protections for trees within the City's jurisdiction than exist currently or than exist within the Commission's jurisdiction. Therefore, on balance and after weighing the five substantial issue factors, the appeal does not raise a substantial issue as to its conformity with the certified LCP or the public access policies of the Coastal Act.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE 4
II. APPELLANT’S CONTENTIONS 4
III. LOCAL GOVERNMENT ACTION 5
IV. APPEAL PROCEDURES 5
V. FINDINGS AND DECLARATIONS – NO SUBSTANTIAL ISSUE 7
 A. PROJECT DESCRIPTION AND BACKGROUND 7
 B. LOCAL COASTAL PROGRAM CERTIFICATION 7
 C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS..... 8
 D. SUBSTANTIAL ISSUE ANALYSIS 8

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

EXHIBITS

- Exhibit 1 – Map of Applicable Areas
- Exhibit 2 – Appellant’s Letter
- Exhibit 3 – City-Approved Tree Trimming Policy

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

Motion: I move that the Commission determine that Appeal No. A-5-LOB-21-0016 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution: The Commission hereby finds that Appeal No. A-5-LOB-21-0016 presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.

II. APPELLANT’S CONTENTIONS

On February 8, 2021, an appeal was filed by Sierra Club Los Cerritos Wetlands Task Force, represented by Ann Cantrell and Anna Christensen (**Exhibit 2**). The appellant raises the following concerns with the City of Long Beach determination to approve the local CDP:

1. Section 4.a of the City’s policy (**Exhibit 3**) is unclear about when the policy would be amended to change the defined bird nesting season and, regardless, there is no set period of time when all birds build nests.
2. The policy should differentiate between surveys conducted prior to tree trimming and those conducted in order to collect data regarding nesting trees. Surveys should be conducted annually during nesting season. Tree replacement monitoring reports should consider past and present nesting data.
3. Tree trimming should be limited to 20% or less of the tree canopy in no more than 20% of the nesting trees every 2 years.
4. Section 13 is unclear about how the public will be noticed about when a given tree will be trimmed or removed and what the appeal period is.
5. Annual monitoring reports for replaced trees should be reviewed by Coastal Commission staff and the Sierra Club in addition to those entities listed in Section 14—the Department of Public Works, the Department of Parks, Recreation and Marine, and the Audubon Society.
6. Section 14 identifies a tree replacement ratio of 1:1 for breeding and nesting trees and 2:1 (replacement:removal) for trees known to have supported nesting. These are the same, so the 2:1 ratio should be used for all trees removed.

7. Section 16.a does not clarify when notice regarding proposed tree trimming/removal will be given and how long the onsite posting will be in place. The appellant requests notices and posting be conducted at least two weeks prior to the proposed work and that if the work is delayed more than two months, the tree should be reposted and new notices should be sent out.

III. LOCAL GOVERNMENT ACTION

On January 11, 2021, the City's Site Plan Review Committee and Zoning Administrator held a public hearing on Application No. 2009-01 (SPR20-025 and LCDP20-033) for the tree trimming policy and approved the local CDP, LCDP20-033, with conditions. In advance of the January 2021 hearing, the City had met with the appellant, Sierra Club on November 20, 2020, and Coastal Commission staff on December 1, 2020. During the January 11, 2021 hearing, in response to public comments, the City Zoning Administrator modified some of the conditions of approval to add posting and noticing requirements, expand the bird nesting season, supply the adopted policy to all contractors within 14 days of the conclusion of the appeal period, and allow for tree trimming at least every two years. Ann Cantrell and Anna Christensen were among those that provided testimony at the local hearing.

No local appeals were filed during the City's 10-day appeal period. The City's Notice of Final Local Action for Local CDP No. 2009-01/LCDP20-033 was received in the Coastal Commission's Long Beach Office on January 25, 2021, and the Coastal Commission's required ten working-day appeal period was established. The Zoning Administrator's decision was appealed to the Commission on February 8, 2021 by Sierra Club Los Cerritos Wetlands Task Force (Ann Cantrell and Anna Christensen) within the 10 working-day appeal period.

IV. APPEAL PROCEDURES

After certification of LCPs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on CDPs. Development approved by cities or counties may be appealed if it is located within certain geographic appealable areas, such as those located between the sea and the first public road paralleling the sea or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Section 30603 of the Coastal Act states in relevant part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:

- (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
- (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The City-approved tree trimming policy applies to all City-owned or maintained trees in the City's permitting jurisdiction of the coastal zone, including those areas described in Section 30603(a) of the Coastal Act. The City-approved tree trimming policy constitutes development located in the appealable area as defined in Section 30603(a) of the Coastal Act.

Grounds for Appeal and Hearing Procedure

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1):

- (b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

Section 30625(b)(2) of the Coastal Act requires a de novo review of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a). Here, for the reasons set forth more fully below, Commission staff recommends the Commission find that the appeal raises "no substantial issue." It requires a majority vote of Commissioners present at the hearing to find an appeal does not raise a substantial issue.

If the Commission finds the appeal raises a substantial issue, or if there is no motion from the Commission to find no substantial issue and a substantial issue is presumed, the Commission will proceed to the de novo portion of the public hearing on the merits of the project at a later date. During a de novo review of the merits of the project, the certified LCP would be the standard of review [Section 30604(b)]. In addition, for projects located between the first public road and the sea, a specific finding must be made at the de novo stage of the appeal that any approved project is consistent with the public access and recreation policies of the Coastal Act [Section 30604(c)]. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

Qualifications to Testify before the Commission

If the Commission, by a vote of three or more Commissioners, decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time

limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, appellant(s), persons who opposed the application before the local government (or their representatives), and the local government.

V. FINDINGS AND DECLARATIONS – NO SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND BACKGROUND

The City-approved LCDP establishes a policy for annual and emergency tree trimming of all City-owned or maintained trees within the City's permit jurisdiction area of the coastal zone (**Exhibit 1**). The conditions of the LCDP are the policy's provisions (**Exhibit 3**), which include requirements for bird nesting surveys, monitoring, best practices, and administrative procedures. As described by the City, the intent of the policy is to ensure that necessary tree trimming for public safety is completed in accordance with the City's LCP, Coastal Act, Migratory Bird Treaty Act (MBTA), and California Fish and Game Code. In fact, the first three policy provisions require compliance with the MBTA and the California Fish and Game Code, as well as compliance with the Commission-approved Tree Trimming and Removal Policy that applies to trees located within the Commission's retained jurisdiction (Tidelands) area, CDP No. 5-08-187.

Generally, like CDP No. 5-08-187, the policy prohibits tree trimming and removal during bird breeding and nesting season (January through September) unless the City, in consultation with a qualified arborist, determines that a public health and safety danger exists. If such a danger is determined to exist during nesting season, the policy lays out the survey, reporting, and trimming requirements. The City is required to proactively identify and address diseased, dying, or injured trees outside of the nesting season to avoid disturbances to roosting, breeding, or nesting birds. The City-approved policy goes beyond the requirements of CDP No. 5-08-187 to define public health and safety threats, specify survey report requirements, require evidence of compliance with the entire tree trimming policy prior to tree removal, identify noticing requirements and appeal procedures, specify tree replacement requirements (tree type and size), increase the tree replacement ratio for trees known to have supported nesting, and require annual reporting on replaced trees, which are required to be monitored for a period of at least five years.

B. LOCAL COASTAL PROGRAM CERTIFICATION

Long Beach is a coastal city in southern Los Angeles County. In 1980, the Coastal Commission certified the City's LCP, which is comprised of a Land Use Plan (LUP) and Implementation Plan (IP) made up of several stand-alone documents. The City of Long Beach LCP has been amended nearly 100 times since its original certification. For the subject appeal of LCDP20-033 approved by the City of Long Beach for development located within its permit jurisdiction area, the certified LCP, along with the public access policies of the Coastal Act, are the standard of review.

C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) of the Coastal Act. Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor. Staff is recommending that the Commission find that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

D. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government are the project’s conformity with the policies of the LCP and the public access policies of the Coastal Act. While the appellant does not directly tie its contentions to the policies of the LCP or the public policies of Chapter 3, the contentions center around the protection of coastal biological resources that are protected by the following LCP policies.

Introduction, *Coastal Resources*, section of the LCP document states:

The water resources of Alamitos Bay, Marine Stadium, Sims Pond, Colorado Lagoon, and Los Cerritos Wetlands are monitored, preserved, and enhanced by a formal set of policies promulgated by the Resources Management Plan. A balance between human use and ecological concerns is the principal theme of this Plan. The beaches are preserved in perpetuity by the dedication policy, and enhanced by limited development programs which will encourage sensible public use.

Preservation of Natural Resources, *Goal (g)*, of the open space policies states:

To preserve areas which serve as natural habitats for fish and wildlife species and which can be used for ecologic, scientific, and educational purposes.

Policy 2.4 of the Open Space and Recreation Element states:

A-5-LOB-21-0016 (City of Long Beach)
Appeal – No Substantial Issue

Preserve, enhance and manage open areas to sustain and support marine life habitats.

Program 1.1 of the Open Space and Recreation Element states:

Ensure compliance with all Federal and State laws which protect rare, threatened and endangered species.

The Long Beach coastal zone is highly urbanized; thus, coastal wildlife, including wading birds, have adapted to using landscaping, especially stands of tall and/or mature trees, as habitat. Wading bird species play an important role in maintaining a balanced marine ecosystem and while these habitat areas and the wading birds known to nest in trees within the coastal zone may not qualify as environmentally sensitive habitat area or rare, threatened, or endangered species, respectively, one of the main goals of the Long Beach LCP is to balance human use and ecological concern. In addition, the LCP requires compliance with Federal and State laws, like the Migratory Bird Treaty Act, which protect designated sensitive species.

The appellant raised seven contentions, which are listed in Section II of this staff report. Each contention is addressed in numerical order below.

1. Section 4 of the City-approved policy identifies the bird nesting season—January through September—and allows for future changes to the nesting season, as best available science evolves, pursuant to a permit amendment and Coastal Commission approval. The appellant contends that birds do not necessarily adhere to a specific nesting season and that this section is unclear about when the policy would be amended. While it is true that bird species may differ in observed breeding and nesting seasons and there may be instances in which birds might breed or nest outside of an identified season, the season defined in the City-approved tree trimming policy is more broad than nesting seasons used by other wildlife agencies and is consistent with the nesting season defined in CDP No. 5-08-187 that applies in the Coastal Commission's jurisdiction of the Long Beach coastal zone. In addition, bird breeding and nesting surveys must be conducted for any tree trimming or removal outside of the defined nesting season, so nesting would be observed at any time of year. Further, as approved, the nesting season could be changed pursuant to a permit amendment and Coastal Commission approval as best available science evolves, including if breeding and nesting seasons shift in response to climate change. Therefore, the City's approval of the nesting season is consistent with the wildlife and habitat protection policies of the LCP.
2. The City-approved policy also requires bird breeding and nesting surveys and annual survey reports. The appellant contends that the policy should differentiate between surveys conducted prior to tree trimming and those conducted to identify trees with active or inactive nests and suggests that annual surveys should be conducted during nesting season to develop a database of and accurate record of breeding, roosting, and nesting trees. The subject policy sets forth the requirements for tree trimming (and removal, if necessary) within portions of the City of Long Beach coastal zone. These requirements include

nesting and breeding bird surveys prior to any maintenance work on the trees covered by the policy (tree trimming/removal). As stated in the policy, the data from the surveys (prior to any tree trimming or removal), survey reports (required for any necessary trimming or removal during nesting season), and annual monitoring reports (required for replacement trees) will be publicly available and used “to determine baseline data for future tree trimming and removal decision making” (Section 14).

The appellant also contends that the tree replacement monitoring reports should consider past and present data, not just the data that will be collected upon adoption of this policy. Considering the known roosting and nest fidelity of wading birds, CDP No. 5-08-187, which is incorporated into the City-approved tree trimming policy, acknowledges that any trees that have been used for breeding or nesting within five years require special consideration. The policy, as approved by the City, does not allow the removal or disturbance of any branches or trees that have supported an active nest within five years; thereby necessitating review of any nesting data (old and new) within five years of the proposed tree trimming.

The City’s newly adopted policy also requires, through required compliance with CDP No. 5-08-187, that the City proactively identify and address trees that may cause public safety hazards outside of the nesting season to avoid habitat disturbances during nesting season. Any surveys conducted consistent with this provision are separate from those conducted prior to tree trimming. In addition, the annual monitoring reports are not reports of annual surveys of all City trees within its jurisdiction, but rather reports on the health and suitability of replacement trees for roosting, breeding, or nesting habitat. As approved by the City, the tree trimming policy requires surveys conducted during nesting season, as well as outside nesting season that will provide data about bird activities to protect their habitat in the Long Beach coastal zone.

3. The appellant also suggests that tree trimming should be limited to 20% or less of the tree canopy in no more than 20% of nesting trees every two years. CDP No. 5-08-187, which is incorporated into the City-approved policy, requires trimming outside of nesting season to be monitored by a qualified biologist or ornithologist and not to disturb any inactive nests. No tree maintenance is allowed if active nests are found. In addition, Section 8.d of the new policy requires tree trimming during nesting season to be the “minimum necessary to address the health and safety danger while avoiding or minimizing impacts to breeding or nesting birds and their habitat” and requires such work to be conducted on a two-year rotating basis. As approved by the City, the tree trimming policy is consistent with and more specific than past Commission actions that protect bird roosting, breeding and nesting habitat.
4. The appellant states that Section 13 is unclear about how the public will be noticed about when a given tree will be trimmed or removed and what the appeal period is. Section 13 states that any appeals that are filed relating to the tree trimming policy, such as the subject appeal, must be finalized before tree

requests for tree trimming/removal pursuant to the appealed LCDP can be submitted. The appellant's questions relating to appeals and noticing is defined in Section 16 of the City-approved policy (see #7, below).

5. Section 14 of the new tree trimming policy outlines the requirements for the replacement of removed trees, which include a five-year monitoring program and annual monitoring reports. Pursuant to the policy, the reports must be submitted for the review and approval of the Director of the Department of Public Works, Director of the Parks, Recreation and Marine, and a representative of the Audubon Society and provided to the Executive Director of the Coastal Commission. The appellant requests that the Sierra Club and Coastal Commission be added to the list of reviewing agencies and organizations. This contention does not raise issues related to consistency with the certified LCP or the public access policies of the Coastal Act. In any case, the reports are public documents that will be available for review upon request.
6. Section 14 also includes replacement ratios for removed trees. The appellant asserts that the two ratios identified in the policy are inconsistent and only the higher replacement ratio should be used. The new tree trimming policy, as well as CDP No. 5-08-187, identifies a tree replacement ratio of 1:1 (one replacement tree for each tree removed) for "any breeding and nesting tree." This means a 1:1 replacement for any tree that could support bird breeding or nesting. In addition, the new City-adopted tree trimming policy includes a 2:1 tree replacement ratio for any "trees that were known to have supported nesting;" in other words, those with documented nests. As adopted by the City, the new policy provides more habitat for nesting birds and is consistent with the LCP policies protecting coastal habitat.
7. Similar to #4 above, the appellant contends that Section 16.a does not clarify when notice regarding proposed tree trimming/removal will be given and how long the onsite posting will be in place. The appellant also requests that noticing and posting be provided at least two weeks prior to the proposed tree maintenance and that if the work is delayed more than two months, the tree should be reposted and new notices should be sent out. Pursuant to this section of the new tree trimming policy, posted notice is required prior to and during tree trimming and notices must be provided to the appropriate Council District office, as well as property owners within 300 feet of the subject tree(s). In addition, there is a required 10-working day appeal period during which the City's action to approve proposed tree trimming/removal can be appealed to the City's Tree Committee; thus, posting/noticing must occur at least 10-working days prior to the proposed development. This noticing procedure does not conflict with the noticing requirements outlined in the City's certified LCP.

The City-approved policy goes beyond the Commission-approved resource protections in CDP No. 5-08-187 to avoid or minimize potential impacts to coastal habitat, while protecting public safety. The additional and more specific habitat and wildlife protections, including providing two replacement trees for any trees removed that were

known to have supported nesting, are consistent with the LCP policies that require a balance of human use with ecological concerns and preservation of habitat and open space areas that support wildlife/marine life. In addition, as approved by the City, the new policy requires compliance with the MBTA and California Fish and Game Code and is, thus, consistent with Program 1.1 of the certified Open Space and Recreation Element of the LCP. Therefore, the appeal does not raise a substantial issue as to the consistency of City-approved tree trimming policy with the biological resource protection policies of the certified LCP.

SUBSTANTIAL ISSUE FACTORS:

The Commission typically applies five factors in making a determination whether an appeal raises a substantial issue pursuant to Section 30625(b)(2).

- 1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act.** The City’s findings for approval of LCDP20-033 include a statement that the intent of the tree trimming policy is to expand protections for coastal bird species and habitat and comply, in part, with the City’s certified LCP and the Coastal Act. Regarding compliance with the public access and recreation policies of the Coastal Act, the City included a provision in the tree trimming policy that prohibits any construction staging, equipment, or materials from impeding coastal access. In addition, the City found that in requiring compliance with Commission-approved CDP No. 5-08-187, the new policy is also consistent with the Coastal Act. Furthermore, the City found that, as conditioned to comply with other state and federal laws and include best management practices in the description of any proposed work, the policy is consistent with the LCP policies relating to water quality and bluff stability. For the reasons discussed above, incorporated herein by reference, the Commission finds that the City provided an adequate degree of factual and legal support for its decision to approve the new tree trimming policy as consistent with the City’s certified LCP.
- 2. The extent and scope of the development as approved or denied by the local government.** The City’s decision resulted in the approval of a policy that limits maintenance of City-owned or maintained trees within the coastal zone in order to avoid or minimize impacts to coastal bird species and habitat provided by trees. The policy applies within the City’s permit jurisdiction of the coastal zone, which, as shown in **Exhibit 1** of this staff report, is the majority of the coastal zone in Long Beach. The new tree trimming policy is consistent with a similar policy that applies to trees within the Commission’s retained jurisdiction. While the local CDP only applies to tree trimming and removal activities, it will apply in a broad area of the Long Beach coastal zone and has been designed to minimize impacts to birds, other wildlife, and their habitat. Thus, the extent and scope of the policy is not insignificant.
- 3. The significance of the coastal resources affected by the decision.** In southern California, there has been a significant decline in wetland and coastal habitat and many such areas have been replaced by marinas or otherwise reduced due to

urban development and encroachment. As a result, many bird species have adapted to use urban landscaping, including stands of palm trees, in areas near wetlands, coastal waters, and other open spaces. Bird species that frequent coastal Long Beach and may use urban trees and other vegetation for foraging, roosting, or nesting activities include wading birds (great blue herons and snowy egrets), owls, and raptors. In particular, herons and egrets have adapted by relocating their roosting and nesting sites to stands of tall non-native pines, palms, ficus, and coral trees within highly developed areas. These species play a key role in maintaining an ecological balance that serves to sustain the biological productivity of coastal environments and maintain healthy populations of marine and coastal species. The subject City-approved policy is designed to minimize impacts of necessary tree trimming and removal in the City's coastal zone on these bird species and their habitat.

- 4. The precedential value of the local government's decision for future interpretations of its LCP.** The City's certified LCP includes policies that generally protect coastal ecosystems, including wildlife, habitat area, and open space. The City-approved LCDP implements a policy that specifies methods of protecting coastal wildlife and habitat. As such, it sets a positive precedent for interpretation of the City's LCP and is consistent with past Commission interpretations of the Coastal Act and LCP in approving CDP No. 5-08-187.
- 5. Whether the appeal raises local issues, or those of regional or statewide significance.** For the reasons described in the third factor, above, protection of coastal bird species and their habitat are primarily issues of local significance. However, while the appellant supports the overall intent of the policy, the appeal mostly requests clarification of provisions of the policy, as well as inclusion of additional requirements. For the reasons described above, the Commission finds that the City-approved policy is well-supported factually and legally and neither further clarification nor additional provisions are necessary. Therefore, the City's approval of LCDP20-033 does not raise issues of regional or statewide significance.

In conclusion, on balance and after consideration of the substantial issue factors in Section 13115 of the Commission's regulations, the Commission finds that the appeal does not raise a substantial issue as to the City-approved project's conformity with the City's certified LCP or the public access policies of the Coastal Act.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- CDP No. 5-08-187
- LCDP20-033