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STAFF REPORT: REGULAR CALENDAR

Application No.: 1-21-0770

Applicant: Trinidad Rancheria

Project Location: Trinidad Harbor and Launcher Beach, 1 Bay Street, Trinidad, Humboldt County

Project Description: Upgrade Trinidad Harbor parking lot and Launcher Beach boat ramp to manage stormwater runoff, reduce discharge to Trinidad Bay and Trinidad Head Area of Special Biological Significance, and repair eroded portion of riprap at Trinidad Harbor, Trinidad

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends **approval** of CDP application 1-21-0770, as conditioned.

The Trinidad Rancheria proposes to improve water quality, public access, and recreational boating opportunities in the Trinidad Harbor by retrofitting and replacing the existing Trinidad Harbor asphalt parking lot with Low Impact Development (LID) design features (including bioswales, rain gardens, permeable pavers, and other stormwater infiltration facilities) to manage stormwater runoff and reduce pollutant discharge from the harbor parking lot. The proposed development has been designed to address State Water Resources Control Board (SWRCB) water quality requirements for discharges

from the Trinidad harbor and pier facilities to the Trinidad Head Area of Special Biological Significance (ASBS).

The applicant also proposes to repair and maintain eroded rip rap along a portion of the Launcher Beach shoreline by retrieving and removing approximately 185 cubic yards of displaced and unwanted concrete rubble rock slope protection (RSP) and replacing removed concrete rubble with up to 178 cubic yards of natural boulder material imported from a local quarry. All work would occur within a portion (approximately 2,200-square-foot area) of the larger, approximately 4,600-square-foot existing riprapped boat launch facility. The proposed development will not include the addition of filter fabric, nor will there be any increase in the height and size of the revetment. The scope and scale of the project is considered repair and maintenance under Section 13252(b) of the Commission's regulations and only the method of such repair is subject to this permit.

Construction activities would occur adjacent to Trinidad Bay and require heavy machinery within the developed area of the parking lot as well as in the intertidal zone during low tide. Although all new material will be placed above the MHHW and within the existing RSP footprint, it is estimated that approximately seven (7) cubic yards of scattered and displaced concrete rubble will be retrieved and removed from an embedded depth of approximately three feet below the Mean High Water (MHW) elevation of 5.8 feet (NAVD88). To ensure protection of marine and coastal resources, the applicant has proposed construction practices, as memorialized in [Special Condition 4](#), that address: construction timing during low tides and during the dry season; proper equipment, materials, and waste handling practices for containment that avoids all discharge to coastal waters; and trash, debris, and materials removal and storage protocols. In addition, [Special Condition 4](#) addresses hazardous materials management which requires the applicant to undertake measures that ensure that fuels, lubricants, and solvents do not enter Trinidad Bay. This includes that heavy machinery used to retrieve the fugitive rock use non-petroleum alternative fuels.

Landscaping and planting of native plants in the bioswale and rain gardens is part of the proposed project. The applicant has proposed to provide a detailed planting plan for the final design submittal. In accordance with the applicant's proposal and to ensure that the bioswale and rain gardens will be visually compatible with the character of their immediate surroundings, the Commission attaches [Special Condition 13](#). The special condition requires the submittal of a landscaping plan for the review and approval of the Executive Director that provides for the planting and maintenance of native plant species that will be visually compatible with the surrounding area. The applicant also proposes that plant species will be native in origin and sourced when appropriate from an ecologically similar site. In accordance with the applicant's proposal, the staff recommendation requires that only native and/or non-invasive plant species be planted at the site.

Although public access will be temporarily affected during project construction, the proposed project, when completed, will enhance coastal access and recreational facilities. Retrieval and removal of concrete rubble will enhance the public's ability to use the entire sandy beach area and coastal waters and improve beach aesthetics.

Additionally, the proposed project will improve the access to Launcher Beach by removing impervious asphalt concrete and concrete rubble and installing a permeable concrete block mat for the beach access. Improvements to the access point will address erosion of the access road and make the beach more accessible. To reduce temporary impacts to public access, the applicant's general construction plan includes a phased approach to construction which divides the project into four construction zones. To minimize impacts to recreational uses during construction, the applicant has proposed that kayaks will be allowed to launch using the beach access trail between the Trinidad pier and Seascape Restaurant while construction in Zone One takes place. This will allow the public to launch boats that can be carried down the trail to the beach but will not allow for vehicle access to the water. Larger boats will be able to launch throughout construction using the Rancheria's boat launch rail for which a fee is charged.

To ensure that the project's impact on public access and recreational boating is temporary and minimized, staff recommends [Special Condition 9](#) requiring submittal of a public access plan prior to permit issuance for the Executive Director's review and approval. Among other requirements, [Special Condition 9](#) requires that the applicant limit closures of the access to Launcher Beach to less than 30 days, post adequate signage to inform the public of the closures and alternative boat and kayak launching sites, and provide a temporary pedestrian detour as proposed. [Special Condition 9](#) also requires the applicant to submit a site plan showing the route of the detour around the construction areas within the harbor and where barriers and signage will be installed.

Also, due to the site's proximity to the ocean and potential for future flooding, [Special Condition 10](#) requires the applicants to acknowledge the hazards present on-site, assume the risk of such hazards, and accept full liability for developing in a hazardous location.

Staff believes that the project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act.

The motion to adopt the staff recommendation of approval with conditions is found on [page 5](#).

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[Exhibit 4 – Extents of riprap maintenance](#)

[Exhibit 5 – Site photos](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit No. 1-21-0770 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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 to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Evidence of Legal Ability of Applicant to Undertake Development and Comply with Conditions of Approval.**
 - A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-21-0770, the applicant shall submit, for the review and approval of the Executive Director, evidence that clearly demonstrates that the City of Trinidad has agreed in writing that the permittee may undertake development on the Bay Street and Galindo Street rights-of-way pursuant to Coastal Development Permit 1-21-0770 and as conditioned by the Commission herein; and
 - B. PRIOR TO COMMENCEMENT OF CONSTRUCTION WITHIN EITHER BAY STREET OR GALINDO STREET RIGHTS-OF-WAY, the permittee shall submit for the review and approval of the Executive Director, evidence that the needed encroachment permit for that right-of-way has been obtained from the right-of-way holder, or evidence that no such encroachment permit is required. The encroachment permit or exemption shall provide evidence of the ability of the permittee to develop within the applicable City right-of-way, as conditioned herein. The permittee shall inform the Executive Director of any changes to the project required by either Caltrans or the County. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
2. **Property Owner Notification.** NOT LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF WORK AT THE PROJECT SITE, Permittee shall provide the City of Trinidad with written notice of project construction dates.
3. **Submittal of Final Construction Plans.**
 - A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-21-0770, the permittee shall submit, for the review and approval of the Executive Director, a set of final construction plans that are consistent with all special conditions of this coastal development permit and that substantially conform with “Appendix C- Design Plans and Special Provisions” prepared by Pacific Watershed Associates, and as submitted to the Commission on April 26, 2022 and including: (a) Sheets C1 through C-11 of the plans dated February 2020 as depicted in [Exhibit 3](#); and (b) associated Special Provisions Sheets SP-1 through SP-38.

- B. The approved development shall substantially conform to the approved final construction 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 legally required.

4. Construction Responsibilities. The permittee shall comply with the following construction-related requirements:

A. General Construction Responsibilities:

- i. Cobbles or shoreline rocks shall not be used for construction material; and
- ii. Machinery and construction materials not essential for project improvements are prohibited at all times along the shoreline, including subtidal or intertidal zones.

B. Timing of Construction:

- i. Maintenance activities involving removal of concrete rubble below the high-water mark shall be timed to occur during low tides to avoid any in-water work;
- ii. All work shall occur during the dry season and specifically between June 1 and October 30, as specified in Item 3 of the Permission Letter and Agreement by and between City of Trinidad and Trinidad Rancheria and approved by the City Council on August 10, 2021; and
- iii. All ground-disturbing activities shall occur during dry weather only. No work shall occur within 72 hours of 50% or greater forecast of rain by the National Weather Service.

C. Erosion, Runoff, and Sediment Control:

- i. No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to entering Trinidad Bay. All onsite stockpiles of soil and construction debris shall be contained at all times to minimize discharge of sediment and other pollutants;
- ii. If rainfall is forecasted during the time construction activities are being performed, all onsite stockpiles of soil and construction debris shall be covered and secured, and fiber rolls shall be placed around all disturbed areas before the onset of precipitation;
- iii. Silt screens and/or coir-rolls appropriate for use in shoreline applications shall be installed around the perimeter of the areas to be graded and/or excavated prior to the initiation of grading or

excavation activities and shall be maintained throughout project construction. Additional silt and sediment barrier materials shall be kept at the site and deployed as needed to reinforce sediment containment structures should unseasonable rainfall occur;

- iv. Only wildlife-friendly 100% biodegradable erosion control products that will not entrap or harm wildlife shall be used. Erosion control products shall not contain synthetic (that is, plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable.

D. Debris Disposal:

- i. During construction, all trash shall be removed from the work site and disposed of on a regular basis. Any and all spoils and debris resulting from construction activities shall be removed from the project site and disposed of consistent with the final Debris Disposal Plan approved pursuant to Special Condition 6 within 10 days of project completion and/ or prior to the onset of the rainy season, whichever is earlier.
- ii. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash, or construction materials remain on land or in the water, and that the project has not created any hazard to navigation.

E. Hazardous Materials Management

- i. Fuels, lubricants, and solvents shall not be allowed to enter Trinidad Bay. All equipment used during construction shall be free of oil and fuel leaks at all times. Staging, fueling and equipment maintenance shall occur in designated staging areas at least 100 feet away from the high-water mark. Within staging areas, refueling will occur on a pad to capture any drips or spills. Equipment washing if necessary shall occur offsite.
- ii. Treated wood and treated wood debris shall be stored a minimum of 50 feet from coastal waters, drainage courses, and storm drain inlets. The treated wood and treated wood debris shall be stored on impervious pavement or an impervious tarp and covered during rain events.
- iii. If treated wood is sanded or sawcut during demolition, installation, or maintenance, all sawdust and debris generated shall be contained and removed.
- iv. Vegetable oil-based hydraulic fluids shall be used in heavy equipment used in, over, or adjacent to coastal waters, if feasible, for demolition and construction activities lasting one week or longer. Standard hydraulic fluids are based on petroleum products, and due to their high aquatic toxicity they pose a risk if leaked or spilled in or

near sensitive aquatic habitats. Vegetable oil-based hydraulic fluids are formulated for rapid biodegradability and low aquatic toxicity, and do not bioaccumulate in aquatic organisms.

- v. Biodiesel fuel shall be used in heavy equipment used in, over, or adjacent to coastal waters, if feasible, for demolition and construction activities lasting one week or longer. Diesel fuel may leak or spill from heavy equipment and vehicles used in construction and demolition, and where these activities take place near coastal waters, diesel poses a risk of aquatic toxicity. Biodiesel is a non-petroleum alternative fuel that is less toxic than diesel fuel and can be used in construction equipment and vehicles operating near sensitive aquatic habitats.
- vi. All equipment used during construction shall be free of leaks at all times; and
- vii. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available and immediately on-hand at the project site. A registered first-response, professional, hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be contained rapidly and cleaned up. In the event of a spill, the permittee shall notify the appropriate regulatory agencies immediately.

F. Concrete Paving and Grinding Operations:

- i. BMPs for concrete paving and grinding operations and storm drain inlet protection shall be employed to prevent concrete grindings, concrete slurry, and paving rinseate from entering drop inlets or sheet-flowing into coastal waters. No concrete will be poured below the high-water mark.

5. Final Erosion and Sediment Control and Pollution Prevention Plan. NOT LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit, for the review and approval of the Executive Director, a final Erosion and Sediment Control and Pollution Prevention Plan consistent with all special conditions of this coastal development permit and that substantially conforms with the progress plot Sheet C11 prepared by Pacific Watershed Associates and dated February 2020 (page 11 of [Exhibit 3](#)).

- A. The final plan shall demonstrate that temporary impacts to the biological productivity and quality of nearby coastal waters shall be minimized during construction activities consistent with the provisions of Special Condition 4.
- B. The final plan shall include, at a minimum, the following required components:
 - i. A construction site map delineating the construction site, and the location of all temporary construction-phase BMPs (including silt

fences, fiber rolls, and inlet protection), staging and stockpiling areas, vehicle and equipment maintenance and fueling areas, and concrete washout areas;

- ii. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities; and
 - iii. A schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training).
- C. The permittee shall undertake development in accordance with the approved final Erosion and Sediment Control and Pollution Prevention Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Debris Disposal Plan.

- A. NOT LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit, for the review and written approval of the Executive Director, a final Debris Disposal Plan for the disposal of excess construction and demolition debris and excavated soils. The plan shall demonstrate at a minimum that all construction debris, including general wastes from the removed asphalt and concrete rubble and creosote pilings or any other treated wood waste, shall be removed and disposed of in an upland location outside of the coastal zone or at a disposal facility authorized to accept such debris and any contaminants contained within the debris.
- B. The permittee shall undertake development in accordance with the approved final Debris Disposal Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Maintenance Plan for LID Features Providing Stormwater Treatment and Runoff Control

- A. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit, for the review and written approval of the Executive Director, a final plan for the maintenance of the low impact design features that will provide stormwater treatment and runoff control for stormwater runoff from in the Trinidad Harbor parking lot as depicted in [Exhibit 3](#) of the staff recommendation and in Appendix D of the 65% Draft Basis of Design

Report dated July 22, 2021 and prepared by Pacific Watershed Associates.
The plan shall demonstrate the following:

- i. Monitoring & Maintenance:
 - a. All vegetation planted within the Trinidad Harbor parking lot shall be maintained in a healthy growing condition throughout the life of the project and shall be promptly replaced with new vegetation whenever necessary.
 - b. Only native plant species shall be planted within the Trinidad Harbor parking lot. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or the State of California shall be planted or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Government shall be planted or allowed to naturalize or persist within the Trinidad Harbor parking lot.
 - c. The bio-retention basin shall be maintained in a litter-free and weed-free condition throughout the life of the project.
 - d. The use of landscaping chemicals (i.e., pesticides, herbicides, and fertilizers) in maintenance of the Trinidad Harbor parking lot shall be minimized to the extent feasible, to minimize the discharge of pollutants to coastal waters.
 - e. All drains, inlets, and overflows shall be kept free of litter, landscaping debris, and any other material that may clog the feature.
 - f. Routine maintenance of the stormwater improvement features shall be conducted before each rainy season and after the first heavy rain, at a minimum, including a visual inspection of the features to ensure they are free of litter and weeds, the planted vegetation is in a healthy growing condition, and all inlets, drains, and overflows are kept free of foreign material.
 - ii. Documentation: The Permittee shall keep a maintenance log for the stormwater improvement features that documents all inspections and maintenance activities that have been conducted. Any corrective actions, repairs, or replacements shall be documented in the maintenance log. The log shall be available for inspection upon request by the Executive Director of the Coastal Commission.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur

without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 8. Future Maintenance.** The permittee shall maintain the existing revetment in its approved state and shall carry out periodic revetment maintenance on an as-needed basis. Any change in the design of the revetment or future additions or reinforcement of the revetment will require a coastal development permit or amendment. However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, the permittee shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance.

The applicant agrees to remove (or deposit on the revetment) any debris, rock, or other materials from the beach which become dislodged after completion of the approved repair and maintenance through weathering, wave action, settlement, or other action, on an as-needed basis and promptly so as to minimize impacts to the beach and coastal resources, subject to the permitting requirements listed above.

9. Public Access Plan for Project Construction.

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-21-0770, the permittee shall submit, for the review and approval of the Executive Director, a Public Access Plan to minimize public access impacts during and following construction activities authorized under this coastal development permit.

i. The plan shall demonstrate that:

- a. The duration of closure of access to Launcher Beach for construction-related public safety purposes shall be minimized and shall not exceed 30 days in total, unless the Executive Director grants in writing for good cause additional time as needed;
- b. Pedestrian and recreational boating access to the Trinidad Pier and Boat Launch shall be temporarily rerouted around project construction in order to provide a clear, continuous path for users throughout construction; and
- c. Adequate signage shall be posted informing the public about the temporary rerouting of access, temporary closure of Launcher Beach, and alternative nearby boat and kayak launching sites.

ii. The plan shall include, at a minimum, the following components:

- a. A narrative description of the proposed temporary access control measures to be used;

- b. Depictions of the dimensions and content of signage informing the public of the changes to public access during project construction activities;
- c. A public communications program to be used for notifying the public of construction scheduling, parking closures, and alternative accessways to be used during construction;
- d. A site plan showing the route of the detour around the construction areas, where any proposed temporary access barriers would be installed, and where signage would be placed;
- e. A schedule of the estimated dates when the proposed temporary access control measures would be installed/implemented and removed/terminated; and
- f. A final parking lot re-striping plan depicting a minimum of 71 parking spaces (including 66 spaces within the main parking area and 5 spaces by the pier) and pedestrian access (e.g., crosswalk striping and/or other delineated access routes) within the main parking area.

B. The permittee shall undertake development in accordance with the approved final Public Access Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

10. Assumption of Risk, Waiver of Liability and Indemnity.

A. By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to ground shaking, liquefaction, wave run-up, storm surges, flooding, and erosion, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

11. Area of Archaeological Significance.

- A. AT LEAST TWO WEEKS PRIOR TO COMMENCEMENT OF GROUND-DISTURBING ACTIVITIES AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-21-0770,
- i. The permittee shall notify the appropriate archaeological and cultural monitors with expertise in cultural values of the Tsurai Village, including representatives from the Trinidad Rancheria, Tsurai Ancestral Society, and the Yurok Tribe, and the Tribal Historical Preservation Officers (THPOs) from the Trinidad Rancheria and the Yurok Tribe of the construction schedule and invite tribal representative(s) to be present to observe ground-disturbing activities if deemed necessary by the THPOs.
 - ii. A temporary protective barrier consisting of environmental sensitive area fencing, orange construction fencing, or other exclusionary symbology mutually acceptable to the Trinidad Rancheria, Yurok Tribe, and Tsurai Ancestral Society shall be installed between the eastern edge of project construction limits and the toe of the hillslope west of Edwards Street;
- B. The applicant shall also comply with the following monitoring conditions during construction:
- i. All work authorized by Coastal Development Permit 1-21-0770 shall be conducted under the observation of appropriate archaeological and cultural monitors with expertise in cultural values of the Tsurai Village, including representatives from the Trinidad Rancheria, Tsurai Ancestral Society, and the Yurok Tribe, unless evidence has been submitted for the review and approval of the Executive Director that the THPOs of these entities have agreed that a cultural resources monitor need not be present.
 - ii. The Archaeological monitor(s) required under section B(i) above shall be qualified by the California Office of Historic Preservation (OHP) standards, and appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project demolition, grading, excavation work, site preparation or landscaping activities associated with the approved development.
- C. If an area of cultural deposits or human remains is discovered during the course of the project, the Permittee shall comply with all of the following:
- i. All construction within 50 feet of the discovery shall cease and shall not re-commence except as provided in subsection (ii) hereof, and the permittee shall retain a qualified cultural resources specialist to analyze the significance of the find in consultation with the the

Trinidad Rancheria THPO, the Yurok THPO, and the Tsurai Ancestral Society A minimum 50-foot exclusion zone where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area.

- ii. A permittee seeking to recommence construction within the exclusion zone following the inadvertent discovery shall submit a Supplementary Archaeological Plan (SAP) prepared by the cultural resources specialist identifying any necessary changes to the project for the review and approval of the Executive Director. If the Executive Director determines that the SAP's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope and approves the SAP, construction may recommence after this determination is made by the Executive Director in writing. If the Executive Director determines that the changes therein are not de minimis, construction may not recommence until after a further amendment to this permit is approved by the Commission.

12. Lighting Restrictions.

- A. All exterior lights shall be the minimum necessary for the safe ingress, egress, and use of the Trinidad Harbor parking area, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel.
- B. All lighting fixtures shall be the minimum lumens required for safety and security. No non-security or non-safety lighting and no lighting for aesthetic purposes is allowed.
- C. Stand-alone light fixtures shall be limited to a maximum height of 20 feet.

13. Final Landscaping Plans. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit, for the review and written approval of the Executive Director, a final landscaping plan that substantially conforms with the preliminary revegetation plan as depicted in Section 21 ("Revegetation") of "Appendix C- Design Plans and Special Provisions" prepared by Pacific Watershed Associates, and as submitted to the Commission on April 26, 2022.

- A. The plan shall be prepared by a qualified landscape professional and shall include the following:
 - i. All disturbed areas on the project site shall be planted and maintained for erosion control purposes within (60) days after construction is completed.

- ii. A plan showing the type, size, extent and location of all plant materials used.
 - iii. All landscaping shall consist of native species. All native plant species shall be of local genetic stock. All plants used on the project site shall be drought tolerant.
 - iv. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
 - v. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
 - vi. Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used on the property.
- B. The permittee shall undertake development in accordance with the approved final Landscaping Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Environmental Setting

Proposed Project

The Cher-Ae Heights Indian Community of the Trinidad Rancheria (hereafter referred to as Trinidad Rancheria) proposes retrofitting and replacing the existing Trinidad Harbor parking lot with Low Impact Development (LID) design features to manage stormwater runoff and pollutant discharge from the parking lot. The stated purpose of the proposed work is to improve water quality and address the non-point source pollution associated with runoff from the Trinidad Harbor parking lot. In 2005, the Trinidad Rancheria was identified as a Prohibited Discharger and received a Cease and Desist Order from the State Water Resources Control Board (SWRCB) for discharges from the Trinidad harbor and pier facilities to the Trinidad Head Area of Special Biological Significance

(ASBS; page 2 of [Exhibit 2](#)). Public funding supporting the project has been awarded from the SWRCB's Stormwater Grant Program¹. The proposed LID features are designed to accommodate the 85th percentile 24-hour storm event and will aid in the removal of pollutants and reduction of stormwater runoff by capturing and infiltrating surface runoff from the parking area and associated infrastructure.

In addition to removing approximately 6,200 square feet of asphalt concrete and associated impervious surfaces, the proposed project involves constructing and installing the following developments: (1) a 430-foot-long bioswale along the northeast edge of the parking lot; (2) a small 375-square-foot rain garden near the Seascape Restaurant and a larger 3,835-square-foot rain garden in the northwest central area of the parking lot; (3) 4,510 square feet of permeable pavers; (4) 645 feet of curbs; (5) a 740-foot-long ribbon drain system; (6) four (4) speed humps to control and direct stormwater into the new LID stormwater infiltration facilities; and (7) 1,700 square feet of permeable concrete block mat at the boat launch area. Refer to [Exhibit 3](#) for details. Once installed, the speed humps, gutters, linear trench "ribbon" drains, and curbing will collect and redirect stormwater into proposed rain gardens, bioswale, and other infiltration features. Demolition of existing infrastructure (i.e., removal of asphalt concrete) and construction of all LID features will occur within upland portions of the harbor properties and above the Mean Higher High Water (MHHW) level of 6.48 feet (NAVD88) near Launcher Beach. Additional details of certain project components are further described below.

The applicant also proposes to repair and maintain eroded rip rap along a portion of the Launcher Beach shoreline by removing approximately 185 cubic yards of displaced and unwanted concrete rubble rock slope protection (RSP) and replacing removed concrete rubble with up to 178 cubic yards of natural boulder material imported from a local quarry. The proposed repair and maintenance work would occur within a portion (approximately 2,200-square-foot area) of the approximately 4,600-square-foot existing riprapped area, as further detailed below in **Finding IV.F** ("Permit Authority for Extraordinary Methods of Repair and Maintenance"). Although all new material will be placed above the MHHW and within the existing RSP footprint, it is estimated that approximately seven (7) cubic yards of scattered and displaced concrete rubble will be retrieved and removed from an embedded depth of approximately three feet below the Mean High Water (MHW) elevation of 5.8 feet (NAVD88). No rubble removal (or RSP placement) will occur within five (5) feet of the rails and pilings that make up the boat launch.

Bioswale

The proposed seven-foot-wide and 430-foot long bioswale runs along the base of the hillslope on the northeastern edge of the site (page 8 of [Exhibit 3](#)). The bioswale

¹ State Water Resources Control Board Proposition 1 Storm Water Grant Program funding includes an award of \$1,215,000 to Trinidad Rancheria for its Trinidad Harbor ASBS SW Runoff Management and Green Infrastructure Project, executed in 2018 (Agreement No. D1712651): https://www.waterboards.ca.gov/board_info/agendas/2018/nov/final_ed_rpt_112818.pdf

consists of segmented, internal cells that are each separated by log or rock weirs and a waterproof geotextile from the adjacent cell. The cells are designed to retain up to six inches of stormwater before spilling into the next cell and this partitioning is meant to ensure that stormwater will infiltrate across the length of the bioswale. The bioswale will have an overall depth of three (3) feet including a 12-inch layer of No. 4 drain rock, and a 12-inch layer of soil mix. The bioswale is sized to capture and store 26,146 gallons of stormwater runoff and will be planted with locally native plant species as proposed in the preliminary Revegetation Plan prepared for the project.

Rain Gardens

The small rain garden is located west of the Seascope Restaurant and is designed to catch and infiltrate stormwater from the roof of the restaurant. This rain garden will be planted with locally native species and will have a storage capacity of 3,271 gallons. The large rain garden will be located in the center of the Harbor parking lot, will be 195 feet long and will be supported by a concrete block retaining wall on the downslope side. The rain garden will also be divided into three cells using concrete retaining walls, an overflow drain system will transfer stormwater between cells. The large rain garden will also be planted with native species and is designed to have a storage capacity of 34,949 gallons.

Permeable Pavers

The proposed permeable pavement system includes installing 4,510 square feet of permeable pavers on the lower end of the parking lot just west of the proposed concrete block mat. The overall design depth of 1.83 feet includes three layers of gravel and a layer of geotextile fabric designed to achieve a storage capacity of 17,711 gallons of stormwater runoff.

Permeable Concrete Block Mat

The applicant proposes removing a portion of the asphalt concrete pavement from within the parking area and installing approximately 1,700 square feet of an Articulating Concrete Block (ACB) mat system at the east end of the parking lot and the ramp entrance to Launcher Beach. The proposed block mat is intended to capture and infiltrate 100% of stormwater runoff within a 24-hour design storm, while providing a structurally stable surface for boat launching traffic. Installation involves foundation preparation with placement of a gravel base, then placement of filter fabric underneath ACB mats. The permeable block mat will replace a portion of the existing impermeable asphalt concrete surface and following completion is anticipated to store 1,134 gallons of stormwater runoff in the interstitial spaces of the open cell concrete blocks, open graded base, and native soil below.

Environmental Setting

The project site is located at Trinidad Harbor on Trinidad Bay, in the City of Trinidad, between the landforms of Trinidad Head and Little (Trinidad) Head (see [Exhibits 1-3](#)). The site is within the privately owned harbor complex, which includes among other features: the approximately 540-foot-long Trinidad Pier, Seascope Restaurant, a bait shop, two former residences used as vacation rentals, a gift and tackle shop, boat

launch facilities, storage sheds, public restrooms, and a public parking lot. Additionally, a replica lighthouse (referred to as Trinidad Memorial Lighthouse) and bell have been temporarily situated within the harbor parking lot since 2017.²

The Trinidad Rancheria purchased the harbor properties and improvements (page 1 of [Exhibit 2](#)) in 2000. The City of Trinidad holds a public access easement granted from Trinidad Rancheria to the City in 2000 that extends from the pier to the Galindo Street right-of-way. Additionally, portions of the project area situated waterward of the Ordinary High Water Mark are sovereign tide and submerged lands that have been legislatively granted to the City of Trinidad.³

The project setting comprises a small coastal community seaport with significant use by both commercial fishing and recreational boaters (See [Exhibits 1 and 2](#)) and is a popular destination for both locals and visitors drawn to the numerous beaches, trails, and other recreational opportunities. The developed town (population approximately 350 people) is located up a steep road (Edwards Street) on a coastal terrace above the harbor area. The City of Trinidad is developed primarily with an assortment of residential, retail commercial, and civic uses.

Along the waterfront to the east and west of the project site are beach areas primarily in open space uses. These include Old Home Beach - and the associated site of the Yurok village of *t'surai* - located approximately 1/8 mile to the east; and both Trinidad Beach and Trinidad State Beach, located approximately 1/4 mile to the northwest of the project site.

B. Related Permit Actions

Several prior permit actions in the project area are associated with the Trinidad Harbor and related infrastructure. Among other permit actions, in 1975, the Commission authorized improvements to the existing boat rail launching facility at Launcher Beach, including placing approximately 17,000 square feet of 7-10-ton quarried rock to be capped, faced, and curbed with concrete, installation of two A-frame launch hoists, and removal of obsolete launch facilities⁴. It is unclear from the permit record whether any of the RSP authorized by CDP NCR-75-CC-480 was ever installed, but the boat launch facility authorized by the 1975 CDP was never built. In 2009 the Commission approved

² A separate CDP amendment application proposing development of a permanent memorial lighthouse structure within the harbor has been received (CDP amendment application 1-18-0630-A1) and is incomplete pending additional information needed to complete Commission staff's review before the application can be scheduled for consideration by the Commission.

³ The City holds certain lands in trust pursuant to Chapter 936, Statutes of 1986. Through the City's granting statutes, the Legislature has delegated the day-to-day management of sovereign land to the City to hold in trust for the benefit of the people of the State of California.

⁴ CDP NCR-75-CC-480 (Gullett), approved September 22, 1975. Associated State Lands Commission Negative Determination dated August 17, 1976 (File No. W21053); and U.S. Department of Army Corps of Engineers permit SPNCO-R 9638-36 effective August 2, 1976.

replacement of the restaurant septic system and construction of a public restroom⁵, and in 2010, the Commission authorized reconstruction of Trinidad Pier and associated stormwater improvements⁶, both of which contributed to the Trinidad Rancheria's continued water quality improvement projects for the harbor area. In 2013, the Commission waived permit requirements for repair and maintenance work to a trail and associated RSP leading from a viewing platform near the pier and restaurant to the beach⁷. In 2019, City of Trinidad's Planning Commission approved a local CDP for stormwater improvements occurring both within and outside the harbor area and within the City's delegated coastal development permit jurisdiction⁸. In a related action, the Commission waived permit requirements for decommissioning the portion of the stormwater outfall located within the Commission's jurisdiction⁹. In association with the subject proposal, on May 13, 2022, the Executive Director waived the permit application fees of CDP Application 1-21-0770 as requested by the Commission¹⁰, because Trinidad Rancheria is an economically disadvantaged community and the funding agency supporting the project is a public entity.

C. Jurisdiction and Standard of Review

The proposed project is located within the incorporated boundaries of the City of Trinidad within the upland area of Trinidad Harbor, in Humboldt County. The City of Trinidad has a certified LCP, but the project site is within the "Trinidad Harbor and Upland Support Area," an Area of Deferred Certification (ADC) over which the Commission retains coastal development permit jurisdiction. Therefore, the standard of review that the Commission must apply to the project is the Coastal Act.

The Trinidad Rancheria purchased the harbor properties and improvements in 2000. In 2017, the Trinidad Rancheria petitioned the Bureau of Indian Affairs (BIA) to place nine parcels and three non-parceled areas totaling approximately ten acres into federal trust status, including the harbor parcels where the subject project is proposed to occur. The BIA subsequently submitted its consistency determination for the placement of the properties into federal trust status, and on March 7, 2019 the Commission concurred

⁵ CDP 1-08-049 (Trinidad Rancheria), approved August 13, 2009.

⁶ CDP 1-07-046 (Trinidad Rancheria), approved January 15, 2010, authorized (1) demolition and reconstruction of the Trinidad Pier; (2) construction of an associated stormwater drainage treatment system; and (3) installation of a replacement seawater intake pump to serve Humboldt State University's Marine Lab.

⁷ De minimis waiver 1-13-014-W (Trinidad Rancheria) effective May 9, 2013

⁸ Local CDP 2019-12 (Coastal Commission post-certification No. 1-TRN-19-2538), approved on December 18, 2019, authorized Phase 2 of the Trinidad Area of Special Biological Significance (ASBS) Stormwater Improvement Project, including decommissioning the existing stormwater outfall and replacing it with a system of localized stormwater treatment chambers and infiltration basins.

⁹ De minimis waiver • 1-20-0649 (City of Trinidad) effective March 12, 2021

¹⁰ Pursuant to Section 13055(h)(1) of the California Code of Regulations, the Executive Director is to waive the application fee when requested by resolution of the Coastal Commission.

with the BIA's consistency determination¹¹. The Notice of Decision, signed November 1, 2021 by BIA Pacific Regional Director Amy Dutschke, indicates the Regional Director's intent to approve the transfer of certain specified property, including the property affected by the proposed project, into trust status "for the benefit and welfare of the Cher-Ae Heights Indian Community of the Trinidad Rancheria." Representatives of Trinidad Rancheria have indicated that a notice of appeal of the BIA's decision was filed with the Interior Board of Indian Appeals (IBIA) seeking review of the decision of the Pacific Regional Director to accept the Tribe's property in trust, and that appeal has been docketed with the IBIA. Review of the subject CDP application is occurring independent of the fee-to-trust process and is not dependent on an affirmative decision for the Tribe's fee-to-trust application.

D. Applicant's Legal Interest in the Properties

Under Section 30601.5 of the Coastal Act, an applicant for a CDP does not need to be the owner of a fee interest in the property on which the proposed development is located as long as the applicant can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, and as long as all holders or owners of any other interests of record in the affected property are notified in writing of the permit application and invited to join as co-applicants. In addition, Section 30601.5 of the Coastal Act requires that the applicant demonstrate authority to comply with all conditions of approval prior to issuance of a CDP.

Portions of the proposed project are located on land owned by Trinidad Rancheria¹². Other portions of the proposed project activities will occur on lands owned by the City of Trinidad (Galindo Street right-of-way), including installation of the western end of the concrete block mat leading to Launcher Beach, and repairs and maintenance to the northern portion of riprap on Launcher Beach. The City has indicated that none of the proposed improvements will encroach any further into the right-of-way than the existing development.

As required by Section 30601.5 of the Coastal Act, the Trinidad Rancheria has submitted evidence that (a) the City of Trinidad has been notified of the project as proposed in the CDP application; and (b) the City has been invited to join the CDP application as a co-applicant. The City has not joined the application as a co-applicant; however, on August 10, 2021, the City of Trinidad and the Trinidad Rancheria signed a Permission letter and agreement authorizing the Trinidad Rancheria to access the City's Galindo Street right-of-way as necessary for constructing, operating, inspecting, and maintaining stormwater improvements for the useful life of the project.

¹¹ Federal Consistency Determination CD-0006-18 (Bureau of Indian Affairs)

¹² Development proposed on land owned by Trinidad Rancheria includes the following APNs: 042-071-01, 042-071-02, 042-071-05, 042-071-08, 042-071-12, 042-071-13, 042-071-14, 042-091-08, and 042-091-10, and three unnumbered parcels as illustrated on page 1 of [Exhibit 2](#).

To ensure that Trinidad Rancheria has the authority to comply with all conditions of approval of CDP 1-21-0770 on the subject property (Galindo Street right-of-way), the Commission attaches [Special Condition 1](#), requiring that the Trinidad Rancheria, prior to permit issuance, show evidence that the City has agreed in writing that the applicant may undertake development on its property pursuant to CDP 1-21-0770 as conditioned.

The Commission finds that as conditioned, the development is consistent with the requirements of Section 30601.5 of the Coastal Act.

E. Other Agency Approvals

The project requires review by a number of other agencies. The Trinidad Rancheria has already obtained approvals from several state and federal agencies, including from the U.S. Army Corps of Engineers (USACE),¹³ and North Coast Regional Water Quality Control Board¹⁴. No approval is required from the California Department of Fish and Wildlife. The Rancheria also obtained the approval of a Grading and Design Review Permit from the City of Trinidad¹⁵.

California State Lands Commission (CSLC)

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways, and lands waterward of the Ordinary High Water Mark are state sovereign tide and submerged lands that have been legislatively granted to the City of Trinidad. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. The proposed project includes retrieving approximately seven (7) cubic yards of scattered and displaced concrete rubble located in part on tide and submerged lands legislatively granted to the City of Trinidad, pursuant to Chapter 936, Statutes of 1986. As a trustee of these sovereign tide and submerged lands, the City holds these lands in trust for the people of the state for purposes of commerce, navigation, fisheries, and other Public Trust purposes such as preservation of lands in their natural state for scientific study, open space, wildlife habitat, and recreation or visitor-oriented uses.

¹³ On May 11, 2021, USACE issued via electronic mail a determination that the proposed retrofitting and replacement of the existing paved parking lot and maintenance of existing RSP qualifies for Department of the Army Nationwide Permit (NWP) 3 for maintenance (File Number 2021-00169, pursuant to section 404 of the Federal Clean Water Act and section 10 of the Rivers and Harbors Act.

¹⁴ On June 14, 2022 the North Coast Regional Water Quality Control Board issued a Notice of Applicability for Coverage under the State Water Resources Control Water Quality Order 2021-0048-DWQ for the Corps' Nationwide Permits, pursuant to section 401 of the Clean Water Act and the California Porter-Cologne Water Quality Control Act (File reference number ECM PIN ECM PIN CW-878191; WDID 1B21244WNHU).

¹⁵ City of Trinidad Grading and Design Review Permit No. 2019-13, approved October 21, 2020

The City leases to Trinidad Rancheria certain tide, submerged, and harbor lands, including the portions of the pier, hoists, floating docks, and boat launcher that extend onto these lands. The City's Harbor Lands Lease Agreement¹⁶ authorizes and requires maintenance of the leased premises, including maintaining the pier and boat launcher in good order and safe condition for the purposes of the public use of the Harbor Lands. The City's approval of Grading and Design Review Permit 2019-13 acknowledges its lease agreement with the Rancheria as applying to encroachment into public trust areas associated with the proposed maintenance work.

In correspondence with State Lands Commission staff received via electronic mail on October 19, 2022, SLC indicates that no other approval from SLC is required for this project.

F. Permit Authority, Extraordinary Methods of Repair and Maintenance, Shoreline Protection Structures

The proposed project includes work to repair the existing rock slope protection along Launcher Beach. Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does not result in an addition to, or enlargement or expansion of the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations.

Section 30610 of the Coastal Act provides, in relevant part:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

[...]

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

Section 13252 of the Commission regulations provides, in relevant part:

¹⁶ Harbor Lands Lease Agreement ("Lease") dated December 7, 2012 and executed January 2013. Lease term pursuant to Section 3.1 of the Harbor Lands Lease Agreement runs from January 20, 2011 through January 19, 2032, unless sooner as provided under the terms of the Lease.

(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:

(1) Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:

(A) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

(B) The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;

(C) The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind; or

(D) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams. [...]

(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:

(A) The placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach materials or any other forms of solid materials;

(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

[...]

The proposed project includes retrieving and removing concrete rubble riprap (aka rock slope protection) located along the backshore of Launcher Beach, along with scattered and displaced material from along the shoreline. Concrete rubble removal will occur from within five feet of the easternmost existing boat launch rails at the project's western extent and terminate approximately 95 feet eastward at the boat launch access ramp. The removed concrete rubble will be replaced with rounded boulder material imported from a local quarry and chosen to aesthetically match native boulders found on Launcher Beach ([Exhibit 5](#)). Placement of new

material will be limited to within the footprint of existing riprap located above the mean higher high-water level (6.48 feet NAVD88).

The proposed work will occur within a portion (approximately 2,200-square-foot area) of the larger, approximately 4,600-square-foot¹⁷ existing riprapped boat launch facility. However, the applicant is not replacing the entire revetment in the 2,200-square-foot area, which consists of a mix of natural rock and concrete rubble. Instead, the applicant proposes removing up to 185 cubic yards of concrete rubble from the surface of the revetment and placing up to 178 cubic yards of rounded boulder material in its place, with a total finished height at an equivalent or lower elevation than the height of the replaced concrete riprap. The replacement material constitutes approximately 26% of the entire revetment's estimated volume¹⁸. The proposed development will not include the addition of filter fabric, nor will there be any increase in the height and size of the revetment. Therefore, the scope and scale of the project is appropriately considered repair and maintenance under Section 13252(b) of the Commission's regulations.

Section 13252 of the Commission's regulations requires that certain extraordinary methods of repair and maintenance require approval via a coastal development permit. As described above, the proposed development involves repair to an existing revetment, including removal and replacement of up to 26% of the revetment with materials of a different kind, placement of additional riprap material on the beach (within the existing revetment footprint), and the temporary placement of mechanized construction equipment within 20 feet of coastal waters. Thus, the proposed repair and maintenance requires a coastal development permit under Section 13252(a)(1)(A-D) and (a)(3)(A-B) of the Commission's regulations.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed method of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the underlying existing development.

The repair and maintenance of shoreline protective devices, such as is proposed under the subject CDP application, can have adverse impacts on coastal resources, in this case primarily coastal waters adjacent to the project area, if not properly undertaken with appropriate mitigation. As described above, the applicant

¹⁷ An aerial measurement of the total revetment including the rock slope protection on the beach and the armoring under and along the boat launcher rails (which extend into the waters of Trinidad Bay) approximates the total revetment area at 4,600 square feet.

¹⁸ The exact total volume of the existing revetment is unknown. The boat launch rails, and underlying rock slope protection have been in existence since prior to the effective date of the Coastal Act ([Exhibit 5](#)). The applicant has estimated the revetment in the proposed area to be repaired to have an overall depth of four feet. If a four-foot depth is extrapolated to the entire estimated 4,600-square-foot revetment, the volume of the entire revetment can be estimated to be approximately 681 cubic yards.

proposes to repair and maintain the existing rock slope shoreline protective device by replacing concrete rubble with natural boulder materials within the existing revetment footprint. The applicant has included a number of mitigation measures as part of its proposal, as discussed above, such as limiting work to the dry season and using standard appropriate BMPs to avoid sediment discharges to the waters of the harbor. Although these and other measures proposed by the applicant are appropriate, additional measures are needed to avoid or minimize potential project impacts on water quality and adjacent wetland habitats. The conditions required to meet these standards are discussed in the preceding findings relevant to water quality and marine resources. Additionally, the Commission imposes [Special Condition 8](#). Special Condition 8 memorializes that only work specifically described in this permit is authorized and any changes, including importation of new rock beyond that identified in this permit, will require separate authorization from the Commission.

Therefore, as conditioned, the Commission finds that the proposed rock slope protection repairs and maintenance are consistent with all applicable Chapter 3 policies of the Coastal Act.

G. Marine Resources and Water Quality

Applicable Coastal Act Provisions

Section 30230. Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231. 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 30232. Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containments and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Coastal Act Sections 30230, 30231 and 30232 protect the biological productivity and quality of coastal waters, streams, and wetlands through, among other means, minimizing adverse effects of wastewater discharge, controlling runoff, maintaining natural vegetation, and protecting against spills of hazardous materials. An approximately 2-mile-long area surrounding Trinidad Head and including Trinidad Bay is designated as an Area of Special Biological Significance (ASBS) due to the presence of extensive kelp forests, and as such the State Water Board strictly prohibits discharges of waste. The Trinidad Head watershed is also identified by the Statewide Critical Coastal Areas Committee¹⁹ as one of California's Critical Coastal Areas in recognition of its designation as an ASBS. Harbor facilities include a mooring field, vessel haul-out/launch facilities, and a restaurant. The harbor also receives a high volume of traffic, including by patrons with motorized vehicles and boat trailers using the facilities and surrounding open space areas. Current and former water quality risks to the Trinidad Head ASBS include potential bacteria, nutrients, vehicle contaminant runoff and sediment from urban runoff, septic systems, and fish cleaning stations, among others.

As described above, the proposed project is primarily intended to correct existing water quality problems at Trinidad Harbor by replacing approximately 6,200 square feet of impervious asphalt surfaces on the property with permeable pavement. The proposed project also involves retrofitting and replacing parts of the existing parking lot serving the existing restaurant, boat launch, pier, and other facilities at the harbor with low impact design features to manage stormwater runoff. In 2005, the Trinidad Rancheria was identified by the State Water Resources Control Board as a Prohibited Discharger for several discharges to the Trinidad Head ASBS. Both the City of Trinidad and Trinidad Rancheria have been working towards eliminating discharges to the ASBS for many years, through past projects that include the Rancheria's pier replacement and septic system improvements within the harbor, and the City's recently completed Phase I and II stormwater improvement projects, among others. This project is the final step in a series of projects designed to mitigate those prohibited discharges and provide long term solutions to improve water quality and address the non-point source pollution associated with runoff from the Trinidad Harbor parking lot.

a. Construction-related water quality impacts

Although the proposed development is designed to correct existing water quality concerns, construction of the proposed development would have its own water quality impacts if runoff from the construction site is not adequately controlled. Sediment and other pollutants entrained in runoff from the development that reaches the beach and ocean could contribute to degradation of the quality of marine waters and any intervening sensitive habitat. Sediment is considered a pollutant that affects visibility through the water, and affects plant productivity, animal behavior (such as foraging) and reproduction, and the ability of animals to obtain adequate oxygen from the water. In

¹⁹ The Statewide Critical Coastal Areas Committee consists of representatives from 15 state agencies, and also includes National Ocean Atmospheric Administration, the U.S. Environmental Protection Agency, and the Ocean Conservancy.

addition, sediment is the medium by which many other pollutants are delivered to aquatic environments, as many pollutants are chemically or physically associated with these sediment particles.

To minimize erosion and to prevent the discharge of sediment, debris, and other pollutants, the applicant has proposed a suite of Best Management Practices (BMPs) to be implemented during construction, as depicted on Sheet C11 of the February 2020 plans (page 11 of [Exhibit 3](#)). For example, the applicant proposes to limit the scheduling of construction to during the dry weather season through implementation of BMP Measure EC-1. A Letter of Agreement established by and between the City of Trinidad and the Trinidad Rancheria further specifies construction work will be performed between June 1 and October 30. The applicant has also proposed limiting the timing of concrete rubble removal from below the mean high-water level to during the low tide. [Special Condition 4B](#) ("Timing of Construction") incorporates the timing limitations proposed by the applicant.

Some proposed BMPs have specific implementation locations, such as proposed installation of silt fencing (BMP Measure SE-1) along and upslope of the entrance to Launcher Beach that are designed to prevent erosion of bare soil areas and minimize risk of sediment and debris discharges to the beach and ultimately Trinidad Bay. Other sediment control BMPs are proposed on a site-wide basis, such as implementation of street sweeping (BMP Measure SE-7). The applicant also proposes implementing wind erosion control measures (WE-1) to prevent significant erosion and strictly minimize dust generation, among other measures. To prevent pollution from improper concrete waste management, the applicant has proposed a concrete washout and collection area within the harbor away from coastal waters that will be built and maintained in accordance with BMP Measure WM-8. [Special Condition 4C](#) ("Erosion, Runoff and Sediment Control") incorporates the applicant's proposed measures. As proposed and conditioned, the implementation of these BMPs will result in the interception and containment of sediment during the construction of the project. Earthwork needed to construct the bioswale, rain gardens, permeable pavers, ribbon drains, and concrete block mat at the project site will produce approximately 1,835 cubic yards of excess earthen material. In addition, the project will generate a certain amount of construction debris including asphalt and concrete. Creosote pilings that have been stored within the parking area are also proposed for removal. No disposal site for such material is available at the harbor. Disposal of such material within the harbor area could result in either direct pollution of coastal waters or allow for indirect pollution by the entrainment of such wastes into runoff flowing to coastal waters.

The applicant has proposed to implement a number of BMPs to manage waste (BMP Measures WM-5 and WM-9), and control of hazardous materials and accidental spills (BMP Measures WM-4 and WM-6). The applicant has also prepared a Spill Prevention and Contingency Plan that addresses spill prevention and control measures proposed for use at the site. Additionally, Sheet C11 ("Water Pollution Control Plan") of the plans dated February 2020 identifies Humboldt Waste Management Authority in Eureka as the proposed debris disposal site. The applicant has indicated that the contractor would be responsible for proper disposal of all materials. To ensure that waste and debris

generated by the development will be properly handled and disposed of in a manner that protects water quality and aquatic resources, [Special Condition 4D](#) (“Debris Disposal”) incorporates the applicant’s proposed waste management measures, and [Special Condition 6](#) (Final Debris Disposal Plan) requires submittal of a final debris disposal plan for the Executive Director’s review and approval prior to commencement of construction. Additionally, the Commission attaches [Special Conditions 4E](#) (Hazardous Materials Management) and [4F](#) (Concrete Paving and Grinding Operations), which include among other things, requirements for safe containment, temporary storage, and removal of creosote-treated wood. To ensure that adverse water quality impacts associated with hazardous material spills are minimized, [Special Condition 4E](#) requires the use of equipment that relies on vegetable based hydraulic oil for portions of construction activities occurring immediately adjacent to coastal waters, if available and feasible. Vegetable based hydraulic oil has lower aquatic toxicity and breaks down more rapidly in the environment than petroleum products, reducing the potential water quality impacts of spills. Additionally, the Commission imposes [Special Condition No. 5](#) that requires the Trinidad Rancheria to submit a Final Erosion and Sediment Control and Pollution Prevention Plan that substantially conforms with the preliminary Water Pollution Control Plan submitted on Sheet C-11 of the applicant’s proposed plans.

b. Impacts on water quality from post-construction stormwater runoff

The proposed development involves retrofitting and replacing portions of the Trinidad harbor parking lot with a number of low impact design features including, a bioswale, raingardens, permeable pavers, and articulating concrete block revetment system. A combination of speed humps, linear drains and curbs will direct surface flow to the proposed low impact design features, which will prevent stormwater runoff from conveying sediment, debris, and pollutants from flowing into the Trinidad Bay Area of Special Biological Significance. The entire parking lot is currently covered with impermeable concrete, and the proposed project will not increase the amount of impervious surface area beyond current conditions. Additionally, the proposed project will convert portions of the impervious parking lot to pervious surfaces.

To reduce the existing transport of pollutants to coastal waters, the proposed low impact design features are designed to capture and treat at least 80 percent of total runoff from the project site from the 85th percentile, 24-hour storm event. The applicant estimates that the installation of a curb around the parking lot will result in a 50 percent reduction of total suspended solids in stormwater by preventing sand from entering the parking area. The applicant estimates that an additional 40 percent reduction in total suspended solids will be achieved through sedimentation in the raingardens, linear drains, and bioswale. The project site is limited in its ability to infiltrate and store groundwater due to the site’s low elevation and underlying geology. The groundwater table is high and dominated by precipitation. However, the applicant maintains that the design intent of the stormwater improvement features is to reduce total suspended solids and associated pollutants through storage and settling within the stormwater improvement features. The applicant also estimates that the majority of pollutants will be captured and entrained in the first major rainfall event of each season as the features are

designed to retain more than 80 percent of the 85th percentile 24-hour rainfall event for Humboldt County. In total, the proposed stormwater improvement features are designed to capture up to 83,200 gal of runoff, which represents 163% of the 50,900 gal that must be captured to meet the 80% capture requirement of the 85th percentile 24-hour rainfall event. Because the stormwater improvement features are oversized and designed to capture more stormwater than necessary, the project is likely to meet its goals for reducing total suspended solids even with low infiltration rates and a rising groundwater table due to precipitation events and sea level rise.

To ensure that the stormwater improvement features will be maintained to ensure that they will function effectively over time, the applicant has included a proposed operation and maintenance manual for proper maintenance and care of the proposed stormwater improvement features. The applicant also proposes to provide a final operation and maintenance manual at project completion. In accordance with the applicant's proposal, the Commission attaches [Special Condition 7](#) which requires the submittal of the final operation and maintenance manual for the stormwater improvement features at project completion that includes provisions for (1) planting only native species and maintaining vegetation in a healthy growing condition throughout the life of the project, (2) inspections to ensure that the stormwater improvement features are kept free of litter and weeds and that the drains, inlets, and overflows are kept free of clogging materials, and (3) record keeping of maintenance and inspections.

Therefore, as conditioned, the Commission finds that the biological productivity and quality of coastal waters will be maintained and the project, as conditioned, is consistent with sections 30230 and 30231 of the Coastal Act. The Commission further finds that as conditioned, the proposed development will provide protection against the spilling of gas, petroleum products, and hazardous substances and provide effective containment and cleanup for accidental spills that do occur consistent with section 30232 of the Coastal Act.

H. Protection of Commercial Fishing & Recreational Facilities

Section 30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30224. Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234. Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

As described above, Trinidad Harbor is a working harbor that is often filled with fishing equipment, boat trailers, and public parking in support of coastal recreational uses. There are numerous coastal recreational and visitor-serving amenities within Trinidad Harbor, including the 540-ft.-long Trinidad Pier, the Seascape Restaurant, a motorized boat launching hoist, and a gift and tackle shop. During peak fishing seasons such as the commercial harvesting season for Dungeness crab, crab pots and other fishing gear dominate the lower parking areas within the harbor. The proposed project will upgrade the harbor facility by improving stormwater management in the harbor parking lot which will allow this facility to serve commercial and recreational boating into the future. The project will also increase the number of parking spaces in the main harbor parking lot by four (4) spaces.

The Trinidad Harbor parking lot also serves as the only access point to Launcher Beach. This beach access is frequently used by recreational boaters to launch kayaks and other small vessels. Launcher Beach is an important recreational facility that provides boat launching access to the public at no cost. The proposed project will improve the access to Launcher Beach by removing impervious asphalt concrete and concrete rubble and installing a permeable concrete block mat for the beach access. Improvements to the access point will address erosion of the access road and make the beach more accessible.

The Trinidad Harbor Boat Launch and Launcher Beach are the only boat launching facilities that serve the City of Trinidad and the only ocean boat launching facilities between Humboldt Bay to the South and Crescent City to the North. As the proposed project is sited and designed to enhance and protect the continued water-oriented recreational uses (such as but not limited to recreational boating), the Commission finds that the proposed project is consistent with section 30220. As the proposed development will improve a public boat launching facility in the natural harbor of Trinidad Bay, the development is also consistent with sections 30224 and 30234, which among other things, call for increasing recreational boating use and upgrading facilities serving the commercial fishing and recreational boating industries.

Therefore, the Commission finds that the project as proposed does not reduce existing commercial fishing and recreational boating harbor space and does not interfere with the needs of the commercial fishing industry, consistent with the Coastal Act.

I. Fill of Wetlands and Coastal Waters

Section 30233 of the Coastal Act states, in applicable 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:
- 1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities;
 - 2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basin, vessel berthing and mooring areas, ad boat launching ramps;
 - 3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities;
 - 4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines;
 - 5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas;
 - 6) Restoration purposes;
 - 7) Nature study, aquaculture, or similar resource dependent activities.
- (b) Dredging and spoils shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation...
- (c) In addition to the other provision of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...

Section 30233 requires that a project involving the diking, filling, or dredging of wetlands be one of the above seven enumerated uses, be the least environmentally damaging feasible alternative, and provide maximum feasible mitigation. The purpose of the proposed RSP work is to maintain and repair the existing riprap revetment along the backshore of Launcher Beach while improving shoreline aesthetics by replacing concrete riprap with natural rock. As discussed above, the Commission is reviewing only the method of repair and maintenance, not the underlying development (rock

revetment). Therefore, consistent with prior Commission actions, because the Commission is solely reviewing the method by which the applicant executes the repair and maintenance activities, the first test under Section 30233(a) is not applicable. The second test requires that there be no feasible less environmentally damaging alternative. The third and final test mandates that feasible mitigation measures be provided to minimize the project's adverse environmental effects.

With regard to the second test, the proposed repair and maintenance work includes the removal of approximately seven cubic yards of scattered and displaced concrete rubble below the mean high water level. The applicant proposes to retrieve pieces of the concrete rubble revetment that have been dislodged and migrated seaward over time, thereby enhancing both the public's ability to access the area and aesthetically enhancing the surroundings. It is anticipated that some of the rubble may be embedded up to approximately three feet below the surface. Fugitive rock will be removed during low tides, and the area of removal will be smoothed with adjacent sand to blend with the surrounding gradient (to reduce safety hazards) and left to naturalize with tidal fluctuations and wave action. While allowing the concrete rubble to remain in place is a feasible alternative, doing so would not benefit the public trust's tide and submerged lands, as would occur with the proposed method, and is thus not a feasible and less environmentally damaging alternative. Retrieval of this concrete rubble will enhance the public's ability to use the entire sandy beach area and coastal waters and improve beach ambiance and aesthetics.

The final test requires that feasible mitigation measures be provided to minimize the project's adverse effects. The mechanical retrieval of fugitive rock will require heavy machinery within the developed area of the parking lot as well as in the intertidal zone during low tide. To ensure protection of marine and coastal resources, the applicant has proposed construction practices, as memorialized in [Special Condition 4](#), that address: construction timing during low tides and outside of the rainy season; proper equipment, materials, and waste handling practices for containment that avoids all discharge to coastal waters; and trash, debris, and materials removal and storage protocols. In addition, [Special Condition 4](#) addresses hazardous materials management which requires the applicant to undertake measures that ensure that fuels, lubricants, and solvents do not enter Trinidad Bay. This includes that heavy machinery used to retrieve the fugitive rock use non-petroleum alternative fuels. With these measures in place, the Commission finds that the impacts from mechanical retrieval are not anticipated to have any adverse impacts to marine or other coastal resources and therefore meets the second test of the Section 30233 analysis.

Furthermore, all new rock will be located landward of the existing toe of the revetment and will not encroach any further seaward. As such, the method of repair and maintenance work is consistent with Section 30233 of the Coastal Act.

J. Coastal Hazards

Coastal Act **section 30253** states, in applicable part:

New development shall do all of the following:

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

Coastal Act **section 30270** states:

The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.

The proposed project is located in an area subject to high geologic and flood hazards that include the potential for strong ground shaking, tsunami inundation, and flooding associated with high waves and storm events. The frequency and severity of flood events at the site is expected to worsen with projected sea-level rise.

Flood Hazards and Sea Level Rise

Sea level rise (SLR) will have dramatic impacts on California's coast in the coming decades and is already impacting the coast today²⁰. There is strong scientific consensus that SLR will continue over the coming millennia regardless of future human actions, but the exact rate and amount will depend on the amount of future greenhouse gas emissions as well as the exact contribution from sources such as the Antarctic and Greenland ice sheets, which are areas of continuing research. While planning coastal development under this uncertainty presents challenges, it is widely documented that underestimating SLR could result in costly damages and adverse outcomes to coastal resources. Planning and development decisions on the California coast must, therefore, be appropriately precautionary and made with the full understanding that SLR will change coastal landscapes and hazard conditions. Not only will siting and design decisions regarding proposed coastal development influence the future safety of the development and overall resiliency of the California coast, but such decisions will also affect the way that coastal resources protected under the Coastal Act respond to changing sea levels over time.

Currently, the best available science on SLR projections in California is provided in the State of California Sea-Level Rise Guidance (OPC 2018) and is reflected in the Coastal

²⁰ In the past century, the average global temperature has increased by about 0.8°C (1.4°F), and global sea levels have increased by 7 to 8 inches (17 to 21 cm). In addition, SLR has been accelerating in recent decades, with the global rate of SLR tripling since 1971 (IPCC, 2021).

Commission Sea Level Rise Policy Guidance (CCC 2018)²¹. With SLR, shoreline development will experience increasingly hazardous conditions, including worsening storm flooding, inundation, and shoreline and bluff erosion. On a relatively flat shoreline, even small amounts of SLR can cause large losses of beach width. For example, for a shoreline with a slope of 40:1, a simple geometric model indicates that every foot of SLR will result in a 40-foot landward movement of the ocean/beach interface, resulting in significant loss of beach habitat and recreational space as well as representing a change in the location of public tidelands subject to the public trust doctrine. This change could also expose previously protected backshore development to increased tidal/wave action and flooding, and those areas that are already exposed to such conditions will be exposed more frequently and with greater severity. SLR will also cause coastal groundwater tables to rise in some locations, potentially emerging from the ground to cause flooding, as well as impacts such as damage to development and infrastructure, saltwater intrusion into aquifers, and changing liquefaction risks. Importantly, rising groundwater could constrain the types of adaptation strategies that can be protective; for example, while shoreline armoring may be effective to address overland flooding and inundation from SLR, it may not protect against groundwater rise impacts, depending on the characteristics of the site.

These changing hazard conditions may also alter the impacts of development upon coastal resources. In particular, coastal resources such as beaches and wetlands could disappear if they are squeezed between rising sea levels and a fixed line of development on the shoreline. Such losses will impact public access, recreation, public views, and other coastal resources – all of which are protected under Chapter 3 of the Coastal Act. Further, loss of these public resources could have significant implications from an environmental justice standpoint, since coastal open spaces and habitats are an opportunity for all to visit and enjoy the California coast and would disproportionately burden those who cannot afford to live near the coast.

Section 30270 of the Coastal Act requires the Commission to take into account the effects of SLR in coastal resource planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of SLR. Therefore, to be consistent with the Chapter 3 policies of the Coastal

²¹ These documents present probabilistic SLR projections as well as an extreme “H++” scenario for twelve locations (tide gauges) along the California coast, and provide recommendations for which projections to use in various planning contexts based on level of risk aversion and project type. For projects that would have limited consequences if impacted by SLR or a relatively high ability to adapt, the guidance recommends analyzing a set of SLR projections called the “low risk aversion scenario,” which has an estimated 17% chance of being met or exceeded according to current science. The medium-high risk aversion scenario, which has an estimated 0.5% chance of being exceeded, should be analyzed for projects with greater consequences and/or a lower capacity to adapt, like residential and commercial development. Finally, the “H++” scenario (which has no calculated probability but is associated with research on potential extreme ice sheet melt) should be analyzed for critical infrastructure and other projects that have little to no adaptive capacity, would be irreversibly destroyed or significantly costly to repair, and/or would have considerable public health, public safety, or environmental impacts if damaged or destroyed.

Act, proposed development must be sited, designed, and conditioned in such a way that minimizes SLR hazards and considers the impact of the development upon coastal resources over its full anticipated life, avoiding and mitigating those impacts as appropriate.

Sea level rise has the potential to impact several of the project features through storm surge, wave action, tidal fluctuation, and elevated groundwater levels. The project features that are most likely to be impacted by sea level rise projections include the concrete block mat at the boat launch area along the backshore of Launcher Beach, the permeable pavement area at the lower end of the parking lot, and the lower portion of the bio swale. Sea Level Rise Projections for the North Spit from the Coastal Commission's Policy Guidance show that sea levels are projected to reach elevations between 4.1 feet and 7.6 feet by 2100 for the low and medium high projections (CCC, 2018).

The concrete block mat at the boat launch area has the lowest proposed design elevation. The proposed concrete block mat has a design top elevation of 16.5 feet with a bottom elevation of 10 feet while the proposed rock slope protection replacement has a top elevation ranging from 12.5 to 19.5 feet and a bottom elevation range from 6.5 to 9 feet (the top elevation of the rock slope protection work is not proposed alter the existing elevation). The 2100 low and medium high sea level rise projections of the mean high water (MHW) level are 10.6 feet to 14.1 feet indicating that these structures will be inundated on a regular basis by 2100. These structures have been designed to withstand storm surge, wave action, and tidal fluctuation following the Department of Boating and Waterways Design and Construction Handbook for Small Craft Boat Launching Facilities (DBW 1991; [Appendix A](#)) and USDA TR No. 69 Riprap Design for Protecting Slopes Against Wave Action (USDA 1983; [Appendix A](#)). The concrete block mat has additionally been designed to retain structural integrity even when fully submerged. Thus, as designed, the block mat assures stability and structural integrity and will continue to protect and provide boat launching access at both the Rancheria's boat launch rail, and the free boat launch at Launcher Beach.

Projected sea level rise will also impact the ability of the proposed features to retain stormwater. The groundwater table in this area is high and dominated by precipitation. Rising sea levels, over time, are projected to raise groundwater levels which will lessen the stormwater storage capacities of the concrete block mat, the permeable pavers, and the lower portion of the bio swale. At current sea levels, the proposed features are designed to retain between 120 and 140 percent of runoff from the design storm.

The applicant anticipates the life of the concrete block mat boat launch to be approximately 75 years (2100) while the anticipated design life of the stormwater retention features is approximately 50 years (2070). Given that the medium-high risk aversion sea level rise projection for 2100 projects a mean high water (MHW) level of 14.1 feet, the rock slope protection will be overtopped in some places within its design life. Medium-high risk projections for 2070 project the MHW elevation up to 10.5 feet which may cause the stormwater retention features to see a reduced ability to retain stormwater. However, because the project is not critical infrastructure and does not

include any habitable structures, occasional inundation and a reduced ability to capture stormwater will not result in a significant risk to life or property.

Therefore, the Commission finds that the proposed project, as conditioned, will minimize risks to life and property from flood hazards, and will not contribute to erosion or destruction of the site or require the construction of a shoreline protective device that substantially alters natural landforms along bluffs and cliffs, consistent with Coastal Act sections 30253 and 30270.

Geologic Hazards

Northwestern California is one of the most seismically active regions in the continental United States. The Humboldt County region occupies a complex geologic environment characterized by very high rates of active tectonic deformation and seismicity. The project area consists of marine terrace sandy soils that are subject to seismic hazards. Although relatively infrequent, high-intensity ground shaking, liquefaction, settlement, and tsunamis are some of the seismic hazards with the potential to occur at the site. Because the project is not critical infrastructure and does not include any habitable structures, the proposed project will not result in an increased risk to life or property.

The Commission thus finds that the proposed development as conditioned will assure the stability and structural integrity of the new development and minimize risks to life and property from ground shaking, liquefaction, and settlement consistent with the requirements of Coastal Act section 30253.

Tsunamis

The proposed stormwater improvement project is located within the mapped tsunami inundation area on the Tsunami Inundation Map for Emergency Planning (California Geological Survey, 2021). As the Trinidad harbor pier and boat launch are coastal-dependent facilities, and the parking lot needs to be located near the pier and boat launch to fulfill its purpose, there is no alternative location for siting the stormwater improvements that would avoid the tsunami zone. To help minimize the risks of adverse effects of tsunamis, preparedness brochures are available for the Trinidad area through the Redwood Coast Tsunami Work Group. The publicized brochure includes a Tsunami Inundation Map that informs the public of the hazardous areas and safe areas to retreat to in the event of a tsunami. In addition, tsunami warning signage is posted at the boundary of the tsunami zone and safe area at the base of Van Wycke Street, which informs people that they are either entering or leaving the tsunami zone. And finally, safe ground beyond the extent of the tsunami zone is located in close proximity to the site.

As there is no alternative location for siting the stormwater improvements that would avoid the tsunami zone, and because Trinidad has already put in place tsunami hazard signage, and preparedness brochures through the Redwood Coast Tsunami Work Group, the proposed development minimizes tsunami hazard risk.

Assumption of Risk

Considering the aforementioned hazards, the Commission attaches [Special Condition 10](#), which requires the Trinidad Rancheria to assume the risks of coastal hazards to the property and waive any claim of liability on the part of the Commission. Given that the Rancheria has chosen to implement the project despite flooding and geologic risks, the Rancheria must assume the risks. [Special Condition 10](#) notifies the Applicant that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires indemnification of the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards.

Conclusion

Therefore, for all the reasons set forth above, the Commission finds that the proposed project, as conditioned, assures geologic stability and structural integrity and minimizes risks of geologic and flood hazards consistent with the requirements of Coastal Act section 30253.

K. Archaeological Resources/ Tribal Consultation

Section 30244 of the Coastal Act states:

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

Trinidad Harbor and its surrounding lands are within the ancestral territory of the coastal Yurok People. The harbor parking lot is situated just downslope and west of both the former Yurok settlement of Tsurai and the Tsurai Study Area as designated in Trinidad's certified LCP. The Tsurai village is one of the largest Yurok villages and the southernmost village within Yurok Territory. The Tsurai village is also listed in the California Register of Historic Places. In later years, the harbor became the first port to be developed by Europeans on the north coast after Spanish fur traders first landed there in 1775. Trinidad became a main supply port during the gold rush in the 1850's, and later was further developed to support the logging industry and even a whaling station from 1920-1927. The original pier was constructed in 1945 to serve commercial and recreational users and was reconstructed in 2013.

The Cher-Ae Heights Indian Community of the Trinidad Rancheria ("Trinidad Rancheria") owns the harbor properties and is the applicant for the proposed development. The Cher-Ae Heights Indian Community of the Trinidad Rancheria (Trinidad Rancheria) is a federally recognized Indian Tribe with ancestral ties to the Yurok, Wiyot, Tolowa, Chetco, Karuk, and Hupa peoples. According to the Federal Register, the tribal affiliation also includes Miwok (Eidsness 2001 in WRA 2018a; [Appendix A](#)). According to an archaeological report prepared for the project area (WRA 2018a; [Appendix A](#)), the Trinidad Rancheria's own research indicates its membership

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is “primarily Yurok, with some original assignees also descendants of Tolowa/Tutuni and Wiyot peoples (Sundberg 2018).”

The Trinidad Rancheria and the Yurok Tribe are both federally recognized tribes with rights and responsibilities for ensuring the protection and preservation of cultural resources. Yurok ancestral lands extend along the Lower Klamath River near the Oregon border, and along the California coast from Little River (south of Trinidad) north to Damnation Creek (south of Crescent City).

Several archaeological surveys and cultural resources investigations have been conducted for the project area. An archeological study of the harbor area was conducted by Donald Verwayen at the Cal Poly Humboldt Cultural Resources Facility in 2011. The Verwayen study consisted of a field survey and literature search. An additional cultural resource study was conducted by Analytical Environmental Services (AES) in 2015. The AES study included field verification of the Verwayen study and a Native American Contact Program. Both studies identified cultural resources in the project area. Other recently-conducted surveys within the harbor area include a cultural resources survey conducted by AES in November 2015 for the subject project; and July 2018 and August 2018 surveys prepared by William Rich and Associates for Trinidad Memorial Lighthouse relocation project and City of Trinidad Stormwater Improvement Project Phase 2, respectively ([Appendix A](#)).

The proposed stormwater improvements will occur within existing paved areas of the harbor parking lot. A background literature search for the project area indicates there is a generally high potential for Native American archaeological sites, isolated features and/or artifacts to be found in the Trinidad bluff area surrounding the project site. According to the 2015 cultural resources report described in the 2017 Environmental Assessment prepared for the subject project, without implementation of recommended mitigation measures, earth-moving activities in the project area could potentially significantly affect unknown sites.

The applicant has proposed that a Trinidad Rancheria cultural monitor will be onsite any time that digging or excavation work is taking place, and has included inadvertent discovery protocol as General Note 7 on Sheet C-2 of the proposed plans. Because the project area is situated on ancestral lands of the Yurok People with rights and responsibilities represented by two federally recognized tribes and non-federally recognized direct lineal descendants as described above, [Special Condition 11A\(i\)](#) requires the permittee to notify representatives from the Trinidad Rancheria, Tsurai Ancestral Society, and the Yurok Tribe at least two weeks prior to commencement of ground-disturbing operations.

On June 10, 2022, Commission staff circulated project information via email to representatives of the Tsurai Ancestral Society and to all contacts included on the Native American Heritage Commission Tribal Consultation List provided in association with the subject project. While no written comments stating an interest in the project have been received to date, representatives from Tsurai Ancestral Society have contacted Commission staff with concerns that construction work not encroach beyond

existing paved surfaces between the toe of the hill downslope of Edwards Street and the parking area, with a preference for a setback to buffer construction from culturally-sensitive areas. TAS has requested temporary construction fencing be installed at the site to ensure that unpaved areas outside the proposed area of disturbance would not be disturbed. [Special Condition 11](#) requires installation of a temporary protective barrier be installed as described above that is mutually acceptable to the Trinidad Rancheria, Yurok Tribe, and Tsurai Ancestral Society.

Additionally, to ensure protection of any prehistoric cultural resources that may be discovered during excavation of the parking lot, the Commission attaches [Special Condition 11](#). This condition incorporates the applicant's proposed inadvertent discovery protocol with recommendations for tribal notification and protocol provided by the Yurok Tribe in recently-approved projects that are included in the archaeological reports, and further requires that if an area of prehistoric cultural deposits is discovered during the course of the project, all activity must cease and the discovery shall be immediately reported to the Trinidad Rancheria THPO, Yurok THPO, Tsurai Ancestral Society and the Executive Director. [Special Condition 11C](#) also establishes procedures under which a qualified cultural resource specialist must analyze the significance of the find. To recommence activity following discovery of any cultural deposits determined to be significant, the applicant is required to inform the Executive Director of any proposed mitigation measures that necessitate changes to the approved development. The Executive Director will determine whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required before construction recommences.

Therefore, the Commission finds that, as conditioned, the proposed project is consistent with Coastal Act Section 30244, as the authorized development includes reasonable mitigation measures to ensure that the stormwater improvement project will not result in significant adverse impacts to archaeological resources.

L. Public Access and Recreation

Applicable Coastal Act Provisions

Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212(a) states, in part:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected.

Section 30213 of the Coastal Act states:

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

Section 30220 of the Coastal Act states:

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

Section 30223 of the Coastal Act states:

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

The project site is located at Trinidad Harbor. Within ¼ mile to the east, west, and north of the project area are publicly-owned coastal access facilities, comprising the shoreline trails and beaches along Trinidad Bay, Trinidad Head and Trinidad State Beach, respectively. In addition, the private harbor area including the project site, shoreline, and pier are open and available for public access use.

The Trinidad harbor area receives heavy seasonal use by a combination of commercial fishermen, recreation boaters, beachcombers, hikers, and other coastal visitors. The site is a popular embarking point for private and chartered ocean fishing excursions, especially during the summer salmon and groundfish (e.g., lingcod, rockfish) seasons. Commercial fishing is also prevalent, especially during the fall-winter Dungeness crab season, commencing on December 1. During the peak boating season (May through mid-September), much of the Harbor Upland Support Area is utilized by restaurant, pier and launch ramp patrons for parking of vehicles and boat trailers. Additionally, the Launcher Beach boat launching access is a popular, free of cost, boat launching facility that is heavily used by kayakers and recreational boaters year-round.

Although public access will be temporarily affected during project construction, the proposed project, when completed, will not adversely impact, but rather will enhance coastal access and recreational facilities. As indicated in Finding IV.I above, the access to Launcher Beach will be improved by removing impervious asphalt concrete and retrieving concrete rubble from sandy beach areas and coastal waters and installing a permeable concrete block mat at the boat launch area for the beach access. Improvements to the access point will address erosion of the access road and make the

beach more accessible. The applicant's general construction plan includes a phased approach to construction which divides the project into four construction zones. Construction is recommended to occur in one construction zone at a time to reduce temporary public access impacts. During construction in Zone One, vehicle and pedestrian access to Launcher Beach will be closed. The Rancheria has proposed that kayaks will be allowed to launch using the beach access trail between the Trinidad pier and Seascope Restaurant while construction in Zone One takes place. This will allow the public to launch boats that can be carried down the trail to the beach but will not allow for vehicle access to the water. Larger boats will be able to launch throughout construction using the Rancheria's boat launch rail for which a fee is charged. When completed, the project will not result in a loss of parking spaces. Four new parallel parking spaces will be created as a result of the project. However, parking in the harbor parking lot will be temporarily impacted during construction in all four construction zones. The applicant also proposes to coordinate with the City of Trinidad to allow for parking and staging of construction materials on the Trinidad Beach parking lot to the west of the project site.

The total duration of construction activities requiring closure of the access to Launcher Beach and partial closures of the parking lot is to be determined by the contractor but is anticipated to take approximately 120-150 days and would occur during the dry season between June and October. The applicant proposes to provide a pedestrian detour during the closure period to allow continued access to the Trinidad Pier and Seascope restaurant. The applicant proposes to delineate the detour with temporary construction fencing and signs to safely reroute pedestrian traffic around construction activities. The applicant also proposes to provide one way traffic control through the parking lot during certain phases of construction. The applicant will also maintain access to the Trinidad pier and harbor boat launch facility throughout construction.

To ensure that the project's impact on public access and recreational boating is temporary and minimized, the Commission imposes [Special Condition 9](#) which requires submittal of a public access plan prior to permit issuance for the Executive Director's review and approval. Among other requirements, [Special Condition 9](#) requires that the applicant limit closures of the access to Launcher Beach to less than 30 days, post adequate signage to inform the public of the closures and alternative boat and kayak launching sites, and provide a temporary pedestrian detour as proposed. [Special Condition 9](#) also requires the applicant to submit a site plan showing the route of the detour around the construction areas and where barriers and signage will be installed.

As indicated above, the harbor area experiences heavy seasonal use of its facilities, including high volumes of vehicle and pedestrian traffic at various times of the year, and especially during peak fishing season (May-September), which also overlaps with the tourism season. To minimize conflicts between pedestrians and vehicles during and following construction activities, the Commission imposes [Special Condition 9 A\(i\)\(f\)](#) requiring the applicant submit, for the Executive Director's review and approval, a final parking lot restriping plan. The final parking lot re-striping plan requires the applicant to demonstrate a minimum number of parking spaces as proposed and further requires

physical demarcation of pedestrian access (e.g., crosswalk striping and/or other delineated access routes) within the main parking area.

As the closure of the Launcher Beach access will be for a relatively short duration, a pedestrian detour is proposed, the boat launch will remain open, and alternative public access is available nearby, the Commission finds that the temporary adverse impacts of construction on public access and recreational boating are not significant. With implementation of [Special Condition 9](#), the project will be carried out in a manner that will protect existing, and facilitate expanded, coastal access and recreational boating opportunities at the project site. The Commission therefore finds that the proposed project, as conditioned, consistent with the coastal access policies of the Coastal Act.

M. Visual Resources

Coastal Act **section 30251** states in applicable 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 of visually degraded areas.

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance and requires, in applicable part, that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, and to be visually compatible with the character of surrounding areas.

The project will be permanently visible from various public vantage points around Trinidad Harbor, including from the beaches adjacent to the harbor, the hiking trails on Trinidad Head, and from public streets on the bluff to the north of the harbor. As proposed, the project will not be visually intrusive and will improve the aesthetics of some areas of the parking area and the rock slope protection around launcher beach. The proposed project will not result in any new structures over three feet high. The bioswale and rain gardens are proposed to be vegetated with native vegetation and the concrete rubble rock slope protection along Launcher Beach will be replaced with rounded rock boulders that are more visually compatible with the character of the surrounding area.

Landscaping and planting of native plants in the bioswale and rain gardens is part of the proposed project. The applicant has proposed to provide a detailed planting plan for the final design submittal. In accordance with the applicant's proposal and to ensure that the bioswale and rain gardens will be visually compatible with the character of their immediate surroundings, the Commission attaches [Special Condition 13](#). The special condition requires the submittal of a landscaping plan for the review and approval of the

Executive Director that provides for the planting and maintenance of native plant species that will be visually compatible with the surrounding area.

No specific lighting improvements have been proposed. However, the applicant proposes to remove parking lot lighting during construction and to restore to preconstruction conditions once the project is completed. The parking lot contains four existing light poles which are proposed to be removed and replaced. To prevent the installation of lighting that would create unnecessary glare and detract from the visual compatibility of the development with its surroundings, the Commission attaches [Special Condition 12](#). The special condition requires that all exterior lights shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel or into the waters of Trinidad Bay.

Section 30251 requires that the alteration of natural landforms be minimized. As described above, the proposed development includes excavation of the parking lot and the repair of the rock slope protection along Launcher Beach, where the Commission is only reviewing the method of repair, not the revetment itself. As proposed, only the existing parking lot, sandy island in the middle of the parking lot, and concrete rubble RSP will be excavated. The base of the hillside will not be excavated. To ensure that excavation does not extend beyond the proposed disturbed area and excavation of the hillslope to the north of the parking lot does not occur, the Commission attaches [Special Condition 11A\(ii\)](#) which requires the placement of symbolic construction fencing along the proposed boundary of the disturbed area. Therefore, as conditioned the development minimizes the alteration of natural landforms.

The Commission finds that the project, as conditioned, is consistent with Section 30251 of the Coastal Act as the project will not adversely affect any existing views to or along the coast, will be compatible with the character of the surrounding area, and will minimize the alteration of natural landforms.

N. Environmentally Sensitive Habitat Areas (ESHAs)

Coastal Act **Section 30240** states the following:

- (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.

Coastal Act **Section 30107.5** states the following:

“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 30240 of the Coastal Act states that development in areas adjacent to environmentally sensitive habitat 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 areas.

The bay and the surrounding ocean waters are designated by the State Water Resources Control Board as one of 34 “areas of special biological significance” within California which, because of its highly productive aquatic habitat characteristics, warrant enhanced water quality protective measures. Moreover, as detailed within the various biological assessments prepared for the project, the water column and rocky/sandy substrate of Trinidad Bay, together with the adjoining intertidal areas and open ocean waters, provide habitat to a wide diversity of marine organisms, including algal and encrusting organisms, numerous littoral fishes, motile crustaceans, and other invertebrates, many of commercial and recreational fishing importance. The harbor waters and surrounding land areas also provide habitat for an assortment of resident and migratory waterfowl, and federal-listed threatened or treaty-protected fish and marine mammal species, including juvenile Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), and steelhead trout (*Oncorhynchus mykiss*), Steller sea-lion (*Eumetopias jubatus*), Pacific harbor seal (*Phoca vitulina richardii*) California sea lion (*Zalophus californianus*) and gray whale (*Eschrichtius robustus*). As such, the waters of Trinidad Bay meet the Coastal Act definition of “environmentally sensitive habitat area” and are subject to the protections afforded by Section 30240.

As detailed further in Finding IV.G (“Marine Resources and Water Quality”) above, the development as proposed to be undertaken, consistent with specified demolition/construction performance standards and conditions, includes protections against significant disruptions of the bay habitats.

The upland areas of the project site include the existing parking lot and do not contain any known environmentally sensitive habitat areas. However, according to the California Native Plant Society (CNPS 2007), the coastal bluffs in the Trinidad area are known to contain rare plant species including Oregon coast Indian paintbrush (*Castilleja affinis* ssp. *littoralis*), Mendocino coast Indian paintbrush (*C. mendocinensis*), black crowberry (*Empetrum nigrum* ssp. *hermaphroditum*), and Wolf’s evening-primrose (*Oenothera wolfii*). The Commission finds that ESHA located near the site could be adversely affected if non-native, invasive plant species were introduced in landscaping at the site. Introduced invasive exotic plant species could physically spread into ESHA and displace native and/or rare vegetation thereby disrupting the values and functions of the ESHAs. The seeds of exotic invasive plants could also be spread to nearby ESHA by

wind dispersal or by birds and other wildlife. The applicant is proposing landscaping as part of the proposed bioswale and rain gardens and is additionally proposing to reseed areas disturbed by construction for erosion control. The applicant proposes that plant species sourced will be native in origin and sourced when appropriate from an ecologically similar site. In accordance with the applicant's proposal, the Commission attaches [Special Condition No. 7A\(i\)](#), which requires that only native and/or non-invasive plant species be planted at the site.

In addition, the Commission notes that certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to pose significant primary and secondary risks to non-target wildlife present in urban and urban/wildland interface areas. As raptors or other environmentally sensitive predators and scavengers prey upon these target species, the pest control compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. To avoid this potential cumulative impact to environmentally sensitive wildlife species, [Special Condition No. 13](#) contains prohibitions on the use of such anticoagulant-based rodenticides.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent environmentally sensitive habitat area, the project, as conditioned, will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area. Therefore, the Commission finds that the project as conditioned is consistent with Coastal Act Section 30240.

O. Local Coastal Program Certification

Section 30604(a) of the Coastal Act states in part that prior to certification of a local coastal program (LCP), a CDP shall be issued only if the issuing agency finds that the proposed development is in conformity with the provisions of Chapter 3 of the Coastal Act, and the permitted development will not prejudice the ability of the local government to prepare a LCP that is in conformity with the provisions of Chapter 3.

As described above, the portion of the project area described as the Harbor Site above (along with additional lands between Trinidad Head and Edward Street), is located in an area that lacks a certified LCP (Area of Deferred Certification or ADC). This ADC was created on May 2, 1978, as part of an approximately 43-acre Special Study Area (including an adjacent 33-acre water area in Trinidad Bay) that was outside of City limits at the time Trinidad's Land Use Plan was certified by the Commission. The area was also not included as part of the certified LCP for Humboldt County.

As discussed in the findings above, the proposed development is consistent with Chapter 3 of the Coastal Act. If the pending fee-to-trust transfer is not completed by the Rancheria and the City continues to proceed with preparation of an LCP for this area, approval of the subject project will not prejudice the ability of the City of Trinidad to prepare an LCP for this area that is in conformity with the provisions of Chapter 3.

P. California Environmental Quality Act (CEQA)

The State Water Resources Control Board (SWRCB) is the lead agency for purposes of CEQA. The SWRCB filed a Notice of Exemption for Grant Projects Concurrence on December 7, 2017 (State Clearinghouse #2017128183). SWRCB found the project to be categorically exempt from environmental review pursuant to Section 15302 of the CEQA guidelines. Additionally, the United States Department of Interior Bureau of Indian Affairs acted as the lead agency as part of its fee-to-trust transfer analysis (which included analysis of the proposed stormwater improvement project) and issued a Notice of Completion of Finding of No Significant Impact on March 27, 2020 (SCH # 2017034001).

On October 21, 2020, the City of Trinidad conditionally approved a Grading Permit and Design Review for the Trinidad Harbor ASBS Stormwater Runoff Management and Green Infrastructure Enhancement Project. As part of its Design Review and Grading Permit No. 2019-13, the City found the project to be categorically exempt from environmental review pursuant to Sections 15301 and 15302 of the CEQA guidelines.

The Commission's review and approval of CDPs for consistency with Chapter 3 of the Coastal Act has been certified by the Secretary of the Natural Resources Agency as the functional equivalent of the review required by CEQA, meaning that the Commission is not required to prepare an Environmental Impact Report or other CEQA document. (CCR Section 15251(f)). Section 13906 of the Commission's administrative regulations requires Coastal Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are any feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. No public comments regarding potential significant adverse environmental effects of the project were received by the Coastal Commission prior to preparation of the staff report. As discussed above, the proposed project has been conditioned to be consistent with the policies of the Coastal Act. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application File No. 1-21-0770 and associated file documents.

Coastal Commission (CCC). 2018. California Coastal Commission Sea Level Rise Policy Guidance: Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs and Coastal Development Permits.
https://documents.coastal.ca.gov/assets/slr/guidance/2018/0_Full_2018AdoptedSLRGuidanceUpdate.pdf

Department of Boating and Waterways (DBW), State of California. 1991. Layout, Design and Construction Handbook for Small Craft Boat Launching Facilities.

Federal Consistency Determination File No. CD-0006-18 (Bureau of Indian Affairs)

State of California, 2021. Tsunami Hazard Area Map, Humboldt County; produced by the California Geological Survey and the California Governor's Office of Emergency Services; dated 2021, displayed at multiple scales.

Griggs, G, Árvai, J, Cayan, D, DeConto, R, Fox, J, Fricker, HA, Kopp, RE, Tebaldi, C, Whiteman, EA (California Ocean Protection Council Science Advisory Team Working Group). Rising Seas in California: An Update on Sea-Level Rise Science. California Ocean Science Trust, April 2017.
<https://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-anupdate-on-sea-level-rise-science.pdf>

IPCC, 2021: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, S.L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M.I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T.K. Maycock, T. Waterfield, O. Yelekçi, R. Yu, and B. Zhou (eds.)]. Cambridge University Press. In Press.

Ocean Protection Council (OPC). 2018. State of California Sea-Level Rise Guidance: 2018 Update.
https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A_OPC_SLR_Guidance-rd3.pdf

USDA. 1983. Riprap for Slope Protection against Wave Action, Technical Release No. 69. Soil Conservation Service. February 1983. Washington D.C.

William Rich and Associates. July 2018a. *An Archaeological Resources Report for the Removal of Existing Concrete Footings at the Former Trinidad Memorial Lighthouse,*

1-21-0770 (Trinidad Rancheria)

City of Trinidad, Humboldt County, California. Prepared by William Rich, M.A., RPA and Jason R. Patton, PhD. For Trinidad Civic Club, Trinidad, CA.

William Rich and Associates. August 2018b. An Archaeological Survey Report for Phase 2 of the Trinidad Stormwater Improvement Project, Trinidad, Humboldt County, CA. Prepared by William Rich for SHN Consulting Engineers, on behalf of City of Trinidad.