

**CALIFORNIA COASTAL COMMISSION**

455 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105-2421  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



# Th14a

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** MA-2022-001

**Local Government:** City of Long Beach

**Project Location:** Coastal zone area within the City of Long Beach, County of Los Angeles

**Project Description:** Draft Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction map, prepared by staff to depict the geographic areas where the Commission retains permit authority pursuant to Coastal Act Section 30519(b), and where appeals of local government coastal development permit (CDP) approvals are allowed pursuant to Coastal Act Section 30603(a), within the City of Long Beach LCP segment.

**Staff Recommendation:** Approval.

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## SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **APPROVE** the draft map prepared by staff, which shows the geographic areas where the Commission retains permit authority

pursuant to California Coastal Act Section 30519(b) and where appeals of the City of Long Beach CDP actions are allowed pursuant to Coastal Act Section 30603(a).<sup>1</sup>

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<sup>1</sup> The California Coastal Act is found in the Public Resources Code, sections 30000 *et seq.*

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## **EXHIBITS**

[Exhibit 1 – Post LCP Certification Permit and Appeal Jurisdiction Index Map: County of Los Angeles](#)

[Exhibit 2 – Draft Post LCP Certification Permit and Appeal Jurisdiction Map: City of Long Beach](#)

## **I. MOTION AND RESOLUTION**

### **Motion:**

I move that the Commission **approve** the draft City of Long Beach Post LCP Certification Permit and Appeal Jurisdiction map prepared by staff for MA-2022-001 pursuant to the staff recommendation.

### **Staff Recommendation of Approval:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the draft City of Long Beach Post LCP Certification Permit and Appeal Jurisdiction (Post Cert.) map and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **Resolution:**

The Commission hereby approves Map Adoption MA-2022-001 and adopts the findings set forth below on grounds that the draft map depicts the areas where Commission retains permit authority pursuant to Coastal Act Section 30519(b), and where appeals of City of Long Beach coastal development permits are allowed pursuant to Coastal Act Section 30603(a).

## **II. STAFF NOTE**

Local jurisdictions require Post LCP Certification Permit and Appeal Jurisdiction (Post Cert.) map adoption in conjunction with and following Commission actions to certify its Local Coastal Program (LCP).<sup>2</sup> After the initial adoption, map revisions can be made from time to time to incorporate updates that reflect changing conditions in the coastal zone environment upon which the boundaries are based, and to make corrections or refinements including, but not limited to, those made possible by the use of more accurate data and modern mapping technology. The timing of revisions to a city or county's Post Cert. map is usually coordinated with LCP updates.

The use of geographic information system (GIS) software is presently an integral part of Post Cert. map adoptions, revisions, and update processes underway throughout the coastal zone, and maps that the Commission adopts through these actions will be distributed primarily in digital form in order to allow the widest possible use of consistent, official information within the coastal zone community.

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<sup>2</sup> The City of Long Beach's LCP was certified by the Commission on July 22, 1980.

### III. BACKGROUND

After the Commission certifies a local government's LCP, permit authority within that jurisdiction is delegated to that local government. However, pursuant to Section 30519(b) of the Coastal Act, the Commission retains permit authority after LCP certification over developments occurring on tidelands, submerged lands, and public trust lands, whether filled or unfilled, and which are located within the coastal zone. The Commission may transfer permit authority to the local government for public trust lands that are determined by the Commission to be filled and developed and are located within an area that is committed to urban uses pursuant to Section 30613 of the Coastal Act.<sup>3</sup>

In addition to the Commission's retained permit jurisdiction, subsections (a) and (b) of Section 30603 of the Coastal Act define certain areas and types of development for which actions by the local government may be appealed to the Commission.

Geographic appeal jurisdiction is retained, for example, on lands within 100 feet of a stream's top of bank or within 100 feet of the upland limit of a wetland, lands subject to the public trust that are no longer within the Commission's retained jurisdiction, lands within 300 feet of coastal bluffs, beaches, or the Mean High Tide Line (MHTL), and lands between the sea and the First Public Road paralleling the sea (FPR).

The Commission's administrative regulations (Title 14 of California Code of Regulations Section 13576) provide that a map portraying the areas of continuing Commission permit and appeal jurisdiction be adopted in conjunction with the final LCP certification, referred to as the Post Cert. map. An update procedure is also identified and provides the basis for revision and re-adoption of the map by the Commission. Within these regulations is the implicit idea that, while the adopted map should portray the various jurisdiction boundaries as accurately as possible, it remains only a depiction, i.e. a cartographic representation and not a definition of the jurisdiction, and should not be used on its own without field determination procedures to establish a precise boundary location. Conditions on the ground may change and thus conditions on the ground control permit and appeal jurisdiction boundary locations regardless of how accurate the mapped boundaries may be at any given time. In fact, changes to conditions on the ground may justify revisions to an adopted map.

Since one basis for appeal jurisdiction of a local government's action to the Commission after certification of an LCP (under subsection (a) of Coastal Act Section 30603) is whether the approved development is between the sea and the FPR, during formulation of the regulations governing the delineation of Post LCP Certification jurisdiction areas, the Commission recognized that the variation and complexity of the coastal zone is such that a literal interpretation of the FPR definition could result in the inclusion of large areas within the Commission's Post LCP certification appeal jurisdiction in which the

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<sup>3</sup> At this time, the City of Long Beach has not requested that the Commission transfer permit authority for any filled, former tidelands.

grounds for appeal set forth in former Coastal Act Section 30603(b)<sup>4</sup> may not be an issue. The regulations therefore provide that the Commission may evaluate these areas and limit the geographic area where local government permit application actions may be appealed to the Commission based on the designated FPR for the area in which the grounds for appeal specified in Coastal Act Section former 30603(b) are clearly an issue. See further discussion in the First Public Road Paralleling the Sea (FPR) Appeal Areas section of this staff report.

## IV. FINDINGS AND DECLARATIONS

### A. Previous City of Long Beach Post LCP Certification Permit and Appeal Jurisdiction Map

During the late 1970's and early 1980's the Commission's Mapping program began a project to complete Post Cert. maps for all local governments within or partly within the coastal zone. The first effort consisted of producing a set of 161 maps using the USGS 7.5 minute quadrangle base (scale 1:24,000 or 1 inch equals 2000 feet), which was completed in 1981. The primary purpose of this project was to provide a consistent, statewide view of the permit and appeal boundaries for review by the local government staff, Commission staff, and other interested parties. It was fully anticipated that these maps would be reviewed and revised or refined, as indicated by the map notes and general correspondence sent out with maps for review. The area of the coastal zone within the City of Long Beach is covered by map sheets 142 through 144, the Long Beach, Los Alamitos, and Seal Beach quadrangles. Copies of these regional 7.5-minute quadrangle-scale draft maps were distributed for review to the Commission offices and the City in the spring of 1981.

A more detailed cadastral (parcel) scale Post Cert. map of the City of Long Beach was prepared in early 1980's using a 1-inch equals approximately 800 feet base map obtained from the City. The Post Cert. map prepared using this base was adopted by the Commission on April 16, 1981. Map adoption MA-2022-001 represents revised Post Cert. jurisdictional boundaries proposed for adoption by the Commission. If certified, this map and the data depicted herein will supersede any previous versions of the Commission's Post Cert. jurisdiction boundaries for the City.

### B. Staff Analysis

The depiction of the Commission's permit and appeal jurisdictions on the City of Long Beach draft Post Cert. map presents no significant areas of controversy affecting the map adoption at this time. Coastal Commission staff has reviewed the Post Cert. map and associated jurisdictional boundaries with City staff. The Coastal Commission's

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<sup>4</sup> As that provision existed in 1989, the last time Section 13577(i) of the Commission's administrative regulations, which defines FPR and which references Section 30603(b) of the Coastal Act as a standard, was revised.

retained permit jurisdiction consists entirely of lands seaward of the MHTL and public trust lands or historic tidelands, whether filled or unfilled. Its appeal jurisdiction boundary encompasses lands seaward of the FPR. The route of the designated FPR is set forth in the section entitled: **First Public Road Description**. In areas inland of the FPR, the appeals jurisdiction may include areas 300 feet from the MHTL, 300 feet from the inland extent of the beach, 300 feet from the top of coastal bluffs, and also 100 feet from the upland boundaries of wetlands and streams.

As mentioned earlier in the **Background** section, while the maps portray the various jurisdiction boundaries as accurately as possible, they remain only a depiction, i.e. a cartographic representation, and are not a static definition of the Commission's jurisdiction. The maps should not be used on their own without field determination procedures to establish a precise boundary location. Conditions on the ground may change, and thus conditions on the ground control permit and appeal jurisdiction boundary locations regardless of how accurate the mapped boundaries may be at the time of adoption.

## Permit Jurisdiction

Geographically, the Commission's retained permit jurisdiction includes tidelands, submerged lands, and public trust lands including former tidelands.<sup>5</sup> The Commission's retained permit jurisdiction is shown in [Exhibit 2](#). The primary sources for determining the Commission's continuing permit jurisdiction in the City of Long Beach are the contemporary U.S. Fish and Wildlife Service's (USFWS's) National Wetland Inventory dataset covering this area, vertical and oblique coastal aerial photography, draft Post Cert. maps 142 through 144 (Long Beach, Los Alamitos, and Seal Beach quadrangles, scale 1:24,000), the map set showing potential public trust lands prepared for the Coastal Commission by the State Lands Commission staff in the late 1970's using, among other sources, tide and submerged land grant documents, the City's current certified Post Cert. map (1981), historical U.S. Coast Survey (now known as the National Geodetic Survey) topographic maps from the 19<sup>th</sup> century, the Long Beach Tidelands Trust Doctrine map and the Long Beach Chapter 138 and Tidelands map, prepared by the City of Long Beach.

These maps, photos, and other documents and information were analyzed to establish the public trust component, when that is the controlling permit boundary criterion. Given

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<sup>5</sup> Tidelands, the first component of the Commission's retained permit jurisdiction, are lands lying between the lines of mean high tide and mean low tide. The MHTL is the landward tidelands boundary, an ambulatory boundary that moves with changes in the profile of the shoreline, particularly in sandy beach areas. The MHTL is and has been used by the U.S. Supreme Court, the California Supreme Court, federal and state courts, the state legislature, state regulatory and administrative agencies, and local governments as the boundary between public tidelands and private uplands.

The location of the fluctuating MHTL is determined by establishing the intersection of the shore with the plane (elevation) of Mean High Water as calculated by the National Geodetic Survey for a particular location. Surveys can be performed to establish MHTL or tidelands locations. The State Lands Commission, as administrator of California's tidelands, can and does perform such surveys.

the complexity involved in precisely mapping public trust boundaries, however, it is evident that the permit boundary delineation on this map may not include all areas subject to the public trust. Using the best available data and information sources, Commission staff has made a good faith attempt to map tidelands and potential public trust lands to the bulkheads associated with development along the Los Angeles River at the west end of Long Beach, around Rivo Alto Canal, Marine Stadium, throughout Alamitos Bay and along the San Gabriel River. In these areas, permit authority should be determined by the extent of these bulkheads, with the understanding that the bulkheads in their entirety and lands seaward of the bulkheads remain the Commission's permit jurisdiction, while development landward of said bulkheads is entirely within the City's jurisdiction. This is with the understanding that permit jurisdiction boundaries are an extrapolation of the best available data and may be subject to future interpretation and determination if warranted by site specific information. Furthermore, questions regarding the exact location and extent of public trust lands must be referred to the State Lands Commission for determination. Both the Commission staff and City staff recognize that should additional public trust lands be identified in the future, those lands would be part of the Commission's retained permit jurisdiction.

Review of the above-referenced primary source materials indicates that the Commission's continuing permit jurisdiction in the City of Long Beach exists only on lands lying below the MHTL, and on potential or historical public trust lands.<sup>6</sup> For the purposes of the Post Cert. map proposed for adoption by the Commission for the City, the landward boundary of the Commission's retained permit jurisdiction has been drawn to follow a combination of the tidelands, submerged lands and filled tidelands upon, in and under the Pacific Ocean, marine and estuarine intertidal zones as mapped by the US Fish and Wildlife Service in its National Wetlands Inventory (NWI), and bulkhead lines as evident in contemporary high resolution aerial images of the City of Long Beach. As reference, Commission staff has also analyzed historical aerial imagery and

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<sup>6</sup> Long Beach Tidelands are sovereign lands between mean high tide and mean low tide, which include filled and unfilled lands, bordering upon, under, or situated below the mean high tide line of the Pacific Ocean, or of any harbor, estuary, bay, or inlet, which are within the corporate limits of the City. Tidelands along the Pacific Ocean in Long Beach are identified by a fixed boundary to the north known as the Chapter 138 line pursuant to a 1964 statute (Compromise Boundary as described in Section 7, Chapter 138, Statutes of 1964, First Extraordinary Session).

Long Beach Tidelands include Submerged Lands, which are sovereign lands, filled or unfilled, that are below the ordinary low water mark of the Pacific Ocean, or of any harbor, estuary, bay, or inlet, which are within the corporate limits of the City, out to the state-federal boundary (City of Long Beach, California State Lands Commission and the U.S. v California (332 U.S. 19)).

Definitions of Long Beach sovereign and submerged lands are from the Long Beach Tidelands Trust Doctrine Map produced by the City of Long Beach Technology and Innovation Department in October 2017.

United States Coast Survey Historical Topographic Maps, T-892 (1859), T-1283 (1872-1887), and T-1345 (1873).

### **Appeal Jurisdiction**

The appeal jurisdiction boundary in the City of Long Beach is mapped according to the geographic criteria specified in Section 30603(a) of the Coastal Act, and further defined in the Commission's regulations at 14 CCR Section 13577. The appeal area is shown in [Exhibit 2](#). The appeal jurisdiction boundary is based primarily on the FPR paralleling the sea designation, except where the designated road is situated closer than 300 feet inland from the inland extent of beach, MHTL, or top of the coastal bluff. In these locations the appeal jurisdiction boundary is 300 feet from the inland extent of the beach, 300 feet from the MHTL, or 300 feet from the top of the coastal bluff face, as appropriate, rather than measured from the FPR.

As with the permit jurisdiction boundary, the Commission's regulations also provide for appeal boundary revisions from time to time. (See 14 CCR Section 13576.) Appeal boundary revisions are also intended to incorporate updates and changing conditions in the coastal zone environment upon which the boundaries are based, to make corrections, and to make refinements reflecting the use of more accurate data and modern mapping technology. The appeal boundary can shift even though the basis of the boundary remains unchanged.

### **Southeast Area Specific Plan (SEASP)**

On July 22, 1980, the Commission certified the City of Long Beach LCP, which was composed of a number of elements including the Local Coastal Plan (referred to as the LCP document to avoid confusion with the broader Local Coastal Program), the Long Beach Zoning Ordinance (Zoning Code), portions of the Open Space and Scenic Routes Elements, portions of the Long Beach Oil Code, and the Southeast Area Development and Improvement Plan (SEADIP). However, the LCP did not apply to an area of deferred certification (ADC) encompassing the portion of the Los Cerritos Wetlands complex within the City's boundaries, referred to as the SEADIP (Cerritos Wetlands) ADC, in part because the extent of the wetlands and sensitive biological resource areas were not known when the original LCP was certified. The City of Long Beach LCP has been amended nearly 100 times since its original certification in 1980. LCP Amendment No. LCP-5-LOB-19-0008-1, certified by the Commission on October 8, 2020, replaced SEADIP, which had been amended several times itself, with the Southeast Area Specific Plan (SEASP) as a stand-alone component of the Long Beach LCP.

As set forth in Section 30603 of the Coastal Act, City actions on coastal development permits for identified types of development are appealable to the Commission. The Coastal Commission retains permit jurisdiction over tidelands, submerged lands, and lands subject to the public trust, as well as areas of deferred certification (areas not included in a local coastal program's jurisdiction during LCP certification). The City's recent LCP amendment, LCP Amendment No. LCP-5-LOB-19-0008-1, included

certification of a deferred certification area within SEASP. Per SEASP, permit authority for the ADC transferred to the City and became part of the City's LCP. This change necessitates an update to the City's Post Cert. map. An area-wide wetland delineation has not been performed and defining the appealable area per Section 30603(a)(2) is limited by national wetland data and may not accurately portray local conditions. City staff stated that the intent of the LCP amendment request was to make the entire area appealable due to the uncertainty about the exact location of wetlands and sensitive biological resources. In fact, the City described the new Coastal Habitat/Wetlands/Recreation land use designation, which covers the deferred certification area, to be a "sensitive coastal habitat area." Section 30603(a)(3) states that developments located in sensitive coastal resource areas are appealable to the Commission. Given the certification of SEASP, the Commission's 1980 findings for deferring certification, and the area's high scenic, recreational, ecological, and cultural value, the area qualifies as a "sensitive coastal resource area." Thus, upon certification of SEASP, any City action on a coastal development permit within the former ADC is appealable to the Commission. This Post Cert. map update reflects this change to the Commission geographic appeal jurisdiction and reflects the Commission's action on the SEASP LCP amendment.

### **Stream Appeal Areas**

The Coastal Act specifies that, after LCP certification, developments approved by a local government within 100 feet of any stream are appealable (Pub. Res. Code § 30603(a)(2)). Title 14 of the California Code of Regulations (CCR) Section 13577(a) further specifies boundary determination criteria to be used in mapping stream appeal areas, including not only how to determine the appeal boundary location, but also which streams to identify and map. The regulation language states that any stream mapped by the USGS or any stream identified in a city or county's local coastal program should be mapped with an adjacent 100 foot appeal area on either side of the stream top of bank. Commission staff is not aware of any stream-based geographic appeal jurisdiction within the City of Long Beach.

### **Wetland Appeal Areas**

The Coastal Act specifies that, after LCP certification, developments approved by a local government within 100 feet of any wetland are appealable (Pub. Res. Code § 30603(a)(2)). 14 CCR Section 13577(b)(1) states the criteria that shall define wetland boundaries. 14 CCR Section 13577(b)(2) excludes agricultural ponds and reservoirs from the definition of wetlands for appeal purposes. Wetland-based appeal area in City of Long Beach is primarily around Sims Pond.

### **Beach Appeal Areas**

The Coastal Act specifies that, after LCP certification, developments approved by a local government within 300 feet of the inland extent of beach are appealable (Pub. Res. Code § 30603(a)(1)). 14 CCR Section 13577(g) states the criteria that shall define the inland extent of beach. Beach-based appeal areas are located within the City of

Long Beach primarily landward of Belmont Shore Beach, Bayshore Beach, and Mothers Beach on Naples Island.

### **Coastal Bluff Appeal Areas**

The Coastal Act specifies that, after LCP certification, developments approved by a local government within 300 feet of the bluff line or edge are appealable (Pub. Res. Code § 30603(a)(2)). 14 CCR Section 13577(h) states the criteria that shall define the coastal bluff line or edge. Coastal bluff-based appeal areas are located within the City of Long Beach primarily landward of Shoreline Aquatic Park and Shoreline Marina in the downtown area of the City, and generally paralleling Ocean Boulevard between Gaviota Avenue and Loma Avenue.

### **Mean High Tide Line (MHTL) Appeal Areas**

The Coastal Act specifies that, after LCP certification, developments approved by a local government within 300 feet of the MHTL are appealable (Pub. Res. Code § 30603(a)(1)). 14 CCR Section 13577(c) states the criteria that shall define the MHTL. MHTL-based appeal areas are located within the City of Long Beach primarily in Alamitos Bay, Marine Stadium, Colorado Lagoon, the Los Cerritos Channel and the San Gabriel River.

In the Marina Vista Park area, Commission staff recommends through this map adoption that the MHTL based appeal jurisdiction be extended pursuant to CDP Amendment No. 5-09-071-A3, which was approved by the Commission on February 9, 2019. CDP Amendment No. 5-09-071-A3 authorized phase 2A of the Colorado Lagoon restoration project to create an open tidal connection between Colorado Lagoon and Marine Stadium in Alamitos Bay. This project affects the MHTL via construction of a 1,160 feet-long open water channel through Marina Vista Park. The City of Long Beach recently vested the coastal development permit and began construction of the open channel, which will take several months to complete. Restoration of tidal influence between Colorado Lagoon and Marine Stadium in Marina Vista Park results in additional MHTL based appeal jurisdiction over portions of Marina Vista Park and E. Appian Way.

### **First Public Road Paralleling the Sea (FPR) Appeal Areas**

Title 14 of the California Code Regulations Section 13577(i) specifies the default standard by which the FPR may be designated for purposes of determining appeal jurisdiction boundaries (subsection (1)), but also allows for an alternative FPR designation when the requirements of subsection (1) cannot be fully met (subsection (2)). In the context of the highly-fact specific circumstances on the ground, subsections (i)(1) and (i)(2) should be understood as providing alternative, but complimentary (not exclusive) ways of defining the FPR for purposes of determining the appeal jurisdiction boundary for Long Beach. In other words, subsection (i)(1) is the appropriate standard for determining part of the FPR for purposes of setting appeal jurisdiction boundaries,

whereas subsection (i)(2) is the appropriate standard for determining another part of the FPR. This interpretation of 13577(i) has been supported by past Commission practice.

#### **14 CCR Section 13577(i)(1)- Majority of the City of Long Beach**

The language of 14 CCR Section 13577(i)(1) is intended to ensure that the designated “First Public Road Paralleling the Sea” extends inland around water bodies that are considered the “sea” as defined by Coastal Act Section 30115. The Coastal Commission’s regulations provide that in order for a road to qualify as the FPR, it must be a road that “does in fact connect with other public roads providing a continuous public access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline” (14 CCR Section 13577(i)(1)(E)). The appeal jurisdiction boundary, where based on the FPR under 13577(i)(1), is aligned along the inland, or landward right of way of such road.

The FPR in western Long Beach is based on a 13577(i)(1) interpretation (broadly described in the **First Public Road Description** below). The Commission finds that the FPR as described herein is consistent with all elements of 14 CCR Section 13577(i)(1) in that it extends inland around the Port of Long Beach East Basin and along the San Pedro Bay, the water bodies considered the “sea” in this area and does in fact connect with other public roads providing a continuous public access system that generally parallels and follows the shoreline of the sea. All other requirements of 13577(i)(1) are met, in that the first public road is lawfully open to uninterrupted public use and is suitable for such use (subsection (A)), is publicly maintained (subsection (B)), is an improved, all-weather road open to motor vehicle traffic in at least one direction (subsection (C)), and is not subject to any restrictions on use by the public except when closed due to an emergency or when closed temporarily for military purposes (subsection (D)).

#### **14 CCR Section 13577(i)(1)- E Eliot Street and Marina Vista Park**

In the Marina Vista Park area immediately east of Colorado Lagoon and north of Marine Stadium, the FPR was previously E Colorado Street continuing to E Pacific Coast Highway. Since the previous Post Cert. map was adopted by the Commission on April 16, 1981, the City of Long Beach has added E Eliot Street around the southern part of Marina Vista Park. E Eliot Street meets the criteria for FPR as defined by 14 CCR Section 13577 (i)(1). The realignment of the FPR removes from previously mapped Commission appeal jurisdiction areas between E Colorado Street and E Eliot Street, including the Bayshore and Del Lago neighborhoods.

#### **14 CCR Section 13577(i)(2)- Marina Shores and San Gabriel River**

The language of 14 CCR Section 13577(i)(2) was intended to limit the effect of designating the FPR based on an alignment where all conditions of 14 CCR Section 13577(i)(1) could be met with the exception of 14 CCR Section 13577(i)(1)(E):

specifically, that the FPR connect with other public roads providing a continuous access system and generally parallels and follows the shoreline of the sea. 14 CCR Section 13577(i)(2) provides that whenever a public road exists which conforms to all provisions of (i)(1) except (i)(1)(E), the Commission may limit the extent of the Commission's geographic appeal jurisdiction to all parcels between the Pacific Ocean and such public road and those parcels immediately adjacent of the sea inland of such public road. 14 CCR Section 13577(i)(2) has been applied in many areas throughout the State when the waters of the "sea" extend landward of the generally continuous shoreline and a FPR exists seaward of this inland "sea." In many of these instances, the Commission has designated a FPR seaward of the inland "sea".

Staff recommends the Commission apply the provisions of 14 CCR Section 13577(i)(2) specifically to those areas inland of Pacific Coast Highway north and west of the San Gabriel River near Marina Shores. An inclusive FPR around the San Gabriel River meets the requirements of 13577(i)(1)(A)-(D). However, this FPR alignment does not meet the criteria of 13577(i)(1)(E) in that it does not generally parallel or follow the shoreline of the sea and would result in a FPR alignment significantly outside the coastal zone. This alignment would result in significant appeal jurisdiction over inland built-out neighborhoods in the neighboring City of Seal Beach and Orange County. By contrast, the FPR proposed for designation under the 13577(i)(2) configuration for the San Gabriel River/Marina Shores area will still meet all requirements of 13577(i)(1)(A)-(D) but avoid the unintended consequence of over-including significant portions of neighboring City of Seal Beach within the Commission's appeal jurisdiction.

When a FPR exists which conforms to all provisions of 13577(i)(1) except (i)(1)(E), the Commission has the authority to designate an alternative public road. Therefore, the Commission, using its authority under 14 CCR Section 13577(i)(2), designates E 2<sup>nd</sup> Street, south on E Marina Dr., continuing on N Marina Dr., and across the Marina Dr. Bridge as the FPR in this area and more broadly described in the **First Public Road Description** below. The appeal jurisdiction along the tidally influenced water bodies inland of this FPR is limited to 300 feet from the MHTL or the first row of parcels, whichever is the greater distance. (See Pub. Res. Code § 30603(a)(1).)

The resulting appeal jurisdiction in the areas inland of Pacific Coast Highway around the San Gabriel River near Marina Shores from the (i)(2) alignment would include areas north of Shopkeeper Rd., the parcels of the Pumpkin Patch area, and the Haynes Generation Station east of the San Gabriel River. However, the certification of the Local Coastal Program (LCP) Amendment No. LCP-5-LOB-19-0008-1, that amended multiple components of the City of Long Beach certified LCP, including the certified Zoning Code, Local Coastal Plan document, and land use map, and adding the Southeast Area Specific Plan (SEASP) to the LCP to replace the certified SEADIP in 2020, made these areas appealable to the Coastal Commission.

The City of Long Beach's SEASP LCP amendment involved certification of the white hole area, which was an ADC. Permit authority for the ADC was transferred to the City as part of the City's LCP amendment. As discussed above, the SEASP LCP amendment made the entire area appealable. As such, the Commission's designation

of an (i)(2) FPR alignment in the area north of Marina Shores bordering the San Gabriel River does not represent a substantial change to Coastal Commission appeal jurisdiction.

#### **14 CCR Section 13577(i)(3)- Naples Island**

Title 14 of the California Coastal Regulations Section 13577(i)(3) states that where the Commission determines that the designation of the "first public road paralleling the sea" results in the inclusion of areas within the permit and appeal jurisdiction where the grounds for an appeal set forth in former Public Resources Code Section 30603(b)<sup>7</sup> are not an issue, the Commission may take action to limit the geographic area where developments approved by a local government may be appealed to the Commission, to that area where such grounds are, in fact, an issue.

Through this map adoption, Commission staff is recommending that FPR appeal jurisdiction on Naples Island (including interior Naples Island and Treasure Island) be limited per the Commission's authority under 13577(i)(3). The designation of the FPR described in the **First Public Road Description** below would result in the three Naples Islands in their entirety being within the Commission's appeal jurisdiction. Commission action to limit the FPR geographic appeal jurisdiction in this area would result in 300 feet from the MHTL being used as the controlling geographic appeal criterion for the majority of the three Naples islands and 300 feet landward from the inland extent of beach as the controlling geographic appeal criterion in the vicinity of Mothers Beach. (See Pub. Res. Code § 30603(a)(1).)

Commission staff has concluded that development that lies more than 300 feet landward from the MHTL and more than 300 feet landward from the inland extent of beach on Naples Island does not present issues that are grounds for appeal set out in former Section 30603(b), which are public access, public coastal views, limitations on development potential within the established physical scale of the area, and shoreline protection issues (including not significant alteration of existing landforms and compliance with shoreline erosion and geologic setback requirements).

The certified LCP describes that, because of the intense nature of private development in this area, public access to recreation areas and water resources around the three Naples Islands is limited to a public walkway and some beach and park areas. There

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<sup>7</sup> As that provision existed in 1989, the last time Section 13577(i) of the Commission's administrative regulations, which defines FPR and which references Section 30603(b) of the Coastal Act as a standard, was revised.

The version of 30603(b) prior to its current language was amended by Ch. 1030, Stats. 1991 (which was subsequent to the last time 13577(i) was amended in 1989). That version of 30603(b) stated: "The grounds for an appeal pursuant to paragraph (1) of subdivision (a) shall be limited to one or more of the following allegations: (1) The development fails to provide adequate physical access or public or private commercial use or interfere with such uses. (2) The development fails to protect public views from any public road or from a recreational area to, and along, the coast. (3) The development is not compatible with the established physical scale of the area. (4) The development may significantly alter existing natural landforms. (5) The development does not comply with shoreline erosion and geologic setback requirements."

are numerous private recreational boat slips located along the canal and channels; however, the vast majority of these resources are located within 300 feet of the MHTL or inland extent of beach, and, thus, development at these sites would be appealable to the Commission. In addition, the park areas located landward of 300 feet from the MHTL/inland extent of the beach (like all of the beaches and parks in Long Beach's coastal zone) are public in perpetuity, including Marine Park, Mothers Beach, Overlook Park, and the Colonnade. Access to these beaches, parks, and shoreline are provided primarily by public roads and publicly accessible parking lots, as well as a largely ADA accessible, multi-use path systems including the Rivo Alto Canal, Corso Di Napoli, Vista Del Golfo, and the Corso Di Oro. Further access is provided by numerous street ends that connect the inland public street system to the trail system as well as vertical access to Alamitos Bay. Moreover, the City of Long Beach provides water taxi service (Aqualink) that connects Alamitos Bay to the Downtown harbor for increased public access.

Existing certified LCP policies ensure public use of and access to Naples Island and its beaches, parks, and pedestrian walkway system. These include but are not limited to the Park Dedication Policy that states, in part: "...all parks and beaches within the coastal zone (as defined by the Coastal Act) designated by the Local Coastal Program and now in public ownership be immediately dedicated in perpetuity as public park land," and several goals associated with the Open Space and Recreation Element, including Goal (a) and Goal 4.10, that strive to establish an open space recreation system that will serve all social and economic groups for both active and passive recreation and provide access to recreation resources for all individuals in the community, respectively.

With regard to public coastal views, the development pattern of the three Naples islands, with public views of the coast and bay concentrated at street ends, parks, beaches, and the perimeter public walkways, is such that new development landward of 300 feet from the MHTL/inland extent of the beach will not affect public coastal views. In addition, the Naples Islands are generally flat and completely built out at densities such that developments not compatible with existing scale or requiring the significant alteration of existing landforms, are not likely to be approved.

With regard to shoreline protection issues including shoreline erosion and geologic setback requirements, development in the centers of these islands may be subject to flooding with future sea level rise. Flood waters are anticipated to flow from Alamitos Bay into the Naples Islands before groundwater rise affects the inland properties. Thus, any shoreline protection or sea level rise adaptation proposals would likely involve development within 300 feet of the MHTL/inland extent of beach and occur on a larger community-wide scale. The City of Long Beach is currently working on a LCP amendment to address climate change and sea level rise adaptation, which will further inform the City's development standards within Naples based on best available science on sea level rise. In the meantime, the Implementation Plan portion of the City's certified LCP contains flood damage prevention regulations that designate the majority of these inland lots to be areas of special flood hazard (Section 21.62.060) and require a development permit to be obtained before any construction or development begins

within these areas (Section 21.62.110). Section 21.62.180 contains standards of construction in these areas of special flood hazard, including having the foundation elevated to or above the base flood elevation and construction with materials and utility equipment resistant to flood damage.

Therefore, as public access, public views, limitations on development potential within the established physical scale of the area, and shoreline protection are not an issue in the areas that are landward of 300 feet from the MHTL and landward of 300 feet from the inland extent of beach, the Commission, through this map adoption, finds it appropriate that the FPR appeal jurisdiction on Naples Island be limited pursuant to the Commission's authority under 14 CCR section 13577(i)(3).

### **First Public Road Description**

The series of roadways and streets listed below and shown as a component of the Commission's appeal jurisdiction boundary on the attached [Exhibit 2](#) constitute the current route of the first public road (FPR) for purposes of Coastal Act Sections 30600.5, 30601, 30603, and 30115, and all other applicable Coastal Act provisions. This system of coastal roadways and streets is consistent with, and meets the criteria set forth in, 14 CCR Section 13577.

From the western City limit the route designated as the FPR in the City of Long Beach follows West Anaheim St. east to West 9<sup>th</sup> St., south and east along West 9<sup>th</sup> St. to West 10<sup>th</sup> St., south along the 710 Freeway corridor to Pico Ave., south along Pico Ave. to West Ocean Blvd., east along West Ocean Blvd. to Golden Shore St., south and east along Golden Shore St. to Aquarium Rd., continuing east on Aquarium Way to West Shoreline Dr., east on West Shoreline Drive continuing on East Shoreline Dr., north on East Shoreline Dr. to East Ocean Blvd., east on East Ocean Blvd. to E Livingston Dr., east on East Livingston Dr. to 39<sup>th</sup> Pl., south on 39<sup>th</sup> Pl. to East Midway St., east on East Midway St. to South Termino Ave., south on South Termino Ave. to East Olympic Plaza, east on East Olympic Plaza to East Ocean Blvd., east along East Ocean Blvd. to 54<sup>th</sup> Pl., north on 54<sup>th</sup> Place to Bay Shore Ave., north along Bay Shore Ave. to East Appian Way, west on East Appian Way to East Paoli Way, north and west along East Paoli Way to East Appian Way, north on East Appian Way to East Paoli Way, north and west along East Paoli Way to Hanan Dr., west on Hanan Dr. to Appian Way, north on Appian Way to Bayside Dr. South, continuing on Bayside Dr. North to East Appian Way, west on East Appian Way to East 3<sup>rd</sup> St., north on East 3<sup>rd</sup> St. to East Paoli Way, west on East Paoli Way to Nieto Ave., north on Nieto Ave. to East Colorado St., west on East Colorado St. to East Appian Way, west on East Appian Way to Park Ave., north on Park Ave. to 6<sup>th</sup> St., continue east on 6<sup>th</sup> St. to Monrovia Ave., south on Monrovia Ave. to East 4<sup>th</sup> St., east on East 4<sup>th</sup> St. to Haines Ave., south on Haines Ave. to Vermont St., east on Vermont St. to Orlena Ave., south on Orlena Ave. to East Colorado St., west on East Colorado St., continuing on Eliot St., south and east on Eliot St. to Bellflower Blvd., south on Bellflower Blvd. to Loynes Dr., east on Loynes Dr. to North Studebaker Rd., south on North Studebaker Rd. to East 2<sup>nd</sup> St., west on East 2<sup>nd</sup> St. to East Marina Dr., south and east on East Marina Drive to North Marina Dr., south and west along North

Marina Dr. to Marina Dr., then south and east along Marina Dr. to the eastern Long Beach City limit.

### **C. Bisected Parcels**

In some areas a parcel is bisected by the appeal jurisdiction boundary. All development proposed within the appeal area defined as appealable is subject to the Commission's appellate jurisdiction. In addition, if a development is proposed partly on the portion of the parcel that forms the basis for geographic appeal jurisdiction, and partly on the remainder of the parcel, and the Commission finds that the portion of the project within its appeals jurisdiction raises a substantial issue, then it will consider the project *de novo*. The Commission's *de novo* review is of the entire project, including the portion of the proposed development that is located outside the appeals jurisdiction.

### **D. Draft Map Legend and Map Notes**

One of the elements of the Commission's transition to using GIS technology is the use of standardized base maps, boundary symbols, and map notes. In order to maintain consistency throughout the coastal zone, Commission jurisdictional boundaries have been developed using the coastal zone portions of the fifteen coastal counties as the basic unit. Accordingly, the Map Legend ([Exhibit 1](#)) includes all of the possible types of boundary and area symbols that may occur within any given County, while the draft map itself will include only those types of jurisdiction found within that area. In addition, the use of coastal counties as the basic geographic unit means that the maps may depict jurisdiction areas outside of the area for which a particular map adoption is occurring. In the case of the City of Long Beach LCP segment, areas adjacent to, but located west of, the segment, within the Port of Long Beach, and southeast of the segment, within the City of Seal Beach, are not affected by the Commission's action to adopt the Post Cert. map for the City of Long Beach LCP segment ([Exhibit 2](#)).

## APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

DRAFT Post LCP Certification Permit and Appeal Jurisdiction Maps (Long Beach, Los Alamitos, Seal Beach quadrangles, scale 1:24,000) California Coastal Commission, 04/1981.

Post LCP Certification Permit and Appeal Jurisdiction Map (City of Long Beach, cadastral base) California Coastal Commission, 04/16/1981.

Potential Public Trust Land Maps, (Long Beach (revised 1/21/1981), Los Alamitos, Seal Beach quadrangles), California State Lands Commission, 1979.

National Wetland Inventory Digital Data, U.S. Fish & Wildlife Service, October 2017.

U.S. Coast Survey Historical Topographic Maps, T-892 (1859), T-1283 (1872-1887), and T-1345 (1873).

ESRI World Imagery basemap service. Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community.

California Coastal Records Project, 2010-2019.

U.S. Geological Survey (USGS) 7.5 Minute Series Topographic Maps, Long Beach (1964), Los Alamitos (1964), Seal Beach (1965) quadrangles, USGS, photo-revised 1981.

Long Beach Chapter 138 and Tidelands Map, City of Long Beach, March 2015.

Long Beach Tidelands Trust Doctrine Map, City of Long Beach Technology and Innovation Department, October 2017.