CALIFORNIA COASTAL COMMISSION
SAN DIEGO DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370
FAX (619) 767-2384

W8b

Filed: 10/14/22
180th Day: 4/12/23
Staff: SL-SD
Staff Report: 11/22/22
Hearing Date: 12/14/22

STAFF REPORT: CONSENT CALENDAR

Application No.: **6-22-0491**

Applicant: **University of California, San Diego**

Agent: Robert Clossin

Location: 2055 Pacific Beach Drive, Pacific Beach, City of San Diego, San Diego County. (APN: 424-510-0300)

Project Description: Removal of an existing 600 sq. ft. trailer and ancillary structures, and construction of a new approx. 1,400 sq. ft. one-story modular building, 565 sq. ft. attached deck, 30 sq. ft. shed area, and 3 parking spaces on 6,522 sq. ft. of an approx. 7.21-acre lot.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project includes the removal of the University of California, San Diego's (UCSD's) existing Field Station and Learning Center, located in the northwestern corner of the Kendall-Frost Mission Bay Marsh Reserve (Reserve), and installation of a new modular building, attached deck, ancillary structures, and parking. The subject field station serves as a base of operations for UCSD's environmental research programs associated with the Reserve, along with continued teaching and community outreach use at the site. The new structure is proposed in order to meet current and future educational, research, and community needs of the Reserve.

The proposed modular building will be larger than the existing building, and while the footprint for the building itself will be shifted slightly southwest, the proposed ground disturbance area would be confined to the footprint of the existing trailer and immediately adjacent disturbed areas. The project site itself is bordered on virtually all sides by disturbed Diegan coastal sage scrub and is approximately 10-20 feet from marshland that is considered ESHA by the Commission's ecologist. However, no vegetation removal is proposed as part of the project and no removal or filling of wetlands is proposed. Construction will occur outside of the wetland and sensitive habitat area. A larger buffer is typically preferred for wetland buffers, but in this case, the existing development has not interfered with the adjacent coastal salt marsh's continuance, and the proposed development will be within the same general footprint of the existing development. This footprint will not extend any closer to the habitat compared to current conditions. The Commission's ecologist has reviewed the proposed work and found that the existing development will not interfere with the adjacent marsh's continuance or impact ESHA otherwise. In addition, it's worth acknowledging that the purpose of the proposed development is to continue to provide interpretation of the habitat and related educational opportunities to the public.

Because sensitive bird species utilize the surrounding Reserve, **Special Condition #2** will require the applicant to adhere to noise restrictions if construction occurs during the bird nesting season, as well as conduct nesting bird surveys and provide buffers as appropriate. For the protection of bat species that may potentially be found on site, **Special Condition #3** requires the applicant to conduct pre-construction surveys for roosting bats during the bat roosting season, which will inform the need for noise monitoring. To further protect biological resources in this sensitive resource area, **Special Condition #1** requires a submission of revised final plans that restricts the maximum lighting on site to be 2700 Kelvin (K) temperature.

Although the project will result in a slight increase in overall runoff from the site, permanent BMPs, including self-treating permeable areas, rain barrels, and a cobble/rock swale, will offset the slight increase in runoff and ensure stormwater is filtered and percolated before draining into the adjacent marsh. This would be an improvement in onsite drainage compared to existing conditions as excess runoff is not currently captured at all. To ensure that water quality is protected both during and after project construction, **Special Conditions #4 and 5** require UCSD to submit both a construction pollution prevent plan and a post-development runoff plan that will list the measures and water quality best management practices to be incorporated into construction and the final design of the development, as well as their future maintenance.

The proposed modular building would be similar in height and orientation to the existing trailer, although it would be approx. 2-2 ½ feet taller than the existing structure at its highest point. The longer façade of the new structure has the potential to impact a small slice of blue water view along Crown Point Drive when viewed from the intersection of Pacific Beach Drive. However, the loss of this small view will be offset by the creation of a new marsh view to the north of the structure when viewed from this same intersection. Because the new building will be shifted slightly southwest of the existing one, views of

the marsh along Crown Point Drive, and of the water and sky along Pacific Beach Drive, will become more expansive. Therefore, impacts are less than significant.

Given the project is located in a low-lying location along the shoreline, the site is considered potentially hazardous and may be at risk from potential flooding and erosion. These hazards may be exacerbated by expected future sea level rise. UCSD analyzed the project's vulnerability to sea level rise (SLR). Because the structure is estimated to be useable for 70 years or more, UCSD found that the site is projected to first experience infrequent flooding under 100-year storm conditions in the 2070 – 2080 date range based on the medium-high risk aversion SLR projections recommended in the Commission's Sea Level Rise Policy Guidance document. While the project site would experience flooding as early as 2070 – 2080, the proposed project is elevated up to 2.5 feet above the finished grade, which will aid in ameliorating flood impacts and is estimated to leave the modular building unaffected by flooding until after 2090. To further address the risks posed by flooding, UCSD has incorporated several floodproofing measures to protect on-site utilities, and has also stated that adaptive measures, such as raising the foundation of the building, would be considered as needed. If these adaptive measures are inadequate or cost prohibitive, arrangements would be made to move the modular building off-site.

While the development will remain safe from SLR for decades to come and UCSD has several avenues available to respond to SLR, the development is still located in a vulnerable area. To ensure that the proposed development does not result in future requests for shoreline protection that could result in adverse impacts on public access, shoreline sandy supply, and habitat, **Special Condition #6** requires the applicant to waive their rights to future shoreline protection, as well as remove all or a portion of the development and restore the site if the structure is deemed unsafe for use due to coastal hazards, or access to the site can no longer be feasibly maintained, among other requirements. Because periodic storm and flood events are expected to impact the development as sea level rise progresses, **Special Condition #7** requires the applicant to acknowledge the risk of building in a hazardous location and ensures that the risks of property damage or loss arising from sea level rise or other changed circumstances are borne by the applicant.

While the project has minimal ground disturbing activities that will not impact underlying native soils, UCSD prepared a Phase I Cultural Resources Survey and conducted an archaeological resources site records and literature search, both of which had negative results. Because the project is exempt from the California Environmental Quality Act (CEQA), AB 52 consultation was not required; nevertheless, UCSD has committed to keeping its tribal partners informed about the proposed project, and will also provide for Native American tribal monitoring during ground disturbing construction activities. UCSD will continue to actively engage with interested tribes as the project progresses, and there is no opposition to the project from the tribes.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-22-0491, as conditioned. The motion is on page 5. The standard of review is Chapter 3 of the Coastal Act.

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EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Location Maps

Exhibit 3 – Site Plan

Exhibit 4 – On-site Biological Resources

Exhibit 5 – Visual Analysis

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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. **Revised Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and written approval of the Executive Director, a full-size set of final plans that are in substantial conformance with the plans prepared by Architects Mosher Drew dated 6/1/22 received by our office on 6/16/22 except that:
   i. Lighting on the site shall be no higher than 2700 Kelvin temperature.

   The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. **Timing of Construction and Bird Nesting Surveys.** By acceptance of this permit, the applicant agrees to avoid, to the maximum extent feasible, construction activities that generate noise greater than 65 dB(A) at the project edge during bird nesting season, from February 15th through September 15th. If project construction is necessary during the bird nesting season, a qualified biologist with experience in conducting bird nesting surveys shall conduct a minimum of one survey within 72 hours of initiating construction activities. If during preconstruction surveys, active nests for raptors and sensitive species (clapper rail, Belding's savannah sparrow, and California gnatcatcher) are identified within 500 feet of the project site, or active nests of any passerine species are identified within 300 feet, noise monitoring shall be conducted and construction activities shall not occur until a qualified biologist determines that the young have fledged, the nest has been abandoned, or noise monitoring indicates that noise levels remain below a 65 dB(A) equivalent continuous noise level at the location of the nest.

   If the 65 dB(A) noise level is exceeded, feasible noise attenuation measures shall be implemented to reduce noise levels at active nests to at or below 60 dB(A) (except as necessary for emergencies with written approval by the Executive Director of the Commission after consultation with the California Department of Fish and Wildlife and U.S. Fish and Wildlife). The monitoring biologist shall halt construction activities if he or she determines that the construction activities may be disturbing or disrupting the nesting activities. The monitoring biologist shall make practicable recommendations to reduce the noise or disturbance in the vicinity of the active nests or birds. This may include recommendations such as (1) turning off vehicle engines and other equipment whenever possible to reduce noise, (2) installation of temporary sound barriers or sound blankets, and (3) utilizing alternative construction methods and technologies to reduce the noise of construction machinery. The monitoring biologist shall review and verify compliance with these avoidance boundaries and shall verify that the nesting effort has finished in a written report. Unrestricted construction activities may resume when the biologist confirms no active nests are found. Bird nesting surveys shall be provided to the Executive Director of the Commission and to the

California Department of Fish and Wildlife and U.S. Fish and Wildlife offices within 72 hours of locating any nests.

3. **Sensitive Bat Roosting Habitat.** The applicant shall undertake development in compliance with the following sensitive bat species protection measures:

   A. If construction is planned to occur between June 1 and August 31, a seasonally appropriate pre-construction survey for roosting bats shall occur during the potential maternal bat roosting season within potential bat roosting sites, including existing structures on the property, to determine whether roosting bats are present in the structure(s). The survey shall be conducted by a qualified biologist with experience surveying for bat roosts and experience conducting habitat assessments for bats. Surveyor qualifications shall be provided to the Executive Director for review and approval in consultation with CDFW staff. Survey results shall be submitted for the review and approval of the Executive Director no later than ten (10) days prior to commencement of the authorized construction work and shall include, at a minimum, the following: (1) a map that depicts the location(s) of any sensitive roosting habitat, (2) a narrative discussion of the species found, its relative abundance, and an overview of the general bat habitat quality. No pre-construction bat roosting survey need be performed if all construction work will be completed outside of the maternal bat roosting season (i.e., during September through May), and there are no noise level restrictions outside of the maternal roosting season.

   B. If the results of the bat roosting survey are negative for bat presence, no noise restrictions apply to the authorized construction activities. If the results of the bat roosting survey are positive for bat presence, no noise levels reaching 80dB or higher, as determined through noise monitoring described below, shall be allowed to reach the roosting area(s) until juvenile bats are volant, as confirmed by a qualified biologist in consultation with CDFW, or until September 1st (whichever is earlier). Noise levels shall be measured by a qualified noise monitor with experience measuring noise levels using a calibrated noise-meter at the closest edge of the structure to the noise source. The monitor shall report to the on-site biologist who shall be given the authority and responsibility to direct the contractor to stop construction activities that reach or exceed 80dB noise levels.

4. **Construction and Pollution Prevention Plan. PRIOR TO COMMENCEMENT OF CONSTRUCTION,** the applicant shall submit, for the review and written approval of the Executive Director, a final Construction and Pollution Prevention Plan prepared and certified by a qualified licensed professional. The final Plan shall demonstrate that all construction, including, but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:

(a) **Protect Public Access.** Construction shall protect and maximize public access, including by:

i. Staging and storage of construction equipment and materials (including debris) shall not take place on public parking spaces or public right-of-ways outside of the limits of work. Staging and storage of construction equipment and materials shall occur in inland areas at least 50 feet from ESHA, coastal waters, drainage courses, and storm drain inlets, if feasible. Upon a showing of infeasibility, the applicant may submit a request for review and written approval to the Executive Director for staging and storage of construction equipment and materials closer than 50 feet from coastal water, drainage courses, and storm drain inlets. Construction is prohibited outside of the defined construction, staging, and storage areas.

ii. All construction methods to be used, including all methods to keep the construction areas separated from public recreational use areas (e.g., using unobtrusive fencing or equivalent measures to delineate construction areas), shall be clearly identified on the construction site map and described in the narrative description.

(b) **Minimize Erosion and Sediment Discharge.** During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:

i. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.

ii. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.

iii. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.

iv. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.

v. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) that will be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.

(c) **Minimize Discharge of Construction Pollutants.** The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:

i. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:

A. Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers.

B. Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site.

C. Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptacles during wet weather.

D. Prompt removal of all construction debris from the project site.

E. Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.

F. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall not take place on the beach, and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.

(d) **Minimize Other Impacts of Construction Activities.** Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:

i. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.

ii. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.

iii. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.

(e) **Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality and adjacent ESHA.

(f) **Construction Site Map and Narrative Description.** The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:

i. A map delineating the construction site, construction phasing boundaries, ESHA, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).

ii. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.

iii. 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. Include calculations that demonstrate proper sizing of BMPs.

iv. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.

(g) **Construction Site Documents.** The Construction and Pollution Prevention Plan shall specify that copies of the signed CDP and the approved Construction and Pollution Prevention Plan be maintained in a conspicuous location at the construction job site at all times, and be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction and Pollution Prevention Plan, and the public review requirements applicable to them, prior to commencement of construction.

(h) **Construction Coordinator.** The Construction and Pollution Prevention Plan shall specify that a construction coordinator be designated who may be contacted during construction should questions or emergencies arise

regarding the construction. The coordinator's contact information (including, at a minimum, a telephone number available 24 hours a day for the duration of construction) shall be conspicuously posted at the job site and readily visible from public viewing areas, indicating that the coordinator should be contacted in the case of questions or emergencies. The coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

(i) **Notification.** The permittee shall notify planning staff of the Coastal Commission's San Diego Coast District Office at least three working days in advance of (1) commencement of construction or maintenance activities, and immediately upon completion of construction or maintenance activities, and (2) of any anticipated changes in the schedule based on site conditions, weather, or other unavoidable factors.

The permittee shall undertake development in accordance with the approved Construction-Phase Pollution Prevention Plan, unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

5. **Post-Development Runoff Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a final Post-Development Runoff Plan that demonstrates the project complies with the following requirements:

   (a) **Low Impact Development Strategies.** The project shall comply with the following Low Impact Development standards:

      i. Minimize disturbance of coastal waters and natural drainage features such as stream corridors, rivers, wetlands, natural drainage patterns, drainage swales, groundwater recharge areas, floodplains, and topographical depressions.

      ii. Minimize removal of native vegetation, and plant additional native plants that provide water quality benefits such as transpiration, interception of rainfall, pollutant uptake, shading of waterways to maintain water temperature, and erosion control.

      iii. Maintain or enhance appropriate on-site infiltration of runoff to the greatest extent feasible. Use strategies such as avoiding building impervious surfaces on highly permeable soils; amending soil if needed to enhance infiltration; and installing an infiltration Best Management Practice (BMP) (e.g., a vegetated swale, rain garden, or bio retention system).

      iv. Minimize the addition of impervious surfaces, and where feasible increase the area of pervious surfaces in re-development. Use strategies such as minimizing the footprint of buildings; minimizing the footprint of

impervious pavement; and installing a permeable pavement system where pavement is required.

v. Disconnect impervious surface areas from the storm drain system by interposing permeable areas between impervious surfaces and the storm drain system. Design curbs, berms, and similar structures to avoid isolation of vegetative landscaping and other permeable areas, and allow runoff to flow from impervious pavement to permeable areas for infiltration. Use strategies such as directing roof-top runoff into permeable landscaped areas; directing runoff from impervious pavement into distributed permeable areas (e.g., turf, medians, or parking islands); installing a vegetated swale or filter strip to intercept runoff sheet flow from impervious surfaces; and installing a rain barrel or cistern to capture and store roof-top runoff for later use in on-site irrigation.

vi. Where on-site infiltration is not appropriate or feasible, use alternative BMPs to minimize post-development changes in runoff flows, such as installing an evapotranspiration BMP that does not infiltrate into the ground but uses evapotranspiration to reduce runoff (e.g., a vegetated "green roof," flow-through planter, or retention pond); directing runoff to an off-site infiltration facility; or implementing BMPs to reduce runoff volume, velocity, and flow rate before directing runoff to the storm drain system.

(b) **Implement Source Control BMPs.** Appropriate and feasible long-term Source Control BMPs, which may be structural features or operational practices, shall be implemented to minimize the transport of pollutants in runoff from the development by controlling pollutant sources and keeping pollutants segregated from runoff. Use strategies such as covering outdoor storage areas; using efficient irrigation; proper application and clean-up of potentially harmful chemicals and fertilizers; and proper disposal of waste.

(c) **Avoid Adverse Impacts from Stormwater and Dry Weather Discharges.** The adverse impacts of discharging stormwater or dry weather runoff flows to coastal waters, intertidal areas, beaches, bluffs, or stream banks shall be avoided, to the extent feasible. The project shall comply with the following requirements:

i. Runoff shall be conveyed off-site or to drainage systems in a non-erosive manner. If runoff flows to a natural stream channel or drainage course, determine whether the added volume of runoff is large enough to trigger erosion.

ii. Protective measures shall be used to prevent erosion from concentrated runoff flows at stormwater outlets (including outlets of pipes, drains, culverts, ditches, swales, or channels), if the discharge velocity will be sufficient to potentially cause erosion. The type of measures selected for outlet erosion prevention shall be prioritized in the following order, depending on the characteristics of the site and the discharge velocity: (1) vegetative bioengineered measures (such as plant wattles); (2) a

hardened structure consisting of loose materials (such as a rip-rap apron or rock slope protection); or (3) a fixed energy dissipation structure (such as a concrete apron, grouted rip-rap, or baffles).

iii. The discharge of dry weather runoff to coastal waters shall be minimized, to the greatest extent feasible. Use strategies such as efficient irrigation techniques that minimize off-site runoff.

(d) **Manage BMPs for the Life of the Development.** Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training) to keep the water quality provisions effective for the life of the development.

(e) **Site Plan and Narrative Description.** The Post-Development Runoff Plan shall include a site plan and a narrative description addressing, at a minimum, the following required components:

i. A site plan, drawn to scale, showing the property boundaries, building footprint, runoff flow directions, relevant drainage features, structural BMPs, impervious surfaces, permeable pavements, and landscaped areas.

ii. Identification of pollutants potentially generated by the proposed development that could be transported off the site by runoff.

iii. An estimate of the proposed changes in (1) impervious surface areas on the site, including pre-project and post-project impervious coverage area and the percentage of the property covered by impervious surfaces; (2) the amount of impervious areas that drain directly into the storm drain system without first flowing across permeable areas; and (3) site coverage with permeable or semi-permeable pavements.

iv. A description of the BMPs that will be implemented, and the Low Impact Development approach to stormwater management that will be used. Include a schedule for installation or implementation of all post-development BMPs.

v. A description and schedule for the ongoing management of all post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development, if required for the BMPs to function properly.

The permittee shall undertake development in accordance with the approved Post-Development Runoff Plan, unless the Commission amends this permit or the Executive Director issues a written determination that no amendment is legally required for any proposed minor deviations.

6. **No Future Bluff or Shoreline Protective Device.** By acceptance of this coastal development permit, the applicant agrees, on behalf of itself and all successors and assignees, that no shoreline protective device(s) shall be constructed to protect the development approved pursuant to this coastal development permit including but not limited to, the construction of the new modular learning center

and ancillary structures , in the event that the development is threatened with damage or destruction from flooding, erosion, storm conditions, liquefaction, sea level rise, or any other coastal hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.

By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that they are required to remove all or a portion of the development authorized by this permit and restore the site, if:

i. The City or any government agency with jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structure is currently and permanently unsafe for use due to damage or destruction from waves, flooding, erosion, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structure suitable for use without the use of bluff or shoreline protective devices;
ii. Access to the site can no longer feasibly be maintained due to the coastal hazards listed above;
iii. Removal is required pursuant to LCP policies for sea level rise adaptation planning; or
iv. The development requires new or augmented shoreline protective devices that conflict with applicable LCP or Coastal Act policies.

Approval of CDP 6-22-0491 does not allow encroachment onto public trust lands. Any future encroachment onto public trust lands shall be removed unless authorized by the Coastal Commission. Any future encroachment would also be subject to the State Lands Commission's (or other designated trustee agency's) leasing approval. The permittee shall obtain a CDP for removal of approved development unless the Executive Director determines that no coastal development permit is legally required.

7. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit, the applicant, on behalf of itself, and its successor and assigns, acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant 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; (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 (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; (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittee; and (vi) to agree to include a provision in any subsequent sublease or

assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The subject site currently contains a 600 sq. ft. trailer serving as the University of California San Diego's (UCSD's) Field Station and Learning Center, an attached 350 sq. ft. deck, outdoor storage shed area totaling 147 sq. ft., a 600 sq. ft. tented outdoor shade structure, and 2 non-standard gravel parking spaces. The proposed development will include construction of a new modular building totaling 1,400 sq. ft. with an attached 565 sq. ft. deck, as well as 30 sq. ft. of outdoor storage area. Three standard parking spaces will also be constructed, including one ADA-compliant stall (Exhibits 2 and 3).

The site is located in the northwestern edge of the Kendall-Frost Mission Bay Marsh Reserve (Reserve), part of the University of California's Natural Reserve System, and is bound by Pacific Beach Drive and multi-family residential uses to the north, land associated with the Reserve to the east and south, and Crown Point Drive and multi-family residential uses to the west (Exhibits 1 and 2). The Kendall-Frost Mission Bay Marsh Reserve is 16 acres in total and includes restored coastal sage scrub (CSS), southern coastal salt marsh, tidal channels, salt flats, mudflats, sand spit, and eelgrass beds. The Reserve is the last intact estuary in Mission Bay, representing about 1 percent of the 4,000 acres of wetlands that existed in Mission Bay approximately 80 years ago. The Reserve is protected by fencing along its upper boundary with City of San Diego streets and by the Crown Point Villas condominium complex fence boundary to the west. Due to the sensitivity and fragility of the site, access is secured and only available by appointment. The lower boundary abuts the City's Northern Wildlife Preserve which is part of the 40-acre contiguous wetland area.

A Long Range Development Plan (LRDP) was created for UCSD but never certified by the Commission. The City of San Diego does have a certified Local Coastal Program (LCP) for most of its coastal zone; however, the UCSD campus is not part of that program and the campus remains an area of deferred certification where the Commission retains coastal development permit authority. Thus, the Chapter 3 policies of the Coastal Act are the standard of review.

The subject field station serves as a base of operations for UCSD's environmental research programs associated with the Reserve, along with teaching and community outreach programs. The existing trailer was constructed in 1971, and the applicant proposes to build a new structure on-site to meet the existing and emerging educational, research, and community needs at the Reserve. The proposed trailer will be ADA-compliant, as well as be strategically designed to have two separate entrances (south and north) on the east side of the building that would lead to two separate interior areas (one public, and the other research-focused). By separating these two existing

uses, expensive research equipment and valuable specimens may be more easily secured, while allowing public access in designated areas of the building. The public area (south end) of the building would be used for school groups, community organizations, and outreach events. This area would include a deck overlooking the marsh, a large multipurpose room, a reception area and a storage area. The multipurpose room would serve as a classroom for K-12 and university classes, an overflow workroom for researchers, and an event space for community groups, meetings, fundraisers, etc. The room would have views of the marsh and would open to the deck providing an indoor-outdoor space. The public area would be available to community groups that interact with the marsh.

Given the temporary nature of the existing facilities, large-scale demolition activities (e.g., concrete demolition, foundation removal, building demolition, etc.) would not be required. Rather, the existing trailer and associated ancillary structures would be disassembled on-site and hauled off-site in relatively large pieces for recycling or disposal to a location outside of the Coastal Zone. For the new construction, five modules would arrive on-site up to 75- to 80-percent complete. Construction of the proposed project is anticipated to take approximately five to six months.

In addition to the main field station modular building, other proposed improvements include a prefabricated storage shed on a foundation, which would be located adjacent to the western end of the proposed modular building. The proposed project would also include three parking spaces. Two parking spaces would be provided within a dirt and gravel area at the northern end of the proposed modular building, and an ADA-compliant space would be paved and van-accessible.

Biological surveys for the subject site indicate that the proposed project is bordered on all sides by disturbed coastal sage scrub (CSS). The site appears to be approximately 10-20 feet from marshland that is considered ESHA by the Commission's ecologist (Exhibit 4). The design process for the replacement of the existing facilities within the Reserve has taken the vegetation mapping into careful consideration and site development has been constrained to ensure avoidance of impacts to these habitats. The proposed ground disturbance area would be confined to the footprint of the existing trailer and immediately adjacent disturbed areas. The wetland boundary was surveyed by biologists in the field and a 10-foot buffer was added to ensure avoidance of any potential impacts to jurisdictional wetlands or other jurisdictional waters in the vicinity. All construction will occur outside of the wetland area, including the 10-foot buffer, and no removal, filling, or dewatering would occur as a result of the project. A contractor education training would be conducted prior to the start of work to prevent encroachment into adjacent sensitive habitat areas.

Section 30240(b) of the Coastal Act requires that development in areas adjacent to ESHA be sited and designed to prevent impacts which would degrade it and that the development be compatible with the continuance of the habitat area. Section 30233 of the Coastal Act requires that the filling or alteration of coastal waters or wetlands shall only be permitted in areas where there is no feasible less environmentally damaging alternative, mitigation measures have been provided as needed, and is limited to

several resource-dependent uses, including nature study. The proposed development will not result in any direct encroachment or impacts to ESHA, or any fill of (or other direct development in) wetlands. In order to assure protection of ESHA and wetlands, the Commission typically imposes a development setback. Most often, this setback ranges from 50 to 100 feet from the edge of the wetland. However, in this case, both the existing and proposed development footprint will be within just a few feet of the habitat at its closest point on the south and eastern parts of the project. While a larger buffer is typically preferred, there is no place onsite that would meet the 100-foot buffer setback. In this case, the existing development has not interfered with the adjacent coastal salt marsh's continuance, and the proposed development will be within the same general footprint of the existing development and the development footprint will not extend any closer to the habitat compared to current conditions. Because of this, the Commission is able to conclude that the proposed development will not create any significant disruption to the salt marsh habitat values. The Commission's ecologist has reviewed the proposed project and found that the project will not result in impacts to ESHA. In addition, it's worth acknowledging that the purpose of the proposed development is to continue to provide interpretation of the habitat and related educational opportunities to the public. The proposed replacement will improve the services and opportunities provided at the site by increasing indoor research and classroom space.

While sensitive vegetation will not be impacted, the Reserve at large is still home to several sensitive bird species that could nest in areas near the project site. To avoid adverse impacts on sensitive nesting birds, **Special Condition #2** requires the applicant to avoid construction activities that generate noise greater than 65 decibels (dB) from the project edge during the bird nesting season (February 15th to September 15th). If project construction occurs during the bird nesting season, a qualified biologist will be required to conduct at least one survey within 72 hours of initiating construction, and if nests are discovered within a minimum buffer distance of 300 feet of the project site for passerine species, and 500 feet of the project site for clapper rail, Belding's savannah sparrow, and California gnatcatcher, noise monitoring and attenuation measures are required as necessary. The biologist may also halt construction activities if he or she determines construction is disturbing nesting activities. Bird nesting surveys shall be provided to the Executive Director within 72 hours of locating any nests.

There is also the potential for bats to roost at the project site within the existing structures; however, maternity roosts tend to be caves, tree cavities and large abandoned structures, therefore maternity roosting is not expected within the study area. While it is unlikely bats roost at the site, **Special Condition #3** requires the applicant to conduct pre-construction surveys for bats during the maternal roosting season (i.e. June 1 through August 31). The results of the survey will include the location of any sensitive roosting habitat, a discussion of the species found and an overall assessment of the quality of the habitat on-site. If the results of the bat roosting survey are negative for bat presence, no noise restrictions apply to the authorized construction activities. If the results of the bat roosting survey are positive, no noise levels reaching 80dB or higher, shall be allowed to reach the roosting area(s) until juvenile bats are volant, as confirmed by a qualified biologist in consultation with CDFW, or until September 1st (whichever is earlier).

To further protect biological resources, the Commission's staff ecologist has recommended that the proposed lighting be lowered from 3000 Kelvin (K) temperature to 2700K. Lighting that is 2700K is typically the highest color temperature recommended by the Commission for development adjacent to environmentally sensitive areas. The applicant has agreed to make this change; accordingly, **Special Condition #1** requires a submission of revised final plans that reflects the proposed lighting on site will be a maximum of 2700K.

Because of the proximity of sensitive habitat and coastal waters, the project must also be designed to avoid adverse impacts on water quality to the surrounding marshland. According to the Water Pollution Control Plan and Storm Water Quality Management Plan submitted with the application, there is no on-site storm drain system and all of the stormwater that hits the project site flows east into the marsh and Mission Bay. After construction of the proposed project, the proposed drainage would have a hydrologic regime very similar to the existing conditions but would increase the overall runoff at the site by 0.07 cubic feet per second. In order to address this minor increase in runoff, the project includes additional new post-construction site runoff controls, including self-treating permeable areas, installation of three 55-gallon rain barrels to capture runoff, and installation of a cobble/rock swale to percolate and filter stormwater runoff from the site before it runs into the adjacent marshland. This would be an improvement in onsite drainage compared to existing conditions as excess runoff is not currently captured at all. To further protect water quality, **Special Conditions #4 and 5** list the measures and water quality best management practices (BMP's) to be incorporated into construction and the final design of the development and its future maintenance. These measures include the delineation, description, and use of BMP's to minimize impacts due to erosion and sediment, a maintenance schedule of those BMPs to ensure their working condition in the future, the use of materials management during construction to ensure all waste is properly disposed of, and protective measures that will avoid stormwater and dry weather discharges to the marsh area over time.

The project has also been designed to avoid impacts to public views. While the proposed modular building would be similar in height and orientation to the existing trailer, it would be approx. 2-2 ½ feet taller than the existing structure at its highest point, and would also be shifted slightly southwest of the existing structure. When viewed from Pacific Beach Drive, the project appears to slightly improve the public views. The design and orientation of the proposed modular building creates a more open view of the sky as well as a small blue water view not currently available (Exhibit 5). Additionally, the building would be located along the northwestern most corner of the Reserve such that it would not obscure foreground, middle-ground, or distance background views of the marsh or the coastline from Pacific Beach Drive.

While views from Pacific Beach Drive will be slightly improved, the longer façade of the new structure parallel to Crown Point Drive, and the slight shift south in the building's footprint, would result in a small slice of existing blue water view currently available to blocked by the development when viewed from the intersection from Crown Point Drive (Exhibit 5). However, this particular view is already partially obscured by the fence

surrounding the site as well as the presence of on-site vegetation and the potential presence of parked cars along the eastern side of Crown Point Drive. Given the visual clutter already present on site and the small existing view to be impacted, the visual impacts to the site can be considered less than significant (Exhibit 5). Additionally, because the new building will be shifted slightly south compared to the existing, a more expansive view of the marsh will be available from the same position along Crown Point Drive on the northern side of the structure (Exhibit 5). As one moves further south along Crown Point Drive and south of UCSD's Reserve, expansive views of the marsh without sidewalk-level chain-link fencing are available, and these views will not be impacted by the project. An important note in regards to the fencing around the Reserve is that at the Commission's November 2022 hearing, CDP #6-21-0325 was approved for removal of chain-link fencing and barbed wire located at the base of the slope next to Crown Point Drive in the portion of the Reserve owned by the City of San Diego, as well as installation of a new fence that will be 4 feet in height and will include, but not be limited to, railings or post-and-rope, without barbed wire.

Given the project is located in a low-lying location along the shoreline, the site is considered potentially hazardous and may be at risk from potential flooding and erosion. These hazards may be exacerbated by expected future sea level rise. The main concerns raised by development in this area are potential exposure of the proposed development to coastal flood and/or erosion hazards and whether these future hazardous conditions might eventually lead to a request to build a shoreline protection device to protect the proposed development. Neither the existing trailer nor the proposed modular building are located in the 100-year floodplain. The anticipated useful life of the new structure is estimated to be approximately 70 years. The project-specific Sea Level Rise Study submitted with this application analyzed the sea level rise hazard thresholds and timing of flooding for a 100-year storm event (4.1 feet of sea level rise) and high spring tide conditions (5.7 feet of sea level rise). The project site is projected to first experience infrequent flooding under 100-year storm conditions in the 2070 – 2080 time range based on the medium-high risk aversion sea level rise projections, and is expected to experience more regular flooding under spring high tide conditions by 2090 under the medium-high risk aversion scenario.

While the site could experience flooding as early as 2070 – 2080 and within its anticipated lifespan, the project has been designed to withstand some amount of flooding. The proposed project incorporates a concrete masonry stem wall foundation that elevates the floor of the modular building between 1.5 feet and 2.5 feet above the finished grade. This increase in the floor elevation of the modular building will ameliorate flood impacts due to the approximately 2-foot difference between floodwater elevation projections analyzed (12.5 feet NAVD88) and floor elevation of the modular building (14.4 feet NAVD88). Therefore, while the project site may experience flooding, it is anticipated that the modular building itself would not be affected by flooding until well beyond 2090.

Several additional adaptive measures have been incorporated into the project design. UCSD has incorporated several measures to protect on-site utilities from the effects of flooding, including: installing risers, conduits, and cables on the most sheltered side of

the vertical foundation members, and protecting risers, conduits, and cables by enclosing them in insulated, rigid, watertight conduits or chases with welded seams designed to withstand flood and debris impact forces. As sea level rises, further adaptive measures would be available and would be considered, including raising the foundation, flood proofing, or moving the modular structure off-site. Once it is decided that it should move off-site, the site would naturally evolve into future conditions resulting from sea level rise.

Despite the adaptive measures in place for current and future use, the development is nevertheless proposed in an area vulnerable to sea level rise and other coastal hazards. Therefore, to ensure that the proposed development does not result in future requests for shoreline protection that could result in adverse impacts on public access, shoreline sandy supply, and habitat, **Special Condition #6** requires the applicant to waive its rights to construct future shoreline protection. Special Condition #6 further requires that the applicant must remove all or a portion of the development and restore the site if the structure is deemed unsafe for use due to coastal hazards, access to the site can no longer be feasibly maintained, removal is required pursuant to a future LCP policy or sea level rise adaptation planning, or the development requires a shoreline protective device that is in conflict with the applicable LCP or Coastal Act policies. Because periodic storm and flood events are expected to impact the development as sea level rise progresses, **Special Condition #7** requires the applicant to acknowledge the risk of building in a hazardous location and ensures that the risks of property damage or loss arising from sea level rise or other changed circumstances are borne by the applicant.

UCSD also considered potential impacts to tribal resources during its project design. To assess the potential for buried cultural resources on-site and to address potential impacts that could result from the implementation of the proposed project, UCSD oversaw the preparation of a Phase I Cultural Resources Survey. No archaeological resources, artifacts, or other unique features were identified during this survey. An archaeological resources site records and literature search was also conducted on October 12, 2020 and no previously recorded cultural resources were identified within the project site. The applicant has also coordinated with local tribes, including the Iipay Nation of Santa Ysabel and the Viejas Band of Kumeyaay Nation’s Indians, and shared details of the project. Although the project is exempt from the California Environmental Quality Act (CEQA) and AB 52 consultation is not required, UCSD will continue to actively engage with interested tribes as the project progresses, and there is no opposition to the project from the tribes.

Implementation of the proposed project would require minor ground disturbing activities during construction including grading for the modular building footings and the paved areas, excavation for the footings of the foundation, and trenching required for utility connections. Required grading activities and other associated ground disturbances (e.g., utilities trenching) would extend to up to 4 feet below ground but would not intrude into the underlying native soils as the site surface is covered by redeposited dredge sediment materials from Mission Bay. While ground disturbances would not extend into underlying native soils, UCSD will provide for Native American tribal monitoring during

ground disturbing construction activities at the project site. Should resources be discovered during monitoring, ground-disturbing activities would be temporarily halted while the significance of resources is assessed. The significance of the discovered resources shall be determined by the tribal representative in consultation with UCSD Campus Planning and the Native American community, as appropriate. Therefore, significant adverse impacts on cultural resources are not anticipated.

B. Biological Resources

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protects sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized. Section 30233 limits development in open coastal waters, wetlands, estuaries, and lakes to specific permitted uses where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

The proposed development will not have an adverse impact on any sensitive habitat, and, as conditioned, will not result in erosion or adverse impacts to water quality, as adequate temporary erosion controls (construction BMPs) and adequate drainage controls will be provided. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. Community Character/Visual Quality

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area and will not impact public views. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

D. Public Access/Parking

As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

E. Local Coastal Planning

The City of San Diego does have a certified Local Coastal Program (LCP) for most of its coastal zone; however, the UCSD campus is not part of that program and the campus remains an area of deferred certification where the Commission retains coastal development permit authority. Thus, Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

F. California Environmental Quality Act

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The California Wildlife Conservation Board issued a Notice of Exemption for the project on November 19, 2021, and found the project exempt from CEQA review under Section 15302, Class 2 (Replacement or Reconstruction).

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing biological resources, lighting, water quality, and sea level rise will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.