

**CALIFORNIA COASTAL COMMISSION**

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# F11c

## ADDENDUM

**April 5, 2022**

**To:** Commissioners and Interested Persons

**From:** California Coastal Commission  
San Diego Staff

**Subject:** Addendum to **Item F11c**, Coastal Commission Permit Application **#6-22-0113 (City of San Diego Point La Jolla Seasonal Closure)**, for the Commission Meeting of April 8, 2022

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The purpose of this addendum is to make minor additions and corrections to the staff report; add a special condition prohibiting fireworks near Point La Jolla during the seasonal closure; and respond to a letter submitted by the applicant (City of San Diego) dated April 1, 2022 (see new Exhibit #8 attached to this addendum). The City has requested after-the-fact authorization of the wooden stairway at the eastern end of the project area as part of the proposed project. Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by ~~strikethrough~~ and additions shall be underlined:

1. On page 1 of the staff report, modify the Project Description as follows:

Seasonal closure of Point La Jolla bluffs during California sea lion pupping season from May 25 to September 15, including installation of a K-rail barrier to create an ocean access path to Boomer Beach, signage, and a chain at the top of access stairway. After-the-fact authorization for the wooden public access stairway.

2. On page 2 of the staff report, revise the third complete paragraph as follows:

The potential adverse impacts of disturbance to hauled out sea lions are particularly significant during the vulnerable mating and pupping season when sea lions haul out (i.e., exit the water) and remain on the beach and bluffs for longer periods of time to prepare for birth, give birth, nurse their pups, and mate. While the City's proposed closure period generally coincides with the peak sea lion pupping season, based on discussions with experts and review of scientific literature, the Commission's ecologist recommends that the closure begin on

May 1 and extend through October 31st to capture the full extent of the sea lion mating and pupping season. This would include time for pregnant females to haul out and prepare for birth, a four-month period for pups to adequately bond with their mothers and develop swimming skills after birth, and a buffer to reduce public safety concerns from aggressive animals during mating season.

Therefore, **Special Condition No. 1** requires the City to revise the seasonal closure to extend from May 1 to October 31. Because of the potential for firework displays to result in adverse impacts on the sea lions, such as through flushing caused by loud noises, lighting, or debris, Commission staff discussed a potential firework prohibition with the City. **Special Condition No. 1** also prohibits firework displays at nearby Ellen Browning Scripps Park during the seasonal closure.

3. On page 2 of the staff report, revise the last paragraph as follows:

To inform the public of the seasonal closure and the year-round requirements to maintain a safe distance from the sea lions, **Special Condition No. 5** requires the City to submit a final signage plan consistent with the one submitted with this application and that includes signs for posting both during the seasonal closure and outside of the seasonal closure. However, the “Area Closed” signs proposed to be installed during the seasonal closure shall be revised to add language indicating ~~“Sea Lion Pupping and Mating Season”~~ so that members of the public understand the purpose of the seasonal closure (sea lion pupping season) and the dates of the closure period (May 1 to October 31).

4. On page 3 of the staff report, revise the first complete paragraph as follows:

To assess the on-going effectiveness of the seasonal closure and determine if any significant changes have occurred **Special Condition No. 3** requires that the City prepare and submit a monitoring plan that assesses a) the level of use by sea lions of the haul out site at Point La Jolla, and b) the effectiveness of the seasonal closure at eliminating harassment of hauled out sea lions. The monitoring reports will be submitted to the Commission by ~~January 4~~ March 1 of each year (with all raw monitoring data submitted by January 1), at which point the Executive Director will review the results and assess the need for any changes to the seasonal closure length and spatial extent through a CDP amendment.

5. On page 3 of the staff report, revise the third complete paragraph as follows:

Based on the outcome of the City’s emergency seasonal closure, it is anticipated that the proposed project will effectively eliminate or reduce sea lion harassment during the vulnerable sea lion pupping season. However, it is possible that harassment may begin again once public access restrictions are lifted. Therefore, **Special Condition No. 4** requires the City to submit a preliminary long-term management plan for Point La Jolla by November 1, 2022 and a final long-term management plan by April 1, 2023 that includes strategies to reduce harassment outside of the pupping season while maximizing public access.

6. On page 4 of the staff report, modify the first complete paragraph as follows:

In late 2021, members of the public reported to Commission staff that unpermitted development has occurred on the subject site, including the construction of a wooden public access stairway at the eastern end of the project site sometime between 1987 and 2002. Although public access to the bluffs is available throughout the project area since there is no fence and people can easily step over the concrete retaining wall, the stairway provides convenient access down to the bluffs. During the seasonal closure, the City proposes to install a chain and sign across this wooden stairway to close access to Point La Jolla. The Commission and the City have no permit history for this stairway. ~~Commission staff recommended that the City address the unpermitted development as part of the subject permit application; however, the City declined to include after-the-fact authorization for this stairway as part of this CDP, but has indicated that they will process a separate CDP in the future. Any CDP issued by the City for the wooden stairway would be appealable to the Commission and, moreover, if it remains unpermitted the Commission's enforcement staff will consider options to address the unpermitted development through a separate enforcement action. Therefore, the City also proposes to include after-the-fact authorization of the wooden access stairway as part of the subject application.~~ **Special Condition No. 8** requires the City to submit as-built plans for the wooden access stairway within 90 days of Commission action to memorialize the current location and extent of the wooden access stairway.

7. On page 5 of the staff report, Exhibit 2 – Project Plans shall be replaced with the Exhibit attached to the end of this addendum. This revised exhibit is the latest project plan provided by the City. The only difference is a slight modification of the southern boundary of the ocean recreation accessway approximately 10 feet to the south to account for site conditions and rocky terrain.
8. On page 5 of the staff report, under EXHIBITS, the following exhibit shall be added to the list:

Exhibit 8 – Letter from City of San Diego

9. On page 7 of the staff report, Special Condition No. 1 shall be revised as follows:

**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, final site plans for the proposed development. Said plans shall be in substantial conformance with the plans submitted by the City of San Diego on March 18, 2022, except that they shall be revised to reflect the following:

- (a) The seasonal closure shall extend from May 1 through October 31 of each year.

(b) Fireworks shall be prohibited within Ellen Browning Scripps Park during the seasonal closure from May 1 through October 31 of each year.

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

10. On page 8 of the staff report, Special Condition No. 3 shall be revised as follows:

**3. Monitoring Plan.**

(a) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a Monitoring Plan for the management and monitoring of the seasonal closure at Point La Jolla. The plan shall include, but not be limited to, the following criteria:

(i) A physical description and exhibit delineating the precise location of the public access restrictions and associated signage at Point La Jolla;

(ii) A discussion of the goals and objectives of the plan, which shall include the method by which the applicant will assess the level of use (frequency and spatial extent) by sea lions of the haul out site at Point La Jolla and Boomer Beach throughout the year and the method of determining the effectiveness of the seasonal beach closure at minimizing harassment of hauled out sea lions with both methods employing, at a minimum, the procedures described in section 3 and 4, below, of this special condition;

(iii) Upon implementation of the seasonal closure, a qualified biologist, environmental resources specialist, park ranger, lifeguard, and/or City-trained volunteer shall record the number of sea lions hauled out at Point La Jolla within the closure area, the number of sea lions hauled out within the "ocean recreation accessway" and Boomer Beach, the number of people present on the bluffs, the number of people present on the concrete walkway at the top of the bluffs, the number of people transiting the "ocean recreation accessway," the number of harassment instances, the number of citations and warnings issued, the outcomes of issued citations and warnings if available, the tide, the weather (including water and air temperature), and the date, at least 16 days per month and specifically including at least two Saturdays and two Sundays each month, and Memorial Day, July 4th, and Labor Day. Monitoring shall be conducted a minimum of 16 days per month and measurements shall be recorded a minimum of 3 times per day, to include 10 AM, 1 PM, and 4 PM;

(iv) Provisions for taking measurements of the number of harassment instances, including what activities would qualify as harassment consistent with relevant regulatory definitions of harassment (e.g. sea lions flushing into water) under the Marine Mammal Protection Act (16 U.S.C. 1362(18)(A); 50 C.F.R., § 18.3).

(v) A City Park ranger shall be present at the site year-round, 7 days per week, and from 10 a.m. to 6 p.m. or 11 a.m. to 7 p.m., depending on the season.

(b) The City shall submit, for the review and written approval of the Executive Director, on an annual basis and by ~~January 1~~ March 1 of each year, a written monitoring report from a qualified biologist or other qualified experts, as necessary to comply with the requirements of the monitoring report. Each monitoring report shall contain the following:

(i) All records of measurements, analyses and conclusions created in conformance with the approved Monitoring Plan;

(ii) Recommendations for repair, maintenance, modifications, or other work to the development; and

(iii) Photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the condition, performance, and effectiveness of the seasonal beach closure and associated signage.

If a monitoring report contains recommendations for repair, maintenance, modifications, or other work, the permittee shall contact the San Diego Coastal Commission Office to determine whether such work requires an amendment or new coastal development permit.

(c) Prior to submitting the formal report required per subsection (b) above, the City shall submit, for the review and written approval of the Executive Director, on an annual basis and by January 1 of each year, all raw monitoring data collected during the seasonal closure per subsection (a)(iii) above.

~~(c)~~ (d) The City shall submit, for the review and written approval of the Executive Director, by August 1, 2022, an interim update that includes all raw monitoring data collected thus far during the seasonal closure per subsection (a)(iii) above.

~~(d)~~ (e) If, based on the required monitoring report and/or first-year interim data update, the Executive Director determines that the seasonal closure is not significantly reducing conflicts between humans and sea lions and harassment incidents continue, such as due to the ocean recreation accessway to Boomer Beach, the Permittee shall apply for a coastal

development permit or amendment within three months of the Executive Director's determination to evaluate and remedy any impacts.

- ~~(e)~~ (f) The permittee shall undertake development in accordance with the approved final Monitoring Plan. No changes to the approved final Monitoring Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required for any proposed minor deviations.

11. On page 9 of the staff report, Special Condition No. 4 shall be revised as follows:

**4. Long-Term Management Plan.**

Prior to November 1, 2022, the applicant shall submit to the Executive Director for review and written approval a Preliminary Long-Term Management Plan for managing public access and marine mammal interaction at the project site. Prior to April 1, 2023, the applicant shall submit to the Executive Director for review and written approval a Final Long-Term Management Plan. The Long-Term Management Plan shall be prepared in consultation with a qualified biologist or marine mammal expert, as well as appropriate state and federal agencies (i.e., NOAA). The plan shall include measures for the long-term management of Point La Jolla, including outside of the seasonal closure time period, and shall consider strategies to improve the enforcement capabilities of City Park Rangers and engineering solutions, such as installing a fence/railing along the project area.

12. On page 10 of the staff report, Special Condition No. 5 shall be revised as follows:

**5. Revised Sign Program.**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final comprehensive sign program in substantial conformance with the plans submitted by the applicant with on March 18, 2022 and as shown in Exhibit 7 except that the program shall be revised to reflect the following:

- (a) The "Area Closed" signs to be installed during the seasonal closure shall be revised to ~~add that the closure is for "Sea Lion Pupping and Mating Season."~~ state: "No Access Allowed During CA Sea Lion Pupping Season May 1<sup>st</sup> to October 31<sup>st</sup>".

The applicant shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required for any proposed minor deviations.

13. On page 10 of the staff report, a new Special Condition No. 8 shall be added as follows:

**8. As-Built Plans.**

WITHIN 90 DAYS OF COMMISSION APPROVAL, the applicant shall submit as-built plans for review and written approval of the Executive Director for the wooden public access stairway located on the eastern portion of the site.

14. On page 11 of the staff report, the last sentence of the Proposed Project section shall be revised as follows:

The area will be monitored by one to two City Park Rangers year-round during peak hours from 10 a.m. to 6 p.m. (from Labor Day through the Saturday of Memorial Day weekend) or 11 a.m. to 7 p.m. (from the Saturday of Memorial Day weekend through Labor Day) depending on the season.

15. On page 12 of the staff report, add a new paragraph to the end of the Proposed Project section as follows:

The City also proposes to include after-the-fact authorization of the wooden access stairway located at the eastern end of Point La Jolla as part of the subject application. The stairway provides access to the public from the concrete walkway at the top of the bluff, over the short concrete retaining wall, and down to the Point La Jolla bluffs ([Exhibit 1](#)). The Commission and the City have no permit history for this stairway, but a review of historical imagery suggests that it was constructed between 1987 and 2002. Prior to construction of the wooden staircase, it appears that a concrete ramp provided access in this area, but may have eroded away.

16. On page 20 of the staff report, revise the last paragraph as follows:

The potential adverse impacts of disturbance to hauled out sea lions are particularly significant during pupping season when sea lions haul out and remain on the beach for longer periods of time to prepare for birth, go through the birthing process, and nurse their pups once they are born. Harassment by humans and other activities likely to disturb the sea lions, such as the City's previously considered firework display, will have the most severe consequences during this time period. Thus, to ensure that distances from humans and sea lions are maximized during this important period in the animals' life cycle and to provide the sea lions with unimpeded protection during the vulnerable pupping season months, the City proposes to close the area of Point La Jolla to public access from May 25 to September 15. Based on discussions with experts and review of scientific literature, the Commission's ecologist recommends that the closure begin on May 1 and extend through October 31 to capture the full extent of the sea lion mating and pupping season, provide time for pregnant females to

haul-out and prepare for birth, provide a four month period for pups to bond with their mothers and improve their swimming skills, and reduce public safety concerns from aggressive animals during mating season ([Exhibit 5](#)). Therefore, **Special Condition No. 1** requires the City to revise the seasonal closure to extend from May 1 to October 31. As discussed in greater detail in the Commission ecologist's June 29, 2021 memorandum ([Exhibit 5](#)), firework displays conducted adjacent to Point La Jolla could also adversely impact the sea lions during pupping and mating season and would likely result in flushing of the sea lions into the water due to acoustic impacts. Visual and debris impacts would also result when fireworks are launched. Therefore, **Special Condition No. 1** also prohibits firework displays conducted in adjacent Ellen Browning Scripps Park during the seasonal closure (May 1 – October 31).

17. On page 21 of the staff report, revise the first complete paragraph as follows:

To inform the public of the seasonal closure and the year-round requirements to maintain a safe distance from the sea lions, **Special Condition No. 5** requires the City to submit a final signage plan consistent with the one submitted with this application and that includes signs for posting both during the seasonal closure and outside of the seasonal closure. However, the "Area Closed" signs proposed to be installed during the seasonal closure shall be revised to add language regarding "Sea Lion Pupping and Mating Season" so that members of the public understand the purpose of the seasonal closure (sea lion pupping season) and the dates of the closure period (May 1 to October 31).

18. On page 22 of the staff report, add a new sentence to the end of the first paragraph:

The City is required to submit the raw monitoring data collected during the closure by January 1 of each year and the formal monitoring report by March 1 of each year.

19. On page 22 of the staff report, revise the second paragraph as follows:

Based on the outcome of the City's emergency seasonal closure, it is anticipated that the proposed project will effectively eliminate or reduce sea lion harassment during the vulnerable sea lion pupping season from May 1 to October 31. However, as evident from reports by the public following the end of the emergency closure on September 15, 2021, harassment may begin again once public access restrictions are lifted. Therefore, **Special Condition No. 4** requires the City to submit ~~by November 1, 2022~~, for Executive Director review and approval, a preliminary long-term management plan for Point La Jolla by November 1, 2022 and a final long-term management plan by April 1, 2023 that includes strategies to reduce harassment outside of the pupping season while maintaining public access. ~~This~~ These plans should include recommendations from a qualified biologist and should be prepared in consultation with NOAA, the federal agency with jurisdiction over marine mammals. The plans should include measures to increase the enforcement authority of Park Rangers and the



consideration of engineering solutions, such as the installation of a fence/railing at Point La Jolla (similar to what exists along the bluffs in La Jolla surrounding the subject site and with added features to deter movement of sea lions onto the grass and park areas) or educational/artistic displays, such as installation of a bronze sea lion statue so that the public can take photos with the statue rather than the animals. The City could also install a sea lion web camera such as was previously done at Children's Pool and would serve as an educational feature and harassment deterrent. Regarding increased enforcement authority, in a meeting between Commission staff and the California Department of Fish and Wildlife (CDFW), the CDFW representative recommended that the City give the park rangers the same authority as lifeguards to cite members of the public in violation of California state code regarding harassment of animals.

20. On page 31 of the staff report, revise section E. Unpermitted Development as follows:

Unpermitted development has occurred on the subject site, including the construction of a wooden public access stairway at the eastern end of the project site ([Exhibit 2](#)). Members of the public reported the unpermitted development to Commission staff in late 2021. Although public access to the bluffs is available throughout the project area since there is no fence and people can easily step over the approximately two-foot high concrete retaining wall, the stairway provides convenient public access down to the Point La Jolla bluffs. During the seasonal closure, the City proposes to install a chain and sign across this wooden stairway to close access to Point La Jolla ([Exhibit 2](#)). The Commission and the City have no permit history for this stairway, but a review of historical imagery suggests that it was constructed between 1987 and 2002 ([Exhibit 7](#)). Prior to construction of the wooden staircase, it appears that a concrete ramp provided access in this area, but may have eroded away.

~~Commission staff recommended that the City address the unpermitted development as part of the subject permit application; however, the City declined to include after-the-fact authorization for this stairway as part of this CDP, but has indicated that they will process a separate CDP in the future. Any CDP issued by the City for the wooden stairway would be appealable to the Commission and, moreover, if it remains unpermitted, the Commission's enforcement staff will consider options to address the unpermitted development through a separate enforcement action. Therefore, the City is requesting after-the-fact authorization of the wooden access stairway as part of the subject application. Upon issuance of the subject permit, the subsequent performance of the work authorized by the permit in compliance with all the terms and conditions of the permit will result in resolution of the violation described above. Further, **Special Condition No. 8** requires the City to submit as-built plans for the wooden access stairway within 90 days of Commission action to memorialize the current location and extent of the wooden access stairway.~~

Although development occurred prior to the submission of the permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act and the City's LCP. Commission review

and action on this permit application does not constitute a waiver of any legal action with regard to the alleged violation, nor does it constitute an implied statement of the Commission's position regarding the legality of any development, other than the development addressed herein, undertaken on the subject site without a coastal development permit.



# Point La Jolla Seasonal Closure



THIS MAP/DATA PROVIDES INFORMATION WITHOUT WARRANTY, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## Legend

▬ Seasonal Closure Boundary

○ K-Rail

▨ Ocean Access

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**EXHIBIT NO. 2**

APPLICATION NO.

**6-22-0113**

**Project Plans**



California Coastal Commission



**Parks and Recreation Department**

Administrative Services Division

April 1, 2022

Ms. Kaitlin Carney  
Coastal Planner  
California Coastal Commission  
San Diego Coast District  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108

Via email: [kaitlin.carney@coastal.ca.gov](mailto:kaitlin.carney@coastal.ca.gov)

Dear Ms. Carney:

Thank you for the California Coastal Commission's ("Commission") Staff Report on the City of San Diego's ("City") proposal for a seasonal closure of Point La Jolla bluffs during California sea lion pupping season (Application No.: 6-22-0113). The City of San Diego is grateful for the Commission's review and consideration of its coastal development plan (CDP) application, as well as the "Approval with Conditions" recommendation made by Staff.

The City has carefully considered the five Special Conditions noted in the Staff Report. Please see below for our response to the points made therein.

**Special Condition No. 1:**

**Requires the City to revise the seasonal closure to extend from May 1 to October 31**

**Response:**

The City accepts the modification of the closure dates of May 1<sup>st</sup> through October 31<sup>st</sup>.

**Special Condition No. 2**

**Limits the permit terms to seven (7) years and requires the City to apply for an amendment of new coastal development permit to continue authorization of the public access restrictions**

**Response:**

The City accepts the permit duration of seven years.

**Special Condition No. 3**

**Requires the City to prepare and submit a monitoring plan/reports (by January 1<sup>st</sup> of each year) which assesses the following:**

- a. the level of use by sea lions of the haul-out site at Point La Jolla; and
- b. the effectiveness of the seasonal closure at eliminating harassment of sea lions

**Response:**

**EXHIBIT NO. 8**

APPLICATION NO.

**6-22-0113**

**Letter from City of  
San Diego**



California Coastal Commission

The City requests to revise the deadline to submit the Monitoring Plan to the Executive Director by January 1, 2023 to September 30, 2023 in order to collect as much monitoring data during the seasonal closure.

**Special Condition No. 4**

**Requires the City to submit a long-term management plan for Point La Jolla by November 1, 2022 that includes strategies to reduce harassment outside of the pupping season while maximizing public access**

**Response:**

The City requests to revise the deadline to submit the Long-Term Management Plan prior to April 1, 2023, instead of November 1, 2022, to collect important data during the non-closure period to understand if the initial approaches are working or not. The City would like to assess actions implemented outside of the seasonal closure period.

**Special Condition No. 5**

**Requires the City to submit a final signage plan consistent with the one submitted with the Application and includes signs for posting both during, and outside of, the season closure**

**Response:**

The City would like to propose instead a similar sign as posted at the Children's Pool.

The sign will say the following (in large font):

- **AREA CLOSED**

Beneath "AREA CLOSED", text in smaller font in caps will follow:

- **NO ACCESS ALLOWED DURING** (next line)
- **CA SEA LION PUPPING SEASON** (next line)
- **May 1<sup>st</sup> to October 31<sup>st</sup>**

For other matters not covered by the Special Conditions listed above, but requested of the City for consideration, the City notes the following:

**Beach Wooden Access Staircase**

- The City has reevaluated the staircase and would like to process the after-the-fact authorization for the wooden staircase with the consolidated CDP.

**Closure of La Jolla Cove**

- The City does not support a closure of La Jolla Cove.

**Parks and Recreation Department**

Administrative Services Division

Thank you again for your recommendations and the opportunity to provide a response to the Staff Report. We look forward to discussing our project in more detail on Friday, April 8, 2022.

Sincerely,



Karen Dennison  
Assistant Director

cc: Councilmember Joe LaCava, District 1  
Matthew Yagyagan, Deputy Director of Policy, Office of the Mayor  
Randy Wilde, Senior Policy Advisor, Office of the Mayor  
Matthew Griffith, Community Representative Office of the Mayor  
Kristina Peralta, Deputy Chief Operating Officer, Neighborhood Services  
Andy Field, Department Director, Parks and Recreation Department  
Chief James Gartland, Lifeguard Chief, San Diego Fire-Rescue  
Michael Tully, Deputy Director, Parks and Recreation Department