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Filed: 4/8/22
 180th Day: 10/5/22
 270th Day: 1/3/23
 Staff: SL-SD
 Staff Report: 8/19/22
 Hearing Date: 9/7/22

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-19-1374

Applicant: University of California, San Diego

Agent: Robert Clossin

Location: West of La Jolla Shores Drive and east of the Keck Building, Scripps Institute of Oceanography, La Jolla, San Diego, San Diego County (APN: 344-090-07)

Project Description: Remediation of an approx. 0.11 acre slope failure and revegetation of 0.25 acre on an approx. 149-acre lot.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project includes remediation of a slope failure caused by a water line break along the top of an existing slope southwest of La Jolla Shores Drive on the University of California San Diego (UCSD) Scripps Institute of Oceanography campus. The project site includes the failed slope area itself as well as areas required for remediation activities, including soil compaction, construction staging areas, and BMP implementation. It is estimated that approx. 0.008 acre (350 sq. ft.) of coastal sage scrub (CSS) was impacted directly as a result of the slope failure, and 0.11 additional acre (4,800 sq. ft.) of CSS will be impacted as a result of remediation activities necessary to recontour the slope. Revegetation efforts will follow slope reconfiguration, resulting in a net increase of 0.13 acre (5,750 sq. ft.) of CSS within the site limits. This mitigation ratio (1.18:1) has been reviewed by the Commission's ecologist and found to

be appropriate for the proposed work because of the overall beneficial nature of the revegetation plan that will ultimately result in a larger and improved CSS community on site that will be monitored with specific success criteria for five years.

Traffic control and pedestrian circulation control measures would be implemented to ensure that access to areas adjacent to the project site is maintained throughout project construction. No road closures along La Jolla Shores Drive are anticipated and no public parking along La Jolla Shores Drive will be used by contractors for the anticipated work. **Special Condition #1** requires final plans that will confirm the construction methodology and staging and access areas previously reviewed by staff and found to be acceptable.

Construction activities are not anticipated to increase runoff patterns and have been designed to improve onsite drainage, reduced runoff, and stabilize slope during periods of onsite saturation. Commission technical staff has reviewed the proposed BMPs and found them adequate. For protection of wildlife, **Special Condition #3** also specifies that heavy duty plastic netting is prohibited for the purposes of sediment and erosion control in order to avoid or reduce the threat of wildlife entanglement.

Following completion of earthwork and soil improvements on the site, the project would initiate CSS revegetation efforts to allow for increased slope stability on the 0.25 acre site. Working in cooperation with the University, the Commission's ecologist has reviewed and approved a revegetation plan that would include performance standards to be met over five growing seasons. **Special Condition #2** requires that the applicant submit Final Landscaping Plans, with one revision to include that the performance standard for total species richness of CSS will be a minimum of 8 species for the 3rd, 4th, and 5th growing seasons. The planting will take place in conjunction with the onset of the rainy season after completion of recompaction and slope contouring, and irrigation to the site must be discontinued after the third growing season.

In terms of sensitive species onsite, **Special Condition #4** requires a nesting bird survey during appropriate times of the year, with noise attenuation measures in the event that noise levels at a nesting site become too high. Finally, **Special Condition #5** requires the applicant to adhere to a Cultural Resources Treatment and Monitoring Plan that addresses on-site monitoring by a Cultural Resource Monitor, as well as follow-up procedures and testing plans in the event that cultural resources are uncovered during the course of construction.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-19-1374, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION	4
II. STANDARD CONDITIONS	4
III. SPECIAL CONDITIONS.....	5
IV. FINDINGS AND DECLARATIONS.....	9
A. Project Description and Background	9
B. Biological Resources.....	13
C. Community Character/Visual Quality	13
D. Public Access/Parking.....	13
E. Growth Inducement.....	13
F. Local Coastal Planning.....	13
G. California Environmental Quality Act.....	14
APPENDIX A – CULTURAL RESOURCES SIGNIFICANCE TESTING PROCEDURES	15

EXHIBITS

- [Exhibit 1 – Vicinity Map](#)
- [Exhibit 2 – Location Maps](#)
- [Exhibit 3 – Slope Repair Plans](#)
- [Exhibit 4 – Site Area](#)
- [Exhibit 5 – Landscaping Plans](#)

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. Final Plans.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and written approval of the Executive Director, final plans that are in substantial conformance with the plans prepared by Harris and Associates and received by our office on March 11, 2022.

The permittee shall undertake the development in conformance with the approved final plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Revised Final Landscaping Plans.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval by the Executive Director, a full-size set of final landscaping plans that are in substantial conformance with the plans prepared by Helix Environmental Planning and received by the San Diego office on July 8, 2022 ([Exhibit 5](#)). The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscaping plans are in conformance with the following requirements:

- a) The performance standard for total species richness of Diegan Coastal Sage Scrub as listed in Table 2 shall be a minimum of 8 species for 3rd, 4th, and 5th growing seasons.
- b) It shall include a planting schedule that indicates that the planting plan shall be implemented in conjunction with the onset of the rainy season (typically October 1 to April 1) after completion of construction. Within ninety (90) days of completion of planting, the Permittee shall submit for the review and written approval of the Executive Director, a landscaping implementation report, prepared by a licensed Landscape Architect or qualified resource specialist that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The implementation report shall include photographic documentation of plant species and plant coverage.
- c) All landscaping shall be drought tolerant, native plant species as indicated in the plant palettes described in the landscaping plan set referenced above. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site except for existing non-native annual grasses that prove impossible to eradicate. No plant species listed as “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. No cultivars shall be utilized within the property. If using potable water for irrigation, the

project shall use water-conserving emitters (e.g. microspray) and drip irrigation. Use of weather-based irrigation controllers and reclaimed water for irrigation is encouraged.

- d) All landscaped areas on the project site shall be maintained in a litter-free, weed-free, and healthy growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- e) Following the fifth year of monitoring efforts, the Permittee shall submit for the review and written approval of the Executive Director a landscaping monitoring report, prepared by a licensed Landscape Architect or qualified resource specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the Permittee shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or qualified resource specialist and shall specify measures to remediate those portions of the approved landscaping plan that have failed or are not in conformance with the original approved plan.

- f) The use of rodenticides containing any anticoagulant compounds is prohibited, and the use of fertilizer shall be minimized to the greatest extent feasible.
- g) All irrigation systems shall limit water use to the maximum extent feasible, and irrigation shall be minimized during Year 3 and discontinued after the third growing season. Use of reclaimed water for irrigation is encouraged. If permanent irrigation systems using potable water are included in the landscape plan, they may only use water conserving emitters (e.g., microspray) or drip irrigation. Use of reclaimed water ("gray water" systems) and rainwater catchment systems is encouraged. Other water conservation measures shall be considered, including use of weather-based irrigation controllers.

The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director provides a written determination that no amendment is required.

3. Prohibition on Plastic Netting.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, written agreement by the applicant that in order to minimize wildlife entanglement and plastic debris pollution, the use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, and mulch control netting) that contain plastic netting, including photodegradable plastic netting, shall be prohibited. Only products that contain loose-wave natural-fiber netting, or that do not contain netting, shall be allowed. Heavy-duty fences reinforced by plastic or metal netting shall also be prohibited. All temporary erosion and sediment control products shall promptly be removed when no longer required.

- 4. 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) or ambient noise levels, whichever is greater, at the location of any active nest during bird nesting season, from February 15th through September 15th. If project construction is necessary during 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 of any passerine species are identified within a minimum buffer distance of 300 feet of the project limits, or a greater distance determined by the monitoring biologist, 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, or ambient noise levels, at the location of the nest. If the monitoring biologist determines that the 300-foot buffer should be extended in some areas due to bird activity, then the buffer shall be extended based on the professional opinion of the biologist.

If the 65 dB(A) equivalent continuous noise level, or ambient noise level, is exceeded, feasible noise attenuation measures shall be implemented to reduce noise levels at active nests to at or below 65 dB(A) or ambient levels. The permittee shall halt construction activities if the monitoring biologist 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.

5. Cultural Resources Treatment and Monitoring Plan.

- a. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director an archaeological/cultural resources monitoring plan prepared by a qualified professional, which shall incorporate the following measures and procedures:
 - i. The monitoring plan shall ensure that any prehistoric archaeological or paleontological or Native American cultural resources that are present on the site and could be impacted by the approved development will be identified so that a plan for their protection can be developed. To this end, the cultural resources monitoring plan shall require that archaeological and Native American monitors (including a Kumeyaay Cultural monitor) be present during all grading operations and subsurface construction activity that has the potential to impact cultural resources.
 - ii. There shall be at least one pre-grading conference with the project manager and grading contractor at the project site in order to discuss the potential for the discovery of archaeological, cultural, or paleontological resources. A Kumeyaay Cultural Monitor and archaeological monitor(s) shall be included and present at this meeting.
 - iii. If a pre-construction meeting is held, a Kumeyaay Cultural Monitor and archaeological monitor(s) shall be included and present at this meeting.
 - iv. Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, a Kumeyaay Cultural monitor, and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading and subsurface construction activity (such as trenching for utilities) that has the potential to impact cultural resources, as required in the approved cultural resources monitoring plan required above.
 - v. The permittee shall provide sufficient archaeological and Native American monitors to assure that all project grading and subsurface construction activities that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times.
 - vi. If any archaeological or paleontological, i.e. cultural deposits, are discovered, including but not limited to skeletal remains and grave-related artifacts, artifacts of traditional cultural, religious or spiritual sites, or any other artifacts, all construction shall cease within at least 50 feet of the

discovery, and the permittee shall carry out significance testing of said deposits in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (Appendix B). The permittee shall report all significance testing results and analysis to the Executive Director for a determination of whether the deposits are significant.

- vii. The permittee shall report all discoveries, such as cultural artifacts, cremation sites, or human remains, to the Viejas Band of Kumeyaay Indians.
- b. If the Executive Director determines that the discovery is significant, the permittee shall follow the procedures in Appendix A of this staff report to determine if an amendment to this permit is required. If an amendment to this CDP is required, development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The proposed project includes remediation of a slope failure caused by a water line break along the top of an existing slope southwest of La Jolla Shores Drive on the University of California San Diego (UCSD) Scripps Institute of Oceanography campus. The site is bound by the National Oceanic and Atmospheric (NOAA) Administration Southwest Fisheries Science Center to the northwest, Keck Center Building to the southwest, La Jolla Shores Drive to the north and east, and vegetated areas to the south and east ([Exhibits 1 and 2](#)).

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 in La Jolla 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 slope failure occurred in 2018 as a result of a broken 4-inch irrigation/water main along the top of the existing slope on UCSD property. Following the failure of the water main, water was discharged onto the adjacent slope, which caused it to become saturated. Several open fissures and side scarps that are about 3 to 4 feet deep were observed shortly after the failure. Several tunnels were also observed within the upper and middle portions of the slide mass and were measured to be approx. 6 to 12 inches in diameter and 12 to 18 inches deep. The main side of the scarp along the north side of the slope failure appears to have captured a significant amount of surface water flow which has deepened and widened the fissure into a large gully that is up to 4 feet wide and 3 to 4 feet deep. Saturation of the slope ultimately resulted in a shallow (3 to 5 feet deep) slope failure approx. 100 feet in length, 75 feet in width, and 5,000 sq. ft (0.11 acre) in area.

The project site in total is approx. 12,000 sq. ft., with 5,000 sq. ft. of the site consisting of the failed slope area itself. The remainder of the project site consists of areas required for remediation activities, including soil compaction, construction staging areas, and BMP implementation. Although the existing slope currently consists of sandbags and plastic tarps to prevent further saturation and erosion, the slope was previously covered in natural vegetation prior to the slope failure, during which most of the vegetation was washed away. It is estimated that approx. 350 sq. ft. of coastal sage scrub (CSS) was impacted directly as a result of the slope failure. The project will impact 0.11 additional acre of CSS as part of the remediation activities necessary to recontour the slope ([Exhibit 4](#)).

The proposed project would rebuild the slope at a 2:1 inclination, and would feature steps or benches to ensure the recontoured and recompacted slope is stable ([Exhibit 3](#)). Prior to initiation of slope rebuilding activities on the site, all sump debris, vegetation, trash, asphalt fragments, and other debris would be removed from the site. Unsuitable soils (uncompacted fill and colluvium soils) would also be removed from the failed slope area. Some unsuitable soils may be used when rebuilding the slope, but would ultimately be recompacted prior to their use on the site. The proposed project would also import engineered fill to the site, and will be evaluated for suitable use by the project engineer prior to hauling onto the site. Excess cut material from the nearby UCSD Electromagnetics Research Facility (ERF) project is a potential source of import fill for the slope repair site. This material has been previously evaluated and found to be suitable for use as engineered fill for the La Jolla Shores Drive slope repair site, provided the fill is placed and compacted in accordance with the recommendations of this report.

The construction staging area would be located west of the toe of slope, adjacent to the Keck Foundation Center Building. Additionally, orange construction fencing would be placed at the top of the slope along La Jolla Shores Drive and around the construction work area during construction. Throughout construction, two temporary signs indicating that restoration work is in progress will be displayed on metal posts in front of orange construction fencing. In addition, traffic control and pedestrian circulation control measures would be implemented to ensure that access to areas adjacent to the project site is maintained throughout project construction. No road closures along La Jolla Shores Drive are anticipated and no public parking along La Jolla Shores Drive will be used by contractors for the anticipated work ([Exhibit 3](#)). No CSS will be disturbed as a result of site access or staging. **Special Condition #1** requires final plans that will confirm the construction methodology and staging and access areas previously reviewed by staff and found acceptable.

Because the recompaction of soils within the project site is expected to impact approx. 0.11 acre of CSS, Commission technical staff reviewed the alternatives analysis prepared by the University. Of the four alternatives put forth by the University, one of them would result in no additional impacts to CSS and would be confined to remedial and revegetation activities to the failed slope area only (5,000 sq. ft.), with no recompaction or removal of unsuitable soils included. While this alternative would result in no impacts to additional CSS other than what was originally impacted by the slope

failure itself, the University determined that this option had the potential for recurrence of slope failure, and that the construction methodology would not comply with current engineering best practices and regulations. Upon review of the alternatives analysis by the Commission's engineer, it was concluded that sufficient evidence had been submitted to render the alternative with no additional CSS impacts infeasible or technically impossible given the likelihood of slope failure reoccurrence and the necessity of code compliance for the rebuilding of steep slopes.

The toe of the slump failure contains a large amount of mud flow deposits, and minor groundwater seepage was observed in several areas. A significant amount of mud appears to have flowed out of the toe of the slope failure downhill where it collected along the wall and courtyard of the building at the bottom of the slope. Several storm drain inlet boxes were observed in this area that may have been infiltrated with debris and were accordingly cleaned out.

Construction activities are not anticipated to increase runoff patterns and have been designed to improve onsite drainage, reduced runoff, and stabilize slope during periods of onsite saturation. Several BMPs have been included as part of the project to control and prevent storm water pollution during construction. A temporary inlet will be installed near the staging area adjacent to the Keck Foundation Center and silt fencing will be placed along the toe of slope. Storm drain inlets will remain functioning at all times during construction. Fiber rolls will also be permanently installed along the toe of slope to intercept and reduce runoff and erosion on the project site. Commission technical staff has reviewed the proposed BMPs and found them adequate. For protection of wildlife, **Special Condition #3** also specifies that heavy duty plastic netting is prohibited for the purposes of sediment and erosion control in order to avoid or reduce the threat of wildlife entanglement.

Following completion of earthwork and soil improvements on the site, the project would initiate CSS revegetation efforts to allow for increased slope stability on the 0.25 acre site. The slope revegetation effort would include invasive species removal, container plant installation, and hydroseeding. After the installation of the plants on the slope, a 120-day plant establishment period (PEP) will begin. During the 120-day PEP, maintenance activities such as watering, weed abatement, replacement planting, and maintenance of onsite BMP's will occur as needed, but not less than monthly.

Working in cooperation with the University, the Commission's biologist has reviewed and approved a revegetation plan that would feature monitoring efforts over five growing seasons (Dec. 1 to May 31st) ([Exhibit 5](#)). Maintenance activities shall occur as needed, but not less than 6 times per year. Project biologist will monitor 5 times per year (January, March, May, July, and November). Performance standards will include goals for native cover, container plant survival, shrub species richness, total species richness, and limits on the presence of non-native vegetation. **Special Condition #2** requires that the applicant submit Final Landscaping Plans that are in conformance with the landscaping plans submitted to Commission staff on July 8, 2022, with one revision to include that the performance standard for total species richness of CSS will be a minimum of 8 species for the 3rd, 4th, and 5th growing seasons. The planting will take

place in conjunction with the onset of the rainy season (typically October 1 to April 1) after completion of recompaction and slope contouring, and irrigation to the site must be discontinued after the third growing season.

Construction is anticipated to take approx. three months and would restore the slope and enhance the project site by revegetating the disturbed area. Because the project will impact CSS habitat and will not replace the community as it's currently existing in terms of age, class, and ecosystem function within the time frame of one year, impacts are considered permanent and therefore require mitigation. Once revegetation efforts are completed, the project will increase CSS by 5,750 sq. ft. (0.13 acre) within the site limits, making the mitigation ratio approx. 1.18: 1 for the 0.11-acre impact to CSS ([Exhibit 4](#)). This mitigation ratio has been reviewed by Commission technical staff and found to be appropriate for the proposed work because of the overall beneficial nature of the revegetation plan that will ultimately result in a larger and improved CSS community on site that will be monitored with specific success criteria for five years.

In terms of sensitive species onsite, California gnatcatchers were detected or observed during protocol surveys conducted in 2016; however, more recent gnatcatcher surveys were conducted 7 to 10 days apart as part of the campus-wide biological resources survey that was conducted as part of the 2018 Long Range Development Plan (LRDP). No gnatcatchers were observed on the project site. **Special Condition #4** will require the applicant to avoid construction activities that generate noise greater than either 65 decibels or ambient noise levels (whichever is greater) 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, 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.

According to the Archaeological Resources Report for the 2018 LRDP for LJ Campus, project site does not contain any known cultural resources. However, as precautionary measure, a registered professional archaeologist would oversee all excavation and grading activities. The archaeologist would also attend a preconstruction meeting with the construction manager and/or grading contractor and other appropriate construction personnel. Should cultural resources be unearthed during construction, recommendations of the archaeologist would be implemented. The University also met with representatives from the Kumeyaay Nation on the morning of June 29, 2022 to discuss the project, and tribal input indicated an interest in knowing that native plants would be used for the restoration.

As a result of these consultation efforts, staff has incorporated **Special Condition #5**, which ensures that any prehistoric, archaeological, or paleontological cultural resources that may be present on site receive proper protections. The special condition requires the applicant to submit a cultural resources treatment and monitoring plan, which includes provisions for both professional archaeologists and Native American monitors

(including, specifically a Kumeyaay monitor) to be present during construction activities and to stop work if cultural deposits are discovered so that significant testing can be conducted. If an approved Significance Testing Plan reveals that cultural deposits found are significant, a Supplementary Archaeological Plan shall be prepared in order to identify proposed investigation and mitigation measures. This Supplementary Archaeology Plan will be reviewed and be available for written comment by a peer review committee made up of qualified archaeologists. Representatives of traditionally and culturally affiliated Tribes included on an updated NAHC list shall also be given an opportunity to review and submit written comments on the required plans.

B. Biological Resources

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized.

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 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. Growth Inducement

As proposed, this development will not be growth-inducing. The proposed sewer facility upgrade is located within a developed public park which is surrounded by built-out urban communities. The proposed facilities are intended to provide a back-up safety system and stormwater interception for low flows. System capacity is not being increased, consistent with Section 30250 of the Coastal Act.

F. 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 in La Jolla 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.

G. 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. UCSD found the proposed project categorically exempt from CEQA review (as a Class 33 small habitat restoration project) on April 22, 2019.

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 revegetation of sensitive habitat, nesting birds, water quality BMPs, and cultural resources 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.

APPENDIX A – CULTURAL RESOURCES SIGNIFICANCE TESTING PROCEDURES

A. An applicant seeking to recommence construction following discovery of cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the consulting Tribes(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 30 days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved and implementation may proceed.

1. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
2. If the Executive Director approves the Significance Testing Plan but determines that the testing measures therein are not de minimis, significance testing may not recommence until after an amendment to this permit is approved by the Commission.
3. Once the measures identified in the Significance Testing Plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by both the Kumeyaay Cultural Monitor's recommendation and the project archaeologist's recommendation as to whether the deposits are significant. The project archaeologist's recommendation shall be made in consultation with the Native American monitors, the consulting Tribe(s), and the MLD when State Law mandates identification of a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director.
 - i. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director and the Kumeyaay Cultural Monitor/MLD a supplementary Archaeological Plan in accordance with subsection B of this condition and all other relevant subsections.
 - ii. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program. All unearthed archaeological resources or tribal cultural resources will be collected and temporarily stored in a secure location onsite (or as otherwise agreed upon by the archaeological monitor and the traditionally and culturally affiliated Tribe(s)) for later reburial onsite.

B. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a Supplementary Archaeological Plan for the review and approval of the Executive Director. The Supplementary Archaeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the consulting Tribe(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection C below. The Supplementary Archaeological Plan shall identify proposed investigation and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archaeological Plan.

1. If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
2. If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

C. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee made up of qualified archaeologists convened in accordance with current professional practice. Representatives of traditionally and culturally affiliated Tribes included on an updated NAHC list shall also be given an opportunity to review and submit written comments on the required plans. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee and Native American representatives or explain why the recommendations were rejected. Furthermore, upon completion of the review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.