

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CALIFORNIA 92108-4402
(619) 767-2370 FAX (619) 767-2384
WWW.COASTAL.CA.GOV



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San Diego Coast District Deputy Director's Report for March 2023

Prepared March 07, 2023 (for the March 09, 2023 Hearing)

To: Commissioners and Interested Parties
From: Karl Schwing, San Diego Coast District Deputy Director

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, emergency CDPs, and local government acceptance of modifications for LCP certification for the San Diego Coast District Office are being reported to the Commission on March 09, 2023. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's San Diego Coast District Office in San Diego. Staff is asking for the Commission's concurrence on the items in the San Diego Coast District Deputy Director's report, and will report any objections received and any other relevant information on these items to the Commission when it considers the report on March 9th.

With respect to the March 9th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on March 09, 2023 (see attached)

Waivers

- 6-20-0312-W, Woolley Bluff Collapse Material Relocation (La Jolla)
- 6-22-1050-W, Pacas Residence & ADU (Solana Beach)
- 6-23-0054-W, Housman ADU (San Diego)
- 6-23-0099-W, Sumner Residence (Solana Beach)
- 6-23-0108-W, Napoli ADU (Carlsbad)

Emergency Permits

- G-6-23-0021, City of Encinitas Lake Drive Storm Drain Repairs (Encinitas)
- G-6-23-0024, California Dept. Parks & Rec. San Elijo Campground Revetment (Encinitas)

Emergency Permit Waivers

- G-6-23-0002-W, UCSD Blacks Beach Access Road Repairs (La Jolla)

Other

- Update on the Long-Term Management Plan required by Coastal Development Permit #6-22-0133 (Point La Jolla Sea Lion Pupping Seasonal Closure)

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FILE COPY

February 24, 2023

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 6-20-0312-W

Applicant: R. B. Woolley, Jr.

Location: 9044 La Jolla Shores Ln, La Jolla, San Diego, San Diego County (APN: 344 030-19-00)

Proposed Development: Excavate approx. 190 cu. yds. of collapsed bluff material behind a beachfront accessory dwelling unit and place the material along the adjacent bluff toe.

Rationale: In 2020, the bluff behind a beachfront accessory dwelling unit collapsed, necessitating the emergency removal of the material from behind the structure. Soil analysis determined the excavated material was substantially free of pollutants and appropriate for placement along the adjacent bluff toe. The removal and placement of the soil was approved under Emergency Permit No. G-6-20-0022 and occurred in April 2020. The subject application represents the follow-up permit required by the Emergency CDP. Due to the volume and consistency of the excavated material, it did not occupy a substantial portion of the public beach and has since washed away due to tidal action. Therefore, the proposed development will not adversely impact coastal resources, public access, or public recreation opportunities and is consistent with Chapter Three policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its March 2023 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Coastal Development Permit De Minimis Waiver
6-20-0312-W

Sincerely,

Kate Huckelbridge, PhD
Executive Director

Original on File signed by:

A handwritten signature in black ink, appearing to read "Alex Llerandi", written over a light grey rectangular background.

Alexander Llerandi
Coastal Program Analyst

cc: Commissioners/File

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February 21, 2023

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 6-22-1050-W

Applicant: Petr & Katelyn Pacas

Location: 406 Rios Ave, Solana Beach (San Diego County) (APN: 263-072-19-00)

Proposed Development: Construction of a new approximately 3,220 sq. ft. two-story single-family residence with an attached 693 sq. ft. garage, a detached approx. 540 sq. ft. detached ADU, and landscape and hardscape on a 9,014 sq. ft. lot.

Rationale: The proposed project is located within an established residential neighborhood consisting of single-family residences similar in size and scale to the proposed development, thus the project will not be out of character with the existing community. The proposed accessory unit is consistent with the City of Solana Beach standards for accessory units in an area designated for medium density residential uses. The development will not block any public views and adequate parking will be provided. Additionally, the project is consistent with the zoning and plan designations for the City of Solana Beach and its certified Land Use Plan. The proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its March 2023 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Coastal Development Permit De Minimis Waiver
6-22-1050-W

Sincerely,

Kate Huckelbridge, PhD
Executive Director

Original on File signed by:

Julia Prieto
Coastal Program Analyst

cc: Commissioners/File

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February 24, 2023

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Waiver: 6-23-0054-W

Applicant: Keith Housman

Location: 831 Reed Ave, Pacific Beach, San Diego, San Diego County (APN: 423-221-03-00)

Proposed Development: Construction of an approx. 1,555 sq. ft., two-story, 30-ft. tall accessory structure with roof decks and carports consisting of a 385 sq. ft. guest quarters, 781 sq. ft. accessory dwelling unit, and 389 sq. ft. two-car garage on a 0.14-acre lot.

Rationale: The proposed accessory structure will be in the rear yard of a separate single family residence approved by the Commission in CDP No. 6-21-0447-W. The accessory structure will not block any public views or public accessways, and will provide off-street parking for all the dwelling units on the property at or above current requirements. The property has sufficient space for staging and storage to avoid public spaces. Thus, the proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act.

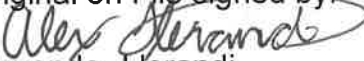
This waiver will not become effective until reported to the Commission at its March 2023 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Coastal Development Permit De Minimis Waiver
6-23-0054-W

Sincerely,

Kate Huckelbridge, PhD
Executive Director

Original on File signed by:


Alexander Llerandi
Coastal Program Analyst

cc: Commissioners/File

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February 21, 2023

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Waiver: 6-23-0099-W

Applicant: William Scott Sumner

Location: 661 East Solana Cir, Solana Beach (San Diego County) (APN: 298-32-030-00)

Proposed Development: Demolition of existing single-family residence and construction of a new, approx. 1,800 sq. ft. one-story, single-family residence with an attached 467 sq. ft. garage, install rooftop solar panels, new landscaping and fence, on a 7,582 sq. ft. lot.

Rationale: The proposed project is located within an established residential neighborhood consisting of single-family residences similar in size and scale to the proposed development, thus the project will not be out of character with the existing community. The development will not block any public views and adequate parking will be provided. Additionally, the project is consistent with the zoning and plan designations for the City of Solana Beach and its certified Land Use Plan. The proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its March 2023 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Coastal Development Permit De Minimis Waiver
6-23-0099-W

Sincerely,

Kate Huckelbridge, PhD
Executive Director

Original on File signed by:

Julia Prieto
Coastal Program Analyst

cc: Commissioners/File

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February 24, 2023

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

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Waiver: 6-23-0108-W

Applicant: Michael & Cheryl Napoli

Location: 4851 Hillside Dr, Carlsbad (San Diego County) (APN: 207-274-07)

Proposed Development: Convert existing attached two-car garage to approximately 440 sq. ft. junior accessory dwelling unit on 0.24 acre lot with existing 1,916 sq. ft. single family residence.

Rationale: The proposed junior accessory dwelling unit (JADU) will be located within an existing attached garage on a site approximately one-half mile away from the shoreline of Agua Hedionda Lagoon. The proposal is consistent with the City of Carlsbad's certified R-8 land use designation for the site. The project does not propose any changes to the existing single-family structure. The certified LCP does not require replacement parking for the garage conversion or additional parking for the JADU. Two uncovered parking spaces will remain on site. Furthermore, the site is located approximately one-half mile inland from Agua Hedionda Lagoon and parking for the residences is not expected to impact public street parking spaces used for lagoon access. Therefore, the proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its March 2023 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less

Coastal Development Permit De Minimis Waiver
6-23-0108-W

than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

Kate Huckelbridge, PhD
Executive Director

Original on File signed by:

Carrie Boyle
Coastal Program Analyst

cc: Commissioners/File

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**EMERGENCY COASTAL DEVELOPMENT PERMIT**

Emergency CDP G-6-23-0021 (Lake Drive Storm Drain)

Issue Date: February 23, 2023

Permittee: City of Encinitas, Attn: Nick Koutoufidis**Emergency Location:** West of Lake Drive between Wales Drive and Sea Village Circle in Encinitas, San Diego County (APN 261-150-69).**Emergency Description:** A series of rain events in mid-January caused an approximately 20-foot-wide and 20-foot-deep sinkhole to form adjacent to the roadway due to failure of a storm drain. The existing sidewalk is undermined and future rain events would cause further erosion of soil and expansion of the sink hole, threatening the stability and safety of the roadway.**Emergency Development:** Closure of the sidewalk and clearing and grubbing; removal of the existing storm pipe, existing energy dissipator, and Type B clean out; excavation of the trench and installation of new storm pipe, new modified catch basin, new Type B clean out, and new energy dissipator; backfill of pipe and trench, installation of rip rap erosion control, and final stabilization.**Executive Director's Determination**

The Executive Director of the California Coastal Commission hereby finds that: (a) a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services exists (i.e., an "emergency" (see Title 14 California Code of Regulations Section 13009 and California Coastal Act (Public Resources Code) Section 30624); (b) the emergency requires action more quickly than allowed by the procedures for regular CDPs; (c) the emergency development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; (d) the emergency development carried out under this ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at Permittee risk; (e) a regular CDP must be obtained for the emergency development to become more than temporary emergency abatement and/or if the Permittee wishes to expand the scope of work beyond that authorized by this ECDP; (f) absent obtaining a regular CDP, the emergency development shall be removed and the affected area restored; and (g) Commission staff will review public comment on the proposed emergency development as time allows.

The emergency development is hereby approved, subject to the conditions listed below.

Handwritten signature of Diana Lilly in blue ink.

Diana Lilly, District Manager, for Dr. Kate Huckelbridge, Executive Director

Enclosure: ECDP Acceptance Form

cc: (via email): City of Encinitas; Bradley Nussbaum (Nature Collective); Sharan Elihu (Blue Pacific Engineering)

Emergency CDP G-6-23-0021 (Lake Drive Storm Drain)

Issue Date: February 23, 2023

Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the Permittee and returned to the California Coastal Commission's San Diego District Office within 15 days of the date of this ECDP (i.e., by March 10, 2023). This ECDP is not valid unless and until the acceptance form has been received in the San Diego District Office.
2. All emergency development shall be limited in scale and scope to that specifically identified in the Emergency Permit Application Form dated received in the Commission's San Diego District Office on February 3, 2023. Only that emergency development specifically described in this ECDP and for the specific location listed above is authorized. Any other development requires separate authorization from the Executive Director or the Commission, as applicable.
3. The emergency development authorized on a temporary basis by this ECDP must be completed within 90 days of ECDP issuance (i.e., by May 24, 2023).
4. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
5. By exercising this ECDP, Permittee acknowledges and agrees that: (a) the emergency development is temporary, is designed to temporarily abate the emergency, and shall be removed unless and until a regular CDP authorizing the work is approved, and provided the Permittee adheres to such regular CDP's terms and conditions; and (b) a regular CDP is subject to all of the provisions of the California Coastal Act (as codified in Sections 30000 to 30900 of the Public Resources Code) and any applicable Local Coastal Program (LCP) policies and may be conditioned accordingly to avoid and/or to offset coastal resource impacts consistent with the Coastal Act (and LCP as applicable) (including but not limited to requirements for public access provisions (such as offers to dedicate, easements, in-lieu fees, etc.), assumption/disclosure of risks (including deed restrictions), triggers for relocation/removal, offsetting mitigations, etc.). The Permittee acknowledges that review of the CDP application to determine consistency with the Coastal Act (and LCP as applicable) will be based on the conditions the property was legally in prior to initiation of the temporary emergency development that is the subject of this ECDP.
6. By exercising this ECDP, the Permittee acknowledges and agrees in relation to this ECDP and the emergency development that it authorizes: (a) to assume all risks (including all coastal hazard risks, that include but are not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunamis, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise); (b) to unconditionally waive any claim of damage and/or liability against the Commission and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense

Emergency CDP G-6-23-0021 (Lake Drive Storm Drain)

Issue Date: February 23, 2023

of such claims), expenses, and amounts paid in settlement, including as it relates to any damages to public and/or private properties and/or personal injury; (d) that any adverse effects to property or people caused by the emergency development shall be fully the responsibility of the Permittee.

7. The Permittee shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court) that the Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this ECDP, the interpretation and/or enforcement of ECDP terms and conditions, or any other matter related to this ECDP. The Permittee shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.
8. Within 90 days of ECDP issuance (i.e., by May 24, 2023), the Permittee shall either: (a) remove all of the materials placed or installed in connection with the emergency development, and restore all affected areas to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP); or (b) submit a complete Coastal Development Permit (CDP) application to the City of Encinitas for a regular CDP to authorize the emergency development. If such regular follow-up CDP application is withdrawn by the Permittee, or is denied by the City, or if it remains incomplete for a period of 120 days after the City informs the Permittee that the application is incomplete, then all of the materials placed and/or installed in connection with the emergency development shall be removed within 60 days, and all affected areas shall be restored to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP).
9. Failure to meet any of the applicable requirements of Condition 8 above shall constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Executive Director and/or the Commission. Such formal action may include: recordation of a Notice of Violation on the Permittee's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties of up to \$11,250 per day per violation; a civil lawsuit (that may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day); and/or other applicable penalties and relief pursuant to Coastal Act Chapter 9. In addition, failure to follow and meet all terms and conditions of this ECDP shall also constitute a knowing and intentional Coastal Act violation to which the same actions above may be applied.
10. All emergency development shall be limited to the least amount necessary to temporarily abate the emergency, and shall be undertaken in a time and manner that avoids any and all coastal resource impacts as much as possible, including avoiding impacts to public access. The Permittee shall keep the Executive Director informed regarding emergency development progress, including in terms of any issues

Emergency CDP G-6-23-0021 (Lake Drive Storm Drain)

Issue Date: February 23, 2023

encountered that may require adjustment.

11. All work shall take place in a time and manner to minimize any potential damages to any resources, including sensitive upland and wetlands habitats and to minimize impacts to public access. Mitigation for impacts to any sensitive habitat will be required consistent with the requirements of the certified City of Encinitas Local Coastal Program (LCP). Methods for water quality control such as installation or construction of temporary drains and swales, sand bag barriers, silt fencing, stabilization of any stockpiled fill with geo-fabric covers or other appropriate cover, installation geo-textiles or mats on all cut or fill slopes and to close and stabilize open trenches will be undertaken as soon as possible. These erosion measures shall be on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment shall be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
12. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the area; etc.). All contractors shall ensure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment.
13. The Permittee shall notify planning staff of the Coastal Commission's San Diego District Office immediately upon completion of construction. If planning staff should identify reasonable restoration measures, such measures shall be implemented immediately.
14. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.
15. Within 60 days following completion of the emergency work, the applicant shall submit as-built plans providing information on the newly placed storm drain, final calculations for acreage of impacts to upland and wetlands habitats determined, and mitigation requirements provided consistent with the requirements of the certified Encinitas LCP. The applicant shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying that the authorized work has been constructed in conformance with the emergency work project description.
16. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the construction coordinator's contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, an email address and a

Emergency CDP G-6-23-0021 (Lake Drive Storm Drain)

Issue Date: February 23, 2023

telephone number (with voice mail capabilities) that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) 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. The Permittee shall submit the record of complaints/inquiries and actions taken in response to the Executive Director on a weekly basis, and upon completion of construction activities.

17. Minor adjustments to the requirements above, including deadline adjustments, may be allowed by the Executive Director if the Executive Director determines that such adjustments: (a) are deemed reasonable and necessary to help to temporarily abate the identified emergency, including as emergency conditions may change; (b) are designed to avoid coastal resource impacts (and limit those that are unavoidable) as much as possible; and (c) in the case of deadline extension adjustments, are appropriate in light of circumstances, including that the Permittee has shown diligence in pursuing the emergency development and meeting all ECDP terms and conditions.
18. By exercising this ECDP, Permittee acknowledges and agrees that this ECDP shall not constitute evidence against and/or a waiver of any public rights which may exist on the property.
19. The Permittee shall disclose this ECDP, including all of its terms and conditions, to any prospective buyer of the affected property during the period of time that any development that is the subject of this ECDP remains on such property.
20. Failure to comply with the terms and conditions of this ECDP may result in enforcement action under the provisions of Coastal Act Chapter 9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the property without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Coastal Act Chapter 9.
21. If you have any questions about the provisions of this ECDP, please contact the Commission's San Diego District Office at SanDiegoCoast@coastal.ca.gov or (619) 767-2370.

CALIFORNIA COASTAL COMMISSION

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EMERGENCY PERMIT ACCEPTANCE FORM

TO: CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370

RE: **Emergency Permit No. G-6-23-0021**

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the San Diego Coast Area Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that a regular Coastal Permit is necessary to permanently authorize the emergency work. I agree to apply for a regular Coastal Permit within 90 days of the date of the emergency permit (i.e., by May 24, 2023).

Signature of property owner

Name

Address

Date of Signing

CALIFORNIA COASTAL COMMISSION

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EMERGENCY COASTAL DEVELOPMENT PERMIT

Emergency CDP G-6-23-0024 (San Elijo Campground revetment)

Issue Date: **March 1, 2023**

Permittee: California Department of Parks and Recreation, Attn: Darren Smith

Emergency Location: San Elijo Campground, 2324 South Coast Highway, Encinitas, CA 92007

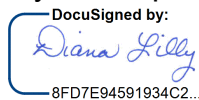
Emergency Description: A series of rain events in December 2022 and January 2023 caused the existing revetment at the south end of San Elijo Campground to fail, resulting in bluff erosion making approximately ten blufftop campsites, the vehicular turnaround, and a public access ramp inaccessible and at risk of collapse.

Emergency Development: Reconstruct failed revetment and supplement with approx. 1,500 tons of 2-5 ton rock and 1,000 cubic yards of cobble to create an approx. 240-ft. long, 30-ft. wide revetment along the bluff toe at the southern end of the San Elijo Campground.

Executive Director's Determination

The Executive Director of the California Coastal Commission hereby finds that: (a) a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services exists (i.e., an "emergency" (see Title 14 California Code of Regulations Section 13009 and California Coastal Act (Public Resources Code) Section 30624); (b) the emergency requires action more quickly than allowed by the procedures for regular CDPs; (c) the emergency development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; (d) the emergency development carried out under this ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at Permittee risk; (e) a regular CDP must be obtained for the emergency development to become more than temporary emergency abatement and/or if the Permittee wishes to expand the scope of work beyond that authorized by this ECDP; (f) absent obtaining a regular CDP, the emergency development shall be removed and the affected area restored; and (g) Commission staff will review public comment on the proposed emergency development as time allows.

The emergency development is hereby approved, subject to the conditions listed below.

DocuSigned by:

8FD7E94591934C2...

03/01/2023

Diana Lilly, San Diego Coast District Manager, for Kate Huckelbridge, Executive Director

Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the Permittee and returned to the California Coastal Commission's San Diego Coast District Office within 15 days of the date of this ECDP (i.e., by **March 16, 2023**). This ECDP is not valid unless and until the acceptance form has been received in the San Diego Coast District Office.
2. All emergency development shall be limited in scale and scope to that specifically identified in the Emergency Permit Application Form dated received in the Commission's San Diego Coast District Office on February 17, 2023. Only that emergency development specifically described in this ECDP and for the specific location listed above is authorized. Any other development requires separate authorization from the Executive Director or the Commission, as applicable.
3. The emergency development authorized on a temporary basis by this ECDP must be completed within 90 days of ECDP issuance (i.e., by **May 30, 2023**).
4. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., City of San Diego, California State Lands Commission, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
5. By exercising this ECDP, Permittee acknowledges and agrees that: (a) the emergency development is temporary, is designed to temporarily abate the emergency, and shall be removed unless and until a regular CDP authorizing the work is approved, and provided the Permittee adheres to such regular CDP's terms and conditions; and (b) a regular CDP is subject to all of the provisions of the California Coastal Act (as codified in Sections 30000 to 30900 of the Public Resources Code) and any applicable Local Coastal Program (LCP) policies and may be conditioned accordingly to avoid and/or to offset coastal resource impacts consistent with the Coastal Act (and LCP as applicable) (including but not limited to requirements for public access provisions (such as offers to dedicate, easements, in-lieu fees, etc.), assumption/disclosure of risks (including deed restrictions), triggers for relocation/removal, offsetting mitigations, etc.). The Permittee acknowledges that review of the CDP application to determine consistency with the Coastal Act (and LCP as applicable) will be based on the conditions the property was legally in prior to initiation of the temporary emergency development that is the subject of this ECDP.
6. By exercising this ECDP, the Permittee acknowledges and agrees in relation to this ECDP and the emergency development that it authorizes: (a) to assume all risks (including all coastal hazard risks, that include but are not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunamis, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise); (b) to unconditionally waive any claim of damage and/or liability against the Commission and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense

of such claims), expenses, and amounts paid in settlement, including as it relates to any damages to public and/or private properties and/or personal injury; (d) that any adverse effects to property or people caused by the emergency development shall be fully the responsibility of the Permittee.

7. No rock placed pursuant to this emergency Coastal Development Permit may remain on the beach beyond June 29, 2023, unless a regular Coastal Development Permit (CDP) is received through the California Coastal Commission. The permittee may apply for a regular coastal development permit to extend, on an interim basis, the time period authorized for retention of the rock, or portions thereof, until a long-term plan is implemented. If the property owner applies for a CDP to keep the rock revetment, or any portion thereof, in place, such application shall include a new date certain for removal, unless retention of rock in some form is authorized through a regular CDP taking into consideration alternatives to the rock revetment as a long-term solution.
8. Alternatives Analysis for Long-Term Solution. As part of the application for a regular Coastal Development Permit, the applicant shall include a timeline for the completion and submittal of an analysis of alternatives to the rock revetment to provide for the long-term protection and provision of public improvements, coastal access, public opportunities for coastal recreation, and coastal resources including beach and shoreline habitat, taking into consideration future sea level rise. Measures to be considered should include but not be limited to phased implementation of beach nourishment, soft protection, managed retreat, smaller parking lot area, use of flexible pavers or other paving surfaces that may be more adaptable to beach erosion, narrow-profile armoring, such as a vertical wall, focused or small-scale armoring, and mixed or hybrid options and a timeline for implementation of the long-term solution.
9. Public Access. The rocks shall be placed as far landward as possible and the permittee shall to the maximum extent practicable, minimize the size of the revetment to maintain the largest portion of beach possible. To the extent possible, rocks shall be placed in a manner to allow pedestrian access over the rock revetment to the beach.
10. The Permittee shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court) that the Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this ECDP, the interpretation and/or enforcement of ECDP terms and conditions, or any other matter related to this ECDP. The Permittee shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.
11. Within 120 days of ECDP issuance (i.e., by **June 29, 2023**), the Permittee shall either: (a) remove all of the materials placed or installed in connection with the emergency development, and restore all affected areas to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP); or (b) submit a complete application (i.e., satisfying the requirements of Title 14 California Code of Regulations Section 13056)

for a regular CDP to authorize the emergency development (or for a different project designed to address the emergency development), including submitting all information and materials requested, and as directed, by the Executive Director if/when the Executive Director determines that such application is incomplete. If such regular follow-up CDP application is withdrawn by the Permittee, or is denied by the Commission, or if it remains incomplete for a period of 120 days after the Executive Director informs the Permittee that the application is incomplete, then all of the materials placed and/or installed in connection with the emergency development shall be removed, and all affected areas shall be restored to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP).

12. Failure to meet any of the applicable requirements of Condition 11 above shall constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Executive Director and/or the Commission. Such formal action may include: recordation of a Notice of Violation on the Permittee's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties of up to \$11,250 per day per violation; a civil lawsuit (that may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day); and/or other applicable penalties and relief pursuant to Coastal Act Chapter 9. In addition, failure to follow and meet all terms and conditions of this ECDP shall also constitute a knowing and intentional Coastal Act violation to which the same actions above may be applied.
13. All emergency development shall be limited to the least amount necessary to temporarily abate the emergency, and shall be undertaken in a time and manner that avoids any and all coastal resource impacts as much as possible, including avoiding impacts to public access. The Permittee shall keep the Executive Director informed regarding emergency development progress, including in terms of any issues encountered that may require adjustment.
14. A licensed civil engineer with experience in coastal structures and processes shall oversee all construction activities and shall ensure that all emergency development is limited to the least amount necessary to temporarily abate the emergency consistent with the terms and conditions of this ECDP.
15. Any rock dislodged onto the beach from the revetment during emergency construction activities shall be retrieved and restacked atop the collapsed void. Any existing rock already on the beach in the area seaward of the revetment on the Permittee's property may also be retrieved and stacked on the void. Such fugitive rock shall only be so retrieved and stacked if it is located above the tidal reach and able to be retrieved without significant excavation (i.e., where more than 50% of the rock is visible above the beach elevation). Any other rock work, including any addition of other rock and/or any expansion of the revetment's configuration, shall be prohibited.
16. Monitoring and Maintenance Plan. The permittee shall be responsible for monitoring and maintaining the rock revetment for as long as the rock reinforcement remains in place. The permittee, at a minimum, shall provide for monthly or more frequent

observations of the structure that examine the full extent of the revetment for deficiencies, including but not limited to rock that has detached from the revetment or moved seaward of the permitted footprint, a drop in the back shore elevation of the revetment, exposure of the underlying fabric layer, etc. and if deficiencies are identified, the permittee will arrange an inspection by a licensed engineer.

17. All revetment observations shall be documented with survey reports that include photographs of all sections of the structure, time and location of the observations, name and title of the person making the observations and shall be submitted to the Executive Director as part of the regular coastal development permit. As required under Special Condition 16, Engineers Inspection reports shall be prepared and submitted to the Executive Director as part of the regular coastal development permit application. These inspection reports shall provide information on and photographs from the date(s) of the inspection(s), the name and qualifications of the State representative or engineer performing the inspection, photographs of the revetment taken at the time of inspection, additional photographs of any structural damage or rock migration, photographs depicting beach width and elevation as it relates to the face of the rock revetment, and an overall assessment of the continued integrity of the revetment. If the inspection identifies any areas where the revetment has been damaged, the report shall identify repair and maintenance alternatives to remedy the damage. If any rock is retrieved in accordance with Condition No. 15, the location of the retrieval and the volume of rock shall be included in the inspection report.
18. All emergency construction activities shall limit impacts to coastal resources (including public recreational access and the Pacific Ocean) to the maximum extent feasible including by, at a minimum, adhering to the following construction requirements:
19. Construction activities shall be limited to no more than a total of 7 days, and shall take place on non-holiday weekdays to the maximum extent feasible.
20. All construction activities shall take place during daylight hours (i.e., from one-hour before sunrise to one-hour after sunset). Lighting of the beach and/or intertidal area is prohibited.
21. Construction work and equipment operations: shall avoid areas seaward of the tidal extent as much as possible; shall be prohibited in ocean waters and/or wetted sand (i.e., areas either wet and/or with a noticeable sheen from tidal and/or wave action); and shall avoid beachgoers and beach recreational areas as much as possible.
22. Any grading of or in intertidal areas shall be prohibited.
23. Any construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by one-hour after sunset each day that work occurs.
24. All construction areas shall be minimized and demarked by temporary fencing designed to allow through public access and protect public safety to the maximum extent feasible, where such areas shall be limited in their spatial extent as much as possible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and

storage areas.

25. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
26. All construction activities that result in discharge of materials, polluted runoff, or wastes to the beach or the adjacent marine environment shall be prohibited. Equipment washing, refueling, and/or servicing shall not take place on the beach. Any erosion and sediment controls used shall be in place prior to the commencement of construction as well as at the end of each workday.
27. All areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand that is impacted by construction shall be filtered as necessary to remove any construction debris.
28. All contractors shall ensure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment. Construction contracts shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/cleanup of foreign materials not properly contained and/or remediation to ensure compliance with this ECDP otherwise.
29. The Permittee shall notify planning staff of the Coastal Commission's San Diego District Office immediately upon completion of construction. If planning staff should identify reasonable restoration measures, such measures shall be implemented immediately.
30. A qualified biologist or environmental resources specialist acceptable to the Executive Director shall monitor all emergency construction activities (including but not limited to, placement and removal of deposition equipment, as well as during all vehicular access near dune areas and plover and least tern habitat areas) to ensure that adverse impacts to sensitive plant and animal species and/or their habitats are avoided and, where avoidance is not possible, are minimized as much as possible and to the satisfaction of both the monitor and the Executive Director. The monitor shall have the authority to stop emergency construction activities if sensitive species and/or their habitats may be threatened in order to consult with the Executive Director on appropriate impact avoidance and minimization measures.
31. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.
32. Within 30 days of completion of construction authorized by this ECDP, the Permittee

shall submit site plans and cross sections to the Executive Director clearly identifying all development completed under this emergency authorization (comparing the legal pre-emergency development condition to both the emergency condition and to the post-emergency development condition), and a narrative description of all emergency development activities undertaken pursuant to this ECDP. Photos showing the project site before the emergency (if available), during emergency development construction activities, and after the work authorized by this ECDP is complete shall be provided with the site plans and cross sections.

33. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the construction coordinator's contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, an email address and a telephone number (with voice mail capabilities) that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) 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. The Permittee shall submit the record of complaints/inquiries and actions taken in response to the Executive Director on a weekly basis, and upon completion of construction activities.
34. Minor adjustments to the requirements above, including deadline adjustments, may be allowed by the Executive Director if the Executive Director determines that such adjustments: (a) are deemed reasonable and necessary to help to temporarily abate the identified emergency, including as emergency conditions may change; (b) are designed to avoid coastal resource impacts (and limit those that are unavoidable) as much as possible; and (c) in the case of deadline extension adjustments, are appropriate in light of circumstances, including that the Permittee has shown diligence in pursuing the emergency development and meeting all ECDP terms and conditions.
35. By exercising this ECDP, Permittee acknowledges and agrees that this ECDP shall not constitute evidence against and/or a waiver of any public rights which may exist on the property.
36. The Permittee shall disclose this ECDP, including all of its terms and conditions, to any prospective buyer of the affected property during the period of time that any development that is the subject of this ECDP remains on such property.
37. Failure to comply with the terms and conditions of this ECDP may result in enforcement action under the provisions of Coastal Act Chapter 9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the property without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Coastal Act Chapter 9.
38. If you have any questions about the provisions of this ECDP, please contact the Commission's San Diego Coast District Office at SanDiegoCoast@coastal.ca.gov or (619) 767-2370.

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



EMERGENCY PERMIT ACCEPTANCE FORM

TO: CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370

RE: **Emergency Permit No. G-6-23-0024**

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the San Diego Coast Area Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that a regular Coastal Permit is necessary to permanently authorize the emergency work. I agree to apply for a regular Coastal Permit within 120 days of the date of the emergency permit (i.e., by June 29, 2023).

Signature of property owner

Name

Address

Date of Signing

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



February 21, 2023

Robert Clossin
University of California, San Diego
9500 Gilman Drive
La Jolla, CA 92093

Re: Request for Emergency Action at Black's Beach No. G-6-23-0002-W

Dear Mr. Clossin:

On February 6, 2023, the Executive Director received your request for an emergency permit for road grading following high tides at Black's Beach that occurred on January 20, 2023. The high tide washed out the northwestern toe of the emergency access road, leaving a gap between the road and the beach and impeding emergency vehicle access to the beach. The City of San Diego Lifeguards and University of California, San Diego (UCSD) determined immediate action was necessary to grade the road and restore emergency vehicle access. Emergency work was completed on January 27, 2023 and took approximately one hour. The work consisted of using a backhoe to smooth the lower section of the road to allow continued emergency vehicle access. No import or export of materials occurred.

Commission staff has determined that this project qualifies for a Coastal Act Section 30611 Emergency Permit Waiver for the following reasons:

1. Immediate action by a public agency, UCSD, is necessary to protect life and public property and maintain public utilities, and the proposed work is the minimum necessary to alleviate the emergency condition.
2. There will be no permanent erection of any structure valued at more than \$25,000.
3. The project is the minimum amount of work necessary to clear the emergency access road and no impacts to public access will occur.

Because the development qualifies for an Emergency Permit Waiver under Section 30611 of the Coastal Act, a follow-up coastal development permit is not required to authorize the work. The work will be reported to the Coastal Commission at the next Commission meeting on March 8-10, 2023.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Leach".

Stephanie Leach
Coastal Program Analyst

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



Th13

Informational Memo

March 2, 2023

To: Commissioners and Interested Persons

From: California Coastal Commission, San Diego Staff

Subject: Update on the Long-Term Management Plan required by Coastal Development Permit **#6-22-0133 (Point La Jolla Sea Lion Pupping Seasonal Closure)**, for the Commission Meeting of March 9, 2023

The purpose of this memo is to provide an update on the City of San Diego's development of a long-term management plan (LTMP) for Point La Jolla, which is required by Special Condition No. 4 of Coastal Development Permit (CDP) No. 6-22-0113 for the seasonal closure of Point La Jolla during sea lion pupping season from May 1 to October 31, in response to public testimony that have indicated that harassment of sea lions has continued to occur at Point La Jolla outside of the pupping season.

The intent of the LTMP is to identify and implement strategies to reduce sea lion harassment outside of the pupping season while maximizing public access. Special Condition No. 4 requires a preliminary plan to be submitted for review prior to November 1, 2022 and the final plan to be submitted prior to April 1, 2023. The City submitted the draft LTMP on October 31, 2022; however, the draft plan was rejected by Commission staff because it did not contain the specific management measures or strategies required by CDP No. 6-22-0113. Our respective staffs then met on December 21, 2022 and January 25, 2023 to discuss the status of the plan and several management measures and strategies considered by the City or suggested by other entities. As of the date of this memo, Commission staff has yet to receive a draft LTMP that complies with the requirements of Special Condition No. 4.

On February 17, 2023, the City provided a status update (Attachment 1) which included a preliminary analysis of management measures and strategies to reduce conflicts between sea lions and humans outside of pupping season, including the use of video surveillance outside of Ranger work hours. Commission staff sent a letter response on February 28, 2023 (Attachment 2) urging the City to take immediate steps to finalize the long-term management plan and begin implementation of its strategies to reduce these conflicts. A Sierra Club response to the City's update has also been submitted to Commission staff (Attachment 3).

**Parks and Recreation Department**

February 17, 2023

Ms. Melody Lasiter
Coastal Planner
California Coastal Commission
San Diego District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Via email: Melody.Lasiter@coastal.ca.gov

Dear Ms. Lasiter:

Re: Response to Rejection of the Draft Long-Term Management Plan

We are in receipt of your letter, dated December 13, 2022, rejecting the Preliminary Long-Term Management Plan ("PLTMP") submitted by the City of San Diego ("City") to comply with Special Condition No. 4 for Coastal Development Permit ("CDP") No. 6-22-0113 (Seasonal Closure of Point La Jolla).

Special Condition No. 4. states the following:

"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, outside of the rangers' working hours (i.e., at night), and shall consider strategies to improve the enforcement capability of City Park Rangers, such as through citations and penalties, and engineering solutions, such as installing a fence/railing along the project area or a camera."

This letter is intended to respond to the specific items noted in the December 13, 2022 letter to the City and provide updates on the City's progress toward a final Long-Term Management Plan. Please see the following for responses to each provision of Special Condition No. 4, numbered for reference.

- 1. 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.**

Response: Partially Completed. The City submitted the PLTMP on October 31, 2022. The California Coastal Commission (“CCC”) decided to reject the Plan, notifying the City via the December 13, 2022 letter referenced above.

2. Prior to April 1, 2023, the applicant shall submit to the Executive Director for review and written approval a Final Long-Term Management Plan.

Response: In progress. The City remains committed to finalizing a plan that meets the expectations of the CCC.

3. 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).

Response: Completed. The City worked with Dr. Doyle Hanan, marine mammal expert, in preparation of the PLTMP. The City team, along with Dr. Hanan, consulted with staff from NOAA who provided input to the Plan and reviewed draft versions of it prior to finalization and submission to the CCC. Representatives from NOAA also visited the project site as part of the PLTMP effort.

The California Department of Fish and Wildlife (“CDFW”) was asked to participate in the development and review of the Plan but declined to do so, stating that the CDFW does not have a direct role in managing pinnipeds and that its general course of action with requests like this is to defer to its federal partners. Further, the CDFW recommended that the City work with NOAA Fisheries on any management of marine mammal populations.

4. The plan shall include measures for the long-term management of Point La Jolla, including [the following]:

- outside of the seasonal closure time period,
- outside of the rangers’ working hours (i.e., at night), and
- [improved] enforcement capability of City Park Rangers ... through citations and penalties, and
- engineering solutions, such as installing a fence/railing along the project area or a camera.

Response: In progress.

The City is currently analyzing various options to employ outside of the seasonal closure period. These options include use of a physical barrier and installation of a camera.

Special Condition #4 specifically mentions the installation of a fence/railing along the project area or a camera to monitor interactions between visitors and the sea lion population.

Physical Barriers. Several options for the installation of fencing, railing, and other barriers (both temporary and permanent) at the project site are under consideration. However, some of these proposals would face significant challenges.

One of the locations where use of physical barriers is often mentioned is the staircase at Point La Jolla. The staircase is made up of wood steps, wood railings, and a concrete landing at the top. It is widely considered to be the primary way visitors access the beach and coastal bluffs of the Point La Jolla area. The City is contemplating the installation of a gate at the top of the staircase. The gate would be kept locked and only available for use by City staff. Implementing this measure will require modification of the current CDP and CCC approval.

The staircase was closed temporarily on January 6, 2022 for maintenance and repair purposes due to the damage sustained during the storms that occurred last month. The temporary closure has resulted in the reduction of the number of people traversing onto Point La Jolla and coming near the sea lions. The stairs remain closed for repair at the time of this letter.

Any other permanent barriers (apart from installation of a gate at the staircase) would be difficult to implement given the unique terrain and topography of the project site which sits on environmentally sensitive land comprised of coastal beach and sensitive coastal bluff areas.

As for the concrete wall that runs along the boardwalk, some stakeholders have inquired about increasing the height to discourage visitors from climbing over it and getting close to the animals. Increasing the height of this wall would trigger the need for various studies to be done to determine the feasibility of making such an improvement. The City will not support any invasive work that could potentially result in acceleration of the erosion process, deterioration of the wall or decreased stability of the coastal bluffs.

Physical barriers (regardless of permanence) that are placed in the area should not detract from the natural landscape nor serve as a visual blight to the area's visitors, residents, and businesses in order to maximize both physical and visual access (by the public) to and along the shoreline. Finally, any temporary barriers would need to be allowed convenient, daily set-up and storage by Park Rangers to guard from theft, loss, or relocation.

Camera. Installation of a camera at the project site requires compliance with the City's new surveillance technology ordinance that was approved by the City Council in August 2022. The intent of this ordinance is to create oversight of surveillance technologies and increase transparency to the public. Under the new ordinance, the City Council must approve the use of technology that can monitor and identify individuals. It will impact how City employees who use surveillance technologies can perform their jobs.

The Privacy Advisory Board ("Board") is charged with helping vet surveillance proposals brought forth by City departments and providing recommendations to the City Council as to whether to implement them.

Parks and Recreation Department

Membership of the Board is being finalized with eight slots of the nine-member body having been filled. There are plans for the Board to begin meeting in the next 60 days. Once the Board is active, City staff will bring its proposal for installation of a camera at Point La Jolla forward. It should be noted that almost all City departments have plans to bring surveillance proposals forward for both current and future surveillance technologies. The decision as to which proposals will be heard (and when) is at the discretion of the Board.

Year-Round Closure. Several stakeholders have suggested moving from a seasonal closure to a year-round one. This action would require amendments to Section §63.0102 Use of Public Parks and Beaches Regulated of the San Diego Municipal Code (SDMC) to allow Park Rangers to enforce violations all year long, instead of only during the seasonal closure period of May 1st to October 31st. This change would also require modified permits and CCC approval.

Ranger Working Hours. The City does not plan to adjust Park Ranger hours but will instead rely on use of such methods as the installation of a camera at the project site, as well as coordination with the San Diego Police Department for incidents occurring after 7:00pm. In addition, the City will continue to refer cases to NOAA and looks for ways to improve its partnership in helping manage the area.

Park Rangers currently work between the hours of 9:00am– 7:00pm (varies seasonally). These are standard work hours that are governed by the agreement in place between the City and the San Diego Municipal Employees Association, the recognized employee organization (i.e., labor union) that represents the Park Rangers. As such, any significant changes in work schedules (or working conditions), such as an increase in nighttime work hours, would be subject to the meet-and-confer process as required by California law.

An important factor to consider when evaluating the feasibility of nighttime work hours for Park Rangers is the fact that they are not armed. Enforcing regulations and issuing citations after-hours would involve the San Diego Police Department (SDPD), who are best equipped to do so due to their ability to carry firearms, as well as detain and arrest offenders, as necessary. It is important to remember that calls to SDPD for sea lion-related incidents would be considered a non-emergency and would require referral to NOAA for enforcement.

Ranger Enforcement Capability. Ways to increase Park Ranger enforcement capability have been researched and evaluated. The City sought legal advice as to how Park Rangers could enforce violations related to the injury, mistreatment, and/or harassment of marine animals using regulations at both the local and State levels. The City has been advised that Park Rangers do not have the authority to enforce violations (whether they be federal, state, or local) relating to the mistreatment and/or harassment of marine mammals that would result in the successful filing of criminal charges and prosecution.

This was demonstrated by an incident that occurred in December 2020, when a Park Ranger issued a misdemeanor citation to an individual for violating California Code of Regulation, Title 14, §251.1 Harassment of Animals. The NOAA Office of Law Enforcement – San Diego Field Office became aware of the incident and recommended that the City dismiss the citation. In addition, NOAA requested that the case (along with all records, findings, and evidence) be referred to them for further legal action and possible federal prosecution.

Parks and Recreation Department

Though the San Diego Municipal Code (Section §63.0108) authorizes Park Rangers to enforce both State and local codes, the regulations pertaining to the injury, mistreatment, and/or harassment of animals (specifically, California Code of Regulation, Title 14 §251.1 Harassment of Animals and San Diego Municipal Code §63.0102(b)10 Mistreatment of Animals), excludes marine mammals because these fall under the purview of the federal government, specifically NOAA, and are covered under the provisions of the Marine Mammal Protection Act (MMPA).

Federal law requires the State obtain specific permission from the federal government (specifically from the Secretary of the Department of Commerce) to enforce state or local laws against harassing marine mammals. The City does not have such permission, nor does the State (California Department of Fish and Wildlife), who routinely submit these types of cases to NOAA for prosecution under federal law.

Closing

The City is continuing to analyze the potential strategies discussed in this letter. The City understands that the due date for the Final Long-Term Management Plan is April 1, 2023 and remains committed to providing a plan that meets the expectations of the CCC.

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
Kristina Peralta, Deputy Chief Operating Officer, Neighborhood Services
Andy Field, Department Director, Parks and Recreation Department
Michael Tully, Deputy Director, Parks and Recreation Department
Michael Ruiz, Chief Park Ranger, Parks and Recreation Department

CALIFORNIA COASTAL COMMISSION

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February 28, 2023

Karen Dennison
Assistant Director
City of San Diego Parks and Recreation Department
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San Diego, CA 92101
KDennison@sandiego.gov
(sent via email)

Re: Response to City's Update Letter Regarding the Long-Term Management Plan for
Point La Jolla Seasonal Closure – CDP No. 6-22-0113

Dear Ms. Dennison:

Thank you for your February 17, 2023 letter regarding the City of San Diego's (City) development of the Long Term Management Plan (LTMP), which is required by Special Condition No. 4 of Coastal Development Permit (CDP) No. 6-22-0113 for the seasonal closure of Point La Jolla during sea lion pupping season. We appreciate that the subject letter is a step towards finalizing the LTMP with its inclusion of a preliminary analysis of several management measures and strategies to reduce conflicts between sea lions and humans outside of pupping season. However, as discussed below, the California Coastal Commission (Commission) remains concerned with the continued reports of sea lion harassment at Pt. La Jolla, and therefore urges the City to take immediate steps to finalize the LTMP and begin implementation of its strategies to reduce these conflicts.

Specifically, the City's letter identifies several potential management strategies including the installation of a physical barrier, use of video surveillance, and implementation of a year-round closure. These strategies have been used previously at the subject site or the nearby Children's Pool and have proven successful in reducing harassment of pinnipeds. The City has indicated that expanding ranger work hours and increasing ranger enforcement capabilities would not be feasible at this time.

Over the last several months, members of the public have provided testimony at Commission meetings that have indicated that harassment of sea lions has continued to occur at Pt. La Jolla. Most recently, at its February meeting, the Commission directed staff to send the subject letter to urge the City to take immediate steps to finalize the LTMP and implement its strategies in order to reduce the instances of sea lion harassment at Pt. La Jolla, and requested an update at the next Commission hearing on March 9, 2023. We are requesting that City staff attend the meeting in order to answer any questions that the Commissioners may have. Note, that a video recording of the Commission's specific comments, which occurred at the end of General Public Comment on February 9, 2023, can be accessed on our website: https://cal-span.org/meeting/ccc_20230209/.

To summarize, the City submitted the draft LTMP to our office on October 31, 2022 and on December 13, 2022, Commission staff responded to the City rejecting the draft plan

February 28, 2023

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because it did not contain the specific management measures or strategies required by Special Condition No. 4 of CDP No. 6-22-0113. Our respective staffs then met on December 21, 2022 and January 25, 2023 to discuss the status of the plan and several management measures and strategies considered by the City or suggested by other entities. Given that Commission staff have not accepted the draft LTMP that was due on November 1, 2022, we urge the City to provide a draft plan as soon as possible to comply with the required permit conditions. As discussed previously, submittal of an LTMP that satisfies the parameters of Special Condition No. 4 is required prior to April 1, 2023 – Commission staff identified the deficiencies of the October 31 draft in previous communications, and failure to provide a complete, adequate LTMP before this date will result in non-compliance with the permit.

Finally, our Executive Director would like to attend a meeting to discuss finalization of the LTMP. Please let us know City staff's availability over the next few weeks. If you have any questions or would like to set up a call to discuss, please feel free to email me.

Sincerely,



Melody Lasiter
Coastal Planner

CC (by email):

California Coastal Commission:

Dr. Kate Huckelbridge, Executive Director
Karl Schwing, District Director, Southern California
Diana Lily, District Manager, San Diego
Kanani Leslie, Coastal Program Manager, San Diego
Kaitlin Carney, District Supervisor, San Diego
Lisa Haage, Chief of Enforcement
Marsha Venegas, Enforcement Officer, San Diego

City of San Diego:

Councilmember Joe LaCava, District 1
Matthew Yagyagan, Deputy Director of Policy, Office of the Mayor
Randy Wilde, Senior Policy Advisor, Office of the Mayor
Kristina Peralta, Deputy Chief Operating Officer, Neighborhood Services
Andy Field, Department Director, Parks and Recreation Department
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Michael Ruiz, Chief Park Ranger, Parks and Recreation Department



SIERRA CLUB
SAN DIEGO CHAPTER



SEAL SOCIETY

February 28, 2023

To: Kate Hucklebridge, Executive Director
Karl Schwing, District Director, San Diego
Erin Prahler, Statewide Planning Manager
Leslie Kanani, Coastal Planning Manager
Kaitlin Carney, District Supervisor
Marsha Venegas, San Diego Coast Enforcement Analyst

RE: Response Letter; Preliminary Management Plan: Pt. La Jolla Sea Lion Rookery, San Diego

The Sierra Club San Diego Chapter and the Sierra Club Seal Society have reviewed the City of San Diego's response to the CCC's rejection letter dated 12/13/22 of their draft Preliminary Long-Term Management Plan for the open period (Nov. 1 - April 30) at the sea lion rookery at Pt. La Jolla.

Although San Diego's Park and Recreation's response letter attempts to address some of Special Condition #4, it does not constitute a management plan as defined in the CDP 6-022-0113 which was due November 1, 2022. The objective of the management plan as defined by Special Condition #4 is to "manage public access and marine mammal interaction at the project site" during the open period which follows the seasonal closure for sea lion pupping season as defined in the CDP. The City's letter, once again, lacks any detail of how the City intends to make the area safe for both the public and sea lions. It also lacks any analysis and recommendations learned from the collection of 6 months of data required by the CDP or input from rangers staffed onsite 7 days a week. At a minimum, any management plan must define the Rangers policies and procedures to manage the area. Currently it is unclear leading to each Ranger taking different approaches or none at all.

In terms of the City's response to Special Condition #4, it seems that the City has discounted most of the measures they were required to address by pointing out various difficulties:

- Physical barriers: any installation would "face significant challenges", are "difficult to implement given the unique terrain ... and environmentally sensitive land".
- Temporary barriers: difficulties include "daily set up and guard from theft".
- Camera: any installation would be "at the discretion" of the new Privacy Advisory Board which is yet to be in operation.
- Ranger working hours: cannot be adjusted as nighttime work hours are restricted under California law.

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- Enforcement capability: after exploring different options, the City concludes that “Rangers do not have authority to enforce violations relating to mistreatment or harassment of marine mammals”.

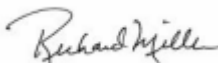
It is clear that the only measures that the City is able and willing to consider are installing and locking a gate at the top of the wooden stairs to Pt. La Jolla and installing a camera. While we support both of these, there are clear limitations:

- The public would still be free to enter the area by climbing over the low wall, trampling down the slippery terrain, eroding bluffs and native plants in order to get close to the wild sea lions without Rangers having any authority to move people back to a safe distance.
- The effectiveness of a camera would be limited to documenting harassment and educational purposes only, since no enforcement actions can be taken when violations occur.

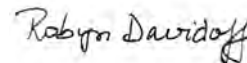
The Sierra Club Seal Society has previously proposed many of the measures that the City have considered within this letter, but in outlining the many obstacles that the City would face in implementing many of these measures, the picture emerging is clear:

- the safest, least intrusive, least costly solution is to restrict access by the public to this area consisting of a rocky outcropping and rocky beach with strong undercurrent. Ocean access can be maintained for experienced users at the south end of Boomer Beach using the historic trail defined during closure. The city’s 6-month of data collected during the closure period required by the CDP found an average of 5 users per week using this trail.
- Public access is also available at the north-end at the adjacent popular beach at La Jolla Cove and to the south at Shell Beach. (see photos attached).
- The justification for a longer restricted access at Pt. La Jolla/Boomer beach compared to the seal pupping season closure at Children’s Pool is that sea lions haul out in the area in large numbers year-round, with sea lion pups being nursed on land for 11 months as opposed to 8 weeks for seals. The low wall and boardwalk above the area provides excellent viewing of the wild sea lions and the ocean. Over 90% of visitors surveyed and most of the Rangers assigned to the area agree with this solution.

The City has shown their unwillingness to comply with the CDP requirements to provide a preliminary management plan which is 4 months past due. The Sierra Club San Diego Chapter and the Seal Society, strongly urge the CCC to recommend that the City puts together an amended CDP outlining a year-round restriction to public access as their Final Management Plan which is due April 1, while maintaining ocean access for entry/exit only at the south end of Boomer Beach as provided during the seasonal closure. This is the best, least costly, and easiest way to overcome the obstacles the City outlined in their response letter, rather than dragging this process out any longer and to ensure that the area can be made safe both for humans and animals.



Richard Miller
Sierra Club San Diego Chapter Director



Robyn Davidoff
Sierra Club Seal Society Chair

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Seasonal Closure Map: Point La Jolla and Boomer Beach:
 a CDP amendment allowing year-round restrictions with ocean access to and from the water at the south end is requested as the best management plan.



Map showing ocean access areas:
 La Jolla Cove and Shell Beach are within easy walking distance from sea lion rookery.

Sea Lion Rookery At Pt. La Jolla



Sea Lion Rookery on rocky outcropping:
 Public access available at La Jolla Cove to the North and Shell Beach to the South.