

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE  
1385 8<sup>th</sup> STREET SUITE 130  
ARCATA, CA 95521  
VOICE (707) 826-8950  
FAX (707) 826-8960



# W11a

**Prepared Feb 17, 2023 for the March 08, 2023 Hearing**

**TO:** Coastal Commissioners and Interested Persons

**FROM:** Shana Gray, Deputy Director  
Melissa Kraemer, North Coast District Manager  
Catherine Mitchell, Permit Analyst

**SUBJECT:** **County of Del Norte LCP Amendment No. LCP-1-DNC-21-0053-1  
(Crescent City Harbor Plan Update)**

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## **SUMMARY OF STAFF RECOMMENDATION**

The County of Del Norte is proposing a comprehensive update to the certified Crescent City Harbor Port Land Use Plan (LUP) and Harbor-Specific Implementation Program (IP). The proposed update would replace the Crescent City Harbor LUP which was certified by the Commission in 1987 as a separate segment of the Del Norte County LUP. The LCP segment covers approximately 92 acres of land and 282 acres of water area. The area covered under the Harbor LUP extends along the south sand barrier westward to Whaler Island, northwesterly to the Crescent City limits, and easterly to Highway 101.

Because much of the present-day Harbor was originally constructed on top of beach areas and by filling in open water, a large portion of the area is under the Coastal Commission's retained jurisdiction. Where the Commission retains permitting authority, Chapter 3 of the Coastal Act provides the standard of review for coastal development permits approved by the Commission. Nevertheless, the LUP provides important context, planning goals, and guiding principles for new development within the Harbor.

The Crescent City Harbor currently supports a Coast Guard station, commercial and sport fishing, retail and commercial businesses, and recreational boating and activities. A public boat launch and inner boat basin support commercial and recreational boating activities, and the Harbor is an important boat basin for salmon, shrimp, tuna, cod and Dungeness crab fishing vessels. Day use facilities at the Harbor are available free of charge and include parking lots, public restrooms, and fish cleaning stations.

Commercial fishing support facilities include two seafood processing plants and docks, a boat repair facility, and lands set aside for potential commercial expansion. Three recreational vehicle (RV) parks and one motel provide low-cost visitor-serving accommodations.

The proposed LCP amendment would update the goals, policies, and programs for the Crescent City Harbor to provide for more flexibility in the types of uses that are allowed within the Harbor Area and to better reflect the region's current state of transition from resource production to a tourism and recreation services-based economy. Prior to submittal of the LCPA application, the County coordinated closely with Commission staff on all aspects of the proposed update. As a result, staff believes that the proposed LUP update as submitted is consistent with the Coastal Act and the IP amendment as submitted conforms with and is adequate to carry out the proposed updated LUP.

The proposed Harbor LUP would replace the four existing land use designations with four new Harbor-specific land use classifications: Harbor Dependent Marine Commercial (HDMC); Harbor Dependent Recreational (HDR); Harbor Visitor Serving Commercial (HVSC); and Harbor Greenery (HG). The proposed land use classifications are largely the same as the existing classifications and cover the same general use types. The proposed land use changes would move some areas out of one land use designation and into another, primarily through moving lands designated as Harbor Dependent Commercial use to Harbor Visitor Serving Commercial. The Crescent City Harbor is the only protected boating facility in Del Norte County and is an important boating facility for commercial and recreational boating activities. At the same time, overall demand for commercial fishing has declined since the 1987 Harbor LUP was certified, and the proposed LUPA would provide for increased visitor-serving uses and recreational opportunities while maintaining adequate lands for harbor-dependent activities. The proposed LUP describes how lands that are being retained for coastal-dependent uses are sufficient to serve present and anticipated future demand and are the lands with the greatest utility for such uses. Should the commercial fishing industry rebound to levels similar to the 1980s, the proposed LUP includes Policy 3.2.2-4 to accommodate future berthing need through several measures including (1) continuing to rent slips to commercial vessels at reasonable rates, (2) allowing commercial vessels the first right of refusal for empty slip spaces, (3) designating slip spaces for commercial vessels and/or (4) providing additional slips elsewhere within the Harbor. The proposed updated LUP as submitted protects existing coastal-dependent and coastal-related development consistent with the priority use policies of the Coastal Act while allowing for flexibility and providing additional priority visitor-serving uses.

The proposed Harbor LUP includes clear guidance for providing public access and recreation opportunities throughout the Harbor, including policies that would require new development to provide public access where appropriate and a policy ensuring that trails are an allowable use in all designations/districts. The proposed LUP includes plans to create parking plans to meet the combined commercial and public needs of the Harbor with consideration of future bus stops, plans to continue to pursue funding to implement a long-range Harbor public trails and walkways plan, efforts to ensure that support facilities are distributed evenly to avoid overcrowding, and a commitment to

incorporate ADA access into public viewing areas. The proposed updated LUP would provide for maximum public access and recreational opportunities consistent with the applicable public access policies of Chapter 3 of the Coastal Act.

Because the Harbor is situated on a low-lying portion of the coast, portions of the Harbor are located within a FEMA-mapped flood zone, and the entire Harbor Area is within a mapped Tsunami Hazard Area. The Harbor Area includes several existing armored and engineered features to protect coastal-dependent uses as allowed under the Coastal Act, including several breakwaters that create a still water area for commercial and recreational fishing vessels. The Harbor, along with several areas within the County and Crescent City, were heavily damaged following a 1964 tsunami, and more recently, a series of heavy winter storms in 2006 and 2008 and the 2011 Tōhoku earthquake and tsunami caused damages to the Inner Harbor breakwater necessitating extensive repairs and upgrades. The proposed LUP addresses present and projected coastal hazards, including tsunamis and sea level rise, and incorporates policy language from Coastal Act sections 30235 and 30253. Chapter 2.5 – Hazards and Protective Devices requires new development to be sited and designed to avoid, or where avoidance is infeasible, to minimize risk to life and property from both geologic and flooding hazards, including as influenced by sea level rise over the anticipated life of the development. The proposed LUP would allow for future repair, maintenance, and enhancement of critical infrastructure that protect coastal-dependent uses and includes requirements that the repair and maintenance be the least environmentally damaging feasible alternative and that all adverse coastal resource impacts be appropriately mitigated. Importantly, the proposed LUP requires new development to use best available science to consider SLR across a range of scenarios and requires applicants developing in vulnerable areas to record a deed restriction waiving any future rights to shoreline armoring in the future for non-coastal-dependent structures.

The proposed LUP, as submitted, includes goals, policies, and programs to guide new development, balance and protect priority uses, and protect the Harbor's coastal resources into the future consistent with applicable Coastal Act Chapter 3 policies. Therefore, staff recommends that the Commission **approve** LCP-1-DNC-21-0053-1 **as submitted**. The resolutions and motions begin on [Page 5](#).

**Staff Note: LCP Amendment Action Deadline**

The County of Del Norte transmitted Local Coastal Program (LCP) Amendment Application No. LCP-1-DNC-21-0053-1 to the Commission on July 29, 2021. The LCP amendment submittal was filed as complete by the North Coast District Office on December 6, 2021. On January 21, 2022, the Commission approved a one-year time extension, and the deadline for Commission action is April 14, 2023.

**Additional Information**

For further information, please contact Catherine Mitchell at the Commission's North Coast District Office in Arcata at [Catherine.Mitchell@coastal.ca.gov](mailto:Catherine.Mitchell@coastal.ca.gov). Please mail correspondence to the Commission at the letterhead address. Please also send a copy of all correspondence or other documents electronically to [Northcoast@coastal.ca.gov](mailto:Northcoast@coastal.ca.gov).

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## APPENDICES

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## EXHIBITS

[Exhibit 1 – Location Maps](#)

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[Exhibit 3 – Mapped Flood and Tsunami Hazard Areas](#)

[Exhibit 4 – County Resolution of Adoption and Transmittal of LCP Amendment](#)

[Exhibit 5 – Adopted LUP](#)

[Exhibit 6 – County Ordinance of Adoption of IP Amendment](#)

[Exhibit 7 – Policies from the Certified LUP that Apply to Proposed Harbor LUP](#)

[\(Countywide Hazard Policies\)](#)

[Exhibit 8 – Map of Existing and Proposed Zoning Designations](#)

[Exhibit 9 – Comparison of Existing and Proposed Land Use Policies](#)

## I. MOTIONS AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

### A. Approval of the LUP Amendment as Submitted

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

**Motion 1:** I move that the Commission certify Land Use Plan Amendment No. LCP-1-DNC-21-0053-1 as submitted by the County of Del Norte.

**Resolution 1:** The Commission hereby certifies the Land Use Plan Amendment No. LCP-1-DNC-21-0053-1 as submitted by the County of Del Norte and adopts the findings set forth below on grounds that the land use plan as amended meets the requirements of and is in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment will meet the requirements of 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 implementation plan amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

### B. Approval of the IP Amendment As Submitted

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Plan Amendment LCP-1-DNC-21-0053-1 as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion 2:** I move that the Commission reject Implementation Program Amendment No. LCP-1-DNC-21-0053-1 as submitted by the County of Del Norte.

**Resolution 2:** The Commission hereby certifies the Implementation Plan Amendment No. DNC-21-0053-1 as submitted by the County of Del Norte and adopts the findings set forth below on grounds that the implementation plan amendment conforms with, and is adequate to carry out, the provisions of the certified land use plan. Certification of the implementation plan amendment will meet the requirements of 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 implementation plan

amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

## **II. PROCEDURAL ISSUES**

### **A. Standard of Review**

Pursuant to Coastal Act section 30512(c), to certify the proposed amendment to the LUP portion of the County of Del Norte LCP, the Commission must find that the LUP as amended meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act. Pursuant to Coastal Act section 30513, to certify the proposed amendment to the IP portion of the County of Del Norte LCP, the Commission must find that the IP as amended would be in conformity with and adequate to carry out the policies of the certified LUP.

### **B. Public Participation**

Section 30503 of the Coastal Act requires public input in preparation, approval, certification, and amendment of any LCP. The County of Del Norte's Planning Commission held a public hearing on the subject amendment on September 2, 2020. The Planning Commission received one public comment, dated May 5, 2020, from Hambro Forest Products. The County of Del Norte's Board of Supervisors held a hearing on March 9, 2021. The hearings were noticed to the public consistent with sections 13551 and 13552 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

### **C. Procedural Requirements**

If the Commission certifies the LCP amendment as submitted, the LCPA takes effect automatically and no further County action will be necessary to formally adopt the amendment. If the Commission denies the LCP amendment as submitted, but then approves it with suggested modifications, the LCP amendment will not take effect until the County accepts and agrees to the Commission's suggested modifications, the Commission Executive Director determines that the County's acceptance is consistent with the Commission's action, and the Executive Director reports the determination to the Commission at the next regularly scheduled public meeting. If the County does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment is not effective. Should the Commission deny the LCP amendment as submitted without suggested modifications, no further action is required by either the Commission or the County, and the proposed LCP amendment will not become effective.

## **D. Deadline for Commission Action**

The County of Del Norte transmitted Local Coastal Program (LCP) Amendment Application No. LCP-1-DNC-21-0053-1 to the Commission on July 29, 2021. The LCP amendment submittal was filed as complete by the North Coast District Office on December 6, 2021. On January 21, 2022, the Commission granted a one-year extension to the 90-day time limit for Commission action on the proposed LCP amendment to April 14, 2023.

## **III. FINDINGS AND DECLARATIONS**

### **A. Environmental Setting and Background**

The Crescent City Harbor encompasses 35 acres of shoreline property<sup>1</sup> in unincorporated areas of Del Norte County and adjacent to the southern limits of Crescent City, which is the only incorporated city in the County.<sup>2</sup> The Harbor, located in Crescent Bay, is a shallow-draft, critical Harbor of refuge that supports a Coast Guard station, commercial and sport fishing, retail and commercial businesses, and recreational boating and activities. A public boat launch and inner boat basin support commercial and recreational boating activities, and the Harbor is an important boat basin for salmon, shrimp, tuna, cod and Dungeness crab fishing vessels. Day use facilities at the Harbor are available free of charge and include parking lots, public restrooms, and fish cleaning stations. Commercial fishing support facilities include two seafood processing plants and docks, a boat repair facility, and lands set aside for potential commercial expansion. Three recreational vehicle (RV) parks and one motel (located on private property within the Harbor District) provide low-cost visitor-serving accommodations. See [Exhibit 1](#) for location maps and photos of the Harbor Area.

The Harbor is managed by the Crescent City Harbor District (District), a public entity formed in 1931 to manage the land and water areas of the Harbor, oversee the development and improvement of the Harbor, and maintain and manage the marina and related facilities. The Harbor is comprised of primarily public lands and includes lands granted by the State Lands Commission to the District and lands owned in fee by the District. There are also privately owned lands in the northeastern portion of the Harbor.

The Crescent City Harbor District's Land Use Plan (Harbor LUP) is a separate segment of the Del Norte County LUP and covers approximately 92 acres of land and 282 acres of water area. The area covered under the Harbor LUP extends along the south sand

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<sup>1</sup> The Harbor Area consists of fourteen assessor parcels.

<sup>2</sup> According to 2020 census data, the population of Crescent City is 6,673, and the population of the County as a whole is 27,743.

barrier westward to Whaler Island, northwesterly to the Crescent City limits, and easterly to Highway 101. Areas within the City or across Highway 101 are not included.

### LCP History and Current Format

The Del Norte County (LUP) was initially certified by the Commission with suggested modifications in 1981, and the Implementation Plan (IP) was initially certified with suggested modifications in 1983. The County's LCP was effectively certified by the Commission on October 12, 1983, and the County assumed permit-issuing authority on February 1, 1984. However, the Commission, in its certification of the LCP for the County, did not certify certain geographic areas, including the Crescent City Harbor, Point Saint George, and Lopez Creek, which were designated as distinct geographic segments for which LCP policies were to be separately developed. On August 13, 1980, the North Coast Regional Commission certified the Crescent City Harbor LUP with suggested modifications, and it was subsequently certified-with-suggested-modifications by the State-wide Commission on September 2, 1980. A revised LCP incorporating the suggested modifications was submitted to the Commission in November 1986, certified without suggested modifications on April 22, 1987, and effectively certified on August 27, 1987, with the County assuming permit-issuing authority on September 10, 1987. The Harbor District has completed various master planning documents since<sup>3</sup>, but these have not been certified, and the Harbor LUP has not been updated since its original certification in 1987.

As mentioned above, the currently certified Del Norte County LCP consists of a County-wide LCP and three additional geographic LCP segments for which separate LUPs have been or still need to be (in the case of the Point Saint George segment) developed. The existing certified County LUP, which was certified prior to certification of the Crescent City Harbor LUP, includes the following goal for development of the Crescent City Harbor:

The Crescent City Harbor and Waterfront should be developed with a view towards optimum utilization of its commercial and recreational potential, while allowing for appropriate public and private uses, development access as a Harbor, conserving the Harbor's open water, improving the Harbor's aesthetic appeal and increasing its economic viability. Functional relationships between the proposed development, its land use, degree of Harbor dependency, location and circulation should serve as guides to the location, type of uses and activities permitted with the Harbor and Harbor expansion areas.

The existing Harbor LUP introduction includes the above goal and thirteen policies also recommended in the County LCP. The policies are organized into four categories:

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<sup>3</sup> Including the 2005 Crescent City Harbor Master Plan; Crescent City Harbor District 10-Year Strategic Plan (2018-2028)



Harbor Safety and Design, Access, Circulation, and Harbor Development. In addition to the thirteen policies in the introduction chapter, the existing Harbor LUP includes six additional policies in Section F resulting from the Commission’s certification of the LUP with suggested modifications in 1980. The remainder of the existing Harbor LUP is organized into sections covering existing facilities and development constraints, land and water area requirements for development within the Harbor, policies and criteria for future land use within the Harbor, physical development of the Harbor, and an Environmental Assessment. Section E covers physical development of the Harbor and lists specific Land Use Designations and allowable uses within each designation. Maps and figures dispersed throughout the plan indicate Land Uses and other information relevant to the existing LUP (navigation and dredging disposal areas, existing Harbor facilities, and a Port Land Use Plan map). The plan includes a commercial and recreational berthing analysis and a marine species list as appendices.

The County’s existing certified Implementation Program (IP) (**Appendix A**), is primarily chartered as Del Norte County Code Title 21 – Coastal Zoning (also known as the “Local Coastal Program Zoning Enabling Ordinance”), consisting of Chapters 21.00 “Secondary Dwelling Units” through 21.60 – “Enforcement.” Currently, Harbor -specific zoning district standards are found in Title 20 – Zoning, Chapter 20.21A “HDR Harbor Dependent Recreational District,” Chapter 20.21B “HDC Harbor Dependent Commercial/Industrial District,” Chapter 20.21C “HR Harbor Related Commercial/Light Industrial District,” and Chapter 20.21D “G Greenery Areas District.” In addition, the currently-certified IP includes several County-wide development regulations applicable in both inland and coastal areas, including within the Harbor Area, including, but not limited to, chapters within Title 14 – Buildings and Construction, Title 16 – Subdivisions, Title 18 – Signs, and the Harbor -specific zoning district standards in Title 20, listed above.

## **B. Amendment Description**

### Purpose of Proposed LCP Update

As the Harbor LUP was certified almost 35 years ago, it is in need of updating to reflect current Harbor conditions. The proposed LCP amendment would replace the 1987 Harbor LUP in its entirety, including updating Harbor-specific zoning designations and policies to reflect current conditions. As described in Chapter 1 of the proposed Harbor District LUP ([Exhibit 5, page 4](#)), the purpose of the LUP is to ensure it is “in sync with current conditions, knowledge, and practices, while remaining flexible enough to respond to future events.” As further described in the Harbor LUP, Crescent City and Del Norte County are in a state of transition from resource production to a tourism and recreation services-based economy. Long-term goals have shifted from creating additional commercial and recreational fishing and other industrial opportunities, to retaining and improving existing Harbor facilities in support of commercial fishing and recreational boating, while expanding coastal related visitor-serving uses in the Harbor.

### Summary of Proposed LUP Amendment

Resolution No. 2021-020 ([Exhibit 4](#)) replaces the currently certified Harbor LUP with a new document, titled “Crescent City Harbor District Coastal Land Use Plan.” As described in detail throughout this report, the proposed update involves replacing the existing Harbor LUP with an entirely new plan which would remain as an independent area plan separate from the balance of the Countywide LUP. The proposed Harbor LUP includes narratives, goals, policies, and programs that reflect the Harbor District and County’s shared desire to guide the future of the Harbor towards a successful and flexible Harbor, and one that balances the goal of achieving appropriate development and protecting local resources.

To implement this vision, the proposed LUP follows a different format than the existing LUP. The proposed LUP includes an introduction in Chapter 1 followed by three chapters: Chapter 2 – Harbor Land Use and Development; Chapter 3 – Access and Recreation; and Chapter 4 – Coastal Resource Protection. Each chapter contains subsections with specific goals, policies, and (as applicable) programs. The final LUP section includes seven new definitions specific to the Harbor LUP. Maps and figures are distributed throughout the LUP.

While all of the policies from the 1987 LUP are being replaced in the proposed LUP, several policies have either been accomplished, no longer apply, or are Federal actions not covered in the Harbor LUP. Policies from the existing LCP that are still relevant to the Harbor have been reincorporated into new policies. [Exhibit 9](#) compares existing and proposed Land Use Policies with notes on whether the policy has been discontinued or referenced in a new policy.

The proposed LUP includes four General Policies in the Introduction, which state as follows:

1. Coastal Act (Sections 30210-30264) Chapter 3 policies are the guiding Harbor LUP policies.
2. Where Harbor LUP policies overlap or conflict, the policy most protective of coastal resources shall take precedence.
3. Where conflicts occur between Harbor LUP policies and those in other County plans, policies, and regulations, the LUP policies shall take precedence in the Harbor Area.
4. Prior to Harbor Area CDP approval, the County, or Commission on appeal, shall make the finding that the development is consistent with all applicable Harbor LUP policies and Countywide IP regulations and Coastal Act public access policies.

#### Summary of Proposed IP Amendment

Ordinance No. 2021-001 ([Exhibit 6](#)) would remove Harbor -specific zoning requirements from Title 20 – Harbor Zoning, amend Title 21 – Coastal Zoning to include new Harbor -specific zoning requirements. The ordinance also would amend zoning

maps and tables to reflect new Harbor zones and boundaries. As discussed above, the County-wide IP applies to the County-wide LUP as well as to the Harbor LUP. Sections of the IP that apply only to the Harbor include the Harbor Zoning sections and two additional sections: 21.47 – Harbor Public Access Provisions and 21.47E – Harbor Area Parking. The proposed amendment would also update the key to the Signage Table (Tables 18.12A through 18.12E, [Exhibit 6, page 22](#)), which outline signage requirements and detail which signs are allowable uses in which zoning districts. Updating the key to the Signage Table to include Harbor -specific zoning allows the signage requirements of the IP to apply to the new zoning designations within the Harbor Area. Additional proposed IP amendments include updating the Land Use – Zoning Consistency Matrix and Zoning Maps to include the new zoning designations.

### Coastal Commission Retained Jurisdiction

The entire Harbor Planning Area is located in the Coastal Zone. Because much of the present-day Harbor was constructed on top of beach areas and by filling in open water, a large portion of the area is under the Coastal Commission’s retained jurisdiction, which includes submerged lands, tidelands, and public trust lands. The majority of the lands covered under the Harbor LUP are seaward of the historic mean high tide line and therefore are in the Commission’s permitting jurisdiction. Areas within the County’s permitting jurisdiction are limited to the eastern portion of the Harbor, adjacent to Highway 101. The existing and proposed Harbor LUP narratives, goals, policies, and programs apply to the entire Harbor, including areas where the Commission issues Coastal Development Permits. Where the Commission retains permitting authority, Chapter 3 of the Coastal Act provides the standard of review for coastal development permits approved by the Commission. Nevertheless, the LUP provides important context, planning goals, and guiding principles for new development within the Harbor.

### Coordination with the County

The County, with assistance from a local planning consultant, has put forth a considerable effort over the past years to solicit input from the public and Commission staff. County staff has worked closely with Commission staff on all aspects of the proposed LCP update throughout the entire process, working collaboratively and iteratively on draft versions of the proposed LCP update, and consistently meeting and communicating prior to and throughout the County’s public hearing process as well as during the filing process. Overall, the proposed LUP constitutes a far more comprehensive, detailed, and robust plan than the existing Harbor LUP and includes policies to address sea-level rise, which the current Harbor LUP lacks.

## **C. LUP Consistency Analysis**

### **1. Land Use and Development and Protection of Priority Uses**

#### **Relevant Coastal Act Policies**

Section 30101 defines “coastal-dependent development or use” as:

...any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

Section 30101.3 defines “coastal-related development” as:

...any use that is dependent on a coastal-dependent development or use.

Section 30001.2 of the Coastal Act states:

The Legislature further finds and declares that, notwithstanding the fact electrical generating facilities, refineries, and coastal-dependent developments, including ports and commercial fishing facilities, offshore petroleum and gas development, and liquefied natural gas facilities, may have significant adverse effects on coastal resources or coastal access, it may be necessary to locate such developments in the coastal zone in order to ensure that inland as well as coastal resources are preserved and that orderly economic development proceeds within the state.

Section 30001.5 of the Coastal Act states:

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational uses shall be protected for

recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for the area.

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30224 of the Coastal Act states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234 of the Coastal Act states:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30234.5 of the Coastal Act states:

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Section 30250(a) states, in relevant part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and

where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

Section 30253 states, in relevant part:

New development shall do all of the following:

...

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30254 states, in relevant part:

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted, consistent with the provisions of this division; .... Special districts shall not be formed or expanded, except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services, and basic industries vital to the economic health of the region, state, or nation, public reaction, commercial recreation and visitor-serving land uses shall not be precluded by other development.

Section 30255 of the Coastal Act states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

## **Analysis**

The Coastal Act prioritizes protection of certain priority uses over other competing uses without priority. The Coastal Act provides that coastal-dependent developments, including coastal dependent industrial, coastal-related developments, and coastal recreation uses, shall have priority over other developments on or near the shoreline. Generally, these priority land uses include uses that by their nature must be located on the coast to function, such as ports and commercial fishing facilities, and uses that encourage the public's use of the coast, such as various kinds of visitor-serving recreational facilities. Coastal-dependent industrial (CDI) facilities are encouraged to locate or expand within existing sites, and CDI is given priority over visitor-serving commercial recreational facilities that enhance public opportunities for coastal recreation. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support. Coastal-related

developments may include facilities that support commercial fishing and aquaculture (e.g., storage and work areas, berthing and fish receiving, areas for fish processing for human consumption, and aquaculture support facilities). Uses of tidelands and submerged lands, which are subject to a public trust, are limited to navigation, fishing, public access, water-oriented recreation, open space and environmental protection, and incidental commercial use, which are uses that are highly regarded in the Coastal Act. Thus, these lands must be protected in order to protect the general public's use of these areas to gain access to and enjoy the coast.

The Crescent City Harbor is the only protected boating facility in Del Norte County and is the northernmost harbor in California. Other nearby harbors include the Brookings, Oregon Harbor approximately 25 miles to the north and the Woodley Island Harbor in Eureka, approximately 80 miles to the south. As such, the Crescent City Harbor is an important protected boating facility for commercial and recreational boating activities, attracting fishermen and visitors from the local community, from surrounding areas of northern California and southern Oregon, and as a visitor-serving destination point for visitors from afar visiting nearby Redwood National and State Parks.

Chapter 1 of the updated LUP as submitted makes clear that unless otherwise exempt, development as defined by Coastal Act section 30106 requires a CDP, and the Commission retains permitting jurisdiction on submerged lands, tidelands, and public trust lands. A significant portion of the land and water area within the Harbor LUP requires a CDP directly from the Coastal Commission. The LCP governs CDP review and approval in the County's delegated permit jurisdiction. In areas of Commission retained CDP jurisdiction, proposed CDP application review standards are the chapter 3 policies of the Coastal Act, with the LCP providing guidance.

### Changes to Land Use Classifications

The proposed Harbor LUP would replace the four existing land use designations of Harbor Dependent Commercial, Harbor Dependent Recreational, Harbor Related, and Greenery with four new Harbor-specific land use classifications: Harbor Dependent Marine Commercial (HDMC); Harbor Dependent Recreational (HDR); Harbor Visitor Serving Commercial (HVSC); and Harbor Greenery (HG). The proposed land use classifications are largely the same as the existing classifications and cover the same general use types. The current land use classifications include a Harbor Dependent Commercial/Industrial designation and a Harbor Related Commercial/Industrial designation. The proposed LUP includes a Harbor Dependent commercial use (now called Harbor Dependent Marine Commercial), which includes industrial uses as well. The Harbor Related Commercial/Industrial classification would be replaced by a Harbor Visitor Serving Commercial Use. Visitor serving commercial and recreational facilities are further highlighted in the proposed LUP with new goals catered towards additional recreational and interpretive opportunities and policies which address affordable visitor accommodation, retention, and standards. Other changes include proposed LUP Chapter 2.4 which addresses the importance of continued operation of an active fishing industry while also allowing for updated visitor amenities and Chapter 2.5, which addresses sea level rise which was not mentioned in the previous LUP. The proposed

LUP includes a map (Figure 3) and associated text that designate land use categories throughout the Harbor, consistent with the Coastal Act’s mandate to indicate the kinds, locations, and intensities of land use (see [pages 8-10 of Exhibit 5](#)).

The proposed land use changes would move some areas out of one land use designation and into another. The primary change in land use would move lands currently designated as Harbor Dependent Commercial to Harbor Visitor Serving Commercial. Table 1 below lists the proposed and current land use designations and summarizes the overall change in acres for certain land use designations as proposed through the LUP update. Since the proposed zoning and land use designations are largely remaining within the same category (i.e., the change from Harbor Dependent Commercial to Harbor Dependent Marine Commercial still maintains the commercial intent of the lands), the table below includes both the existing and proposed designations. [Exhibit 8](#) illustrates the changes in land use and zoning designations, with current designations shown in highlighted colors according to the key, and proposed designations labeled in white text on the properties.

Table 1: Proposed and Current Land Use Designations

| Zoning (Existing) and Proposed | Land Use Description (Existing) and Proposed                        | Existing (Acres) | Proposed (Acres) | Change Acres) |
|--------------------------------|---|------------------|------------------|---------------|
| (HDC) to HDMC                  | (Harbor Dependent Commercial) to Harbor Dependent Marine Commercial | 302.5            | 284.6            | -17.9         |
| (HDR) to HDR                   | Harbor Dependent Recreational                                       | 63.9             | 53.5             | -10.4         |
| (G) to HG                      | (Greenery) to Harbor Greenery                                       | 2.3              | 9.0              | +6.7          |
| (HR) to HVSC                   | (Harbor Related) to Harbor Visitor Serving Commercial               | 9.7              | 31.2             | +21.5         |

Policy descriptions for each land use category are included in section 2.1.1 as follows:

Harbor Dependent Marine Commercial. This classification prioritizes the needs of the commercial fishing industry while also accommodating other coastal-dependent commercial and industrial development and coastal-related support facilities within or immediately adjacent to the waters of the Harbor to encourage the continuation



of commercial fishing and other coastal dependent marine commercial and industrial activities, maintain the marine theme and character of the Harbor, and encourage physical and visual access to the Harbor where appropriate. The HDMC designation is applied to areas that have historically provided fishing related activities, facilities, and employment. These areas also provide the physical area for continuation of coastal-dependent, coastal-related, and accessory uses. The HDMC designation shall be expanded if future demand for additional sites for coastal-dependent and related uses including aquaculture and commercial fishing facilities becomes evident. Floor Area Ratio: 2.0

Harbor Dependent Recreational. This classification provides for public and commercial recreational development within or immediately adjacent to the waters of the Harbor to encourage the continuation of recreational boating and other water-oriented visitor-serving and recreational uses and mutually supportive businesses that enhance public opportunities for coastal recreation, maintain the marine theme and character of the Harbor, and encourage physical and visual access to the Harbor waterfront. The HDR designation is applied to areas that have historically provided recreational boating and other harbor dependent or harbor related visitor-serving and recreational uses, and related support activities, facilities, and employment. These areas provide the physical area for continuation and expansion of these harbor dependent and harbor related water oriented recreational uses. Other non-recreational coastal-depend/related uses are allowed as conditional uses. Floor Area Ratio: 0.5

Harbor Visitor Serving Commercial. This classification provides for accommodations, conveniences, goods, and services intended to primarily serve Harbor area visitors where specific use does not necessarily require location immediately adjacent to Harbor waters. On HVSC designated lands, priority shall be given to visitor-serving commercial facilities designed to enhance public opportunities for coastal recreation. Floor Area Ratio: 2.0

Harbor Greenery Areas. These areas (HG) are set aside as open space areas to be utilized for habitat protection/restoration, passive recreation, wind or weather screens and visual effect. These areas may also include day use public recreational facilities and be utilized as utility corridors, but any vegetation removed in the course of installing or maintaining utility lines shall be replaced in kind. Areas in the HG category include the south and west parts of Whaler Island (the relatively undisturbed portion of the former island), the pine tree and grass area west of Highway 101 in proximity to the inner boat basin, a wetland adjacent to the Anchor Beach Inn, and beach areas. In some cases, the Harbor Greenery (G) designation is intended as a placeholder, until such time as the Harbor District proposes redesignation of the land for conversion to another use and development for Harbor purposes. Lands designated G on an interim basis to be reserved for future Harbor dependent uses include the pine tree and grass area west of Highway 101 and the beach strand area between the Inner Boat Basin and Shoreline Campground (portion under Harbor District control).

As shown in the table above, the largest land use changes are a decrease in commercial lands and a corresponding increase in visitor-serving uses. This change is evident in the land use maps as well. As shown on [Exhibit 8](#), several of the properties north and south of Starfish Way would be redesignated under the proposed LUP update. These properties, which are currently a mosaic of Harbor Dependent Commercial, Harbor Dependent Recreation, and Harbor Related, would all be designated as Harbor Visitor Serving Commercial under the proposed updated LUP. As described further below, the change in land use types is consistent with Coastal Act policies to protect priority uses and would continue to allow for development that can be supported consistent with adequate services and the protection of coastal resources.

#### Locating New Development/Adequacy of Services

To evaluate consistency with Coastal Act sections 30250 and 30254, the Commission must evaluate whether the LCP as amended would concentrate new development in existing developed areas able to accommodate it while avoiding significant individual and cumulative adverse effects on coastal resources and while ensuring that sufficient capacity of public works facilities is reserved for priority uses. The existing certified LUP does not contain a clear policy related to the location and amount of new development. In contrast, the proposed LUP as submitted includes several policies and standards related to appropriate siting of new development within areas with existing services and public utility capacities, it identifies the land use constraints and opportunities in each land use classification, and it includes measures to assure that new development will not have significant adverse effects, either individually or cumulatively, on coastal resources. These policies are primarily located in Chapter 2 titled “Harbor Land Use and Development.”

The lands within the Harbor consist of existing developed properties with the exception of the shoreline seaward of the mean high tide line, the South Beach area, and areas with have been designated “Harbor Greenery” and are left undeveloped for public access and habitat protection. Therefore, new development within the Harbor would consist of development on previously disturbed sites and infill development on existing paved sites. The existing and proposed LUP discuss the importance of concentrating Harbor development in a centralized area rather than spreading development out to other nearby areas, such as the open lands on the east side of Highway 101.

Water and wastewater services for the Harbor are currently provided by the City of Crescent City. The City maintains the water distribution system within the Harbor area, other than individual service lines to Harbor-owned facilities. According to the Crescent City Harbor District’s 2021 Municipal Service Review and Sphere of Influence Update submitted to the Del Norte Local Agency Formation Commission (LAFCo),<sup>4</sup> the water

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<sup>4</sup> Available at: <https://www.delnortelafco.org/wp-content/uploads/2021/09/CC-Harbor-District-MSR-SOI-Update-Adopted-August-23-2021.pdf>.

lines presently serving the Harbor are adequately sized to meet the needs of future development with simple later extensions. Wastewater is collected and treated by the City's wastewater treatment plant (WWTP) located on B Street in Crescent City, which has undergone various improvements within the last fifteen years<sup>5</sup>. The proposed LUP includes Policy 2.2-1.1: Public Services, which mirrors the requirements of Coastal Act sections 30250 and 30254 that new development be located in areas with adequate public services or areas capable of having public services extended or expanded without significant adverse effects on coastal resources, and where existing or planned public works facilities can accommodate only a limited amount of new development, service priority shall be given to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses. As discussed, the proposed updated LUP as submitted designates land uses throughout the Harbor consistent with the Coastal Act's mandate to prioritize coastal dependent, recreational, and visitor-serving uses.

### Protection of Coastal-Dependent and Coastal Related Uses

Uses in the Harbor have changed over the years but have always consisted primarily of coastal dependent and coastal related uses. The Harbor was established in 1853 as a landing point for supplies for inland gold mines and, as gold mining was replaced with agricultural and timber industries, was used to ship bulky agricultural and timber products to major population centers. As road infrastructure improved, the Harbor became less important for shipping goods to outside markets, and recreational and commercial fishing replaced shipping as the major economic activity in the Harbor. As the fishing industry expanded, the Harbor transitioned from a protected cove where fishermen rowed out to their anchored vessels, to a modern dynamic fishing harbor. In the 1970s, several projects were completed to support the rapidly expanding fishing industry, including construction of two fish processing plants and associated docks, completion of the inner boat basin, and the addition of a small boat haul-out and repair service facility. The existing certified LUP was prepared at the peak of the rapidly expanding fishing industry when the fishing fleet was expected to continue to grow. As a result, the current land use and zoning designations reflect the prioritization of commercial and coastal-dependent uses. Approximately 300 out of 380 acres within the Harbor Area are designated for Harbor Dependent Commercial (HDC) uses, representing almost 80% of the land use designation within the Harbor. In addition, several projects are identified in the existing LCP aimed at further increasing the capacity of the Harbor to support commercial and recreational fisheries, including construction of a second boat basin, additional seafood processing plants, and an addition to the boat repair facility.

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<sup>5</sup> The Crescent City Wastewater Treatment Plan was reconstructed under CDP 1-07-002 and sewer main replacement occurred under the City of Crescent City's local permit No. CDP 15-01.

Rather than continue to expand as projected, several factors caused the commercial fleet to shrink during the late 1980s, including overfishing, reduction in tax and investment incentives, and diminished Klamath River salmon stocks. While efforts are being made to move towards sustainable fishing and restore depleted stocks of Klamath River salmon and other species, the commercial fishing industry is not expected to grow beyond the peak levels from the 1970s and 80s. The Crescent City Harbor District completed a financial analysis in 2016 (Analysis of Current Financial Situation by Richard Young, Ph.D.) that discusses in detail the decline of commercial fishing and recreational boating in the Harbor. The analysis provides evidence that demand for commercial fishing and recreational boating has declined. Some of the projects identified in the existing LUP were never realized, including the construction of a second boat basin for larger boats.

The proposed LUP amendment as submitted protects and prioritizes priority coastal-dependent uses over non-coastal-dependent uses consistent with the above-cited Coastal Act policies. The proposed LUP describes how the lands that are being retained for coastal-dependent uses including commercial fishing and recreational boating are (1) sufficient to serve present and anticipated future demand for coastal-dependent uses and (2) the lands with the greatest utility for such uses. The proposed LUP aims to balance coastal-dependent commercial and industrial uses with recreational and visitor-serving uses, which are also considered priority uses in the Coastal Act. Importantly, the proposed LUP as submitted includes definitions for “coastal-dependent” and “coastal-related” that are consistent with Coastal Act sections 30101 and 30101.3.<sup>6</sup> The proposed LUP also includes similar definitions for “harbor-dependent” and “harbor-related” uses.

The inner boat basin accommodates the present fishing fleet with no expectation of constructing a second boat basin for larger boats. The marina previously accommodated 527 recreational boat slips, including a seasonal boat basin that was constructed on an as-needed temporary basis. The original small boat basin contained 308 berths. The additional boat basin described in the existing LUP would add another 200 slips. The Harbor has not needed to install any seasonal recreational slips in many years, as the existing inner boat basin accommodates all recreational vessels using the Harbor. Seasonal slips are still possible and considered in the proposed LUP and could be constructed to follow demand. Following tsunami damage in 2006 and 2011, the inner boat basin was completely rebuilt in 2013 and 2014. During reconstruction, the Harbor District decided to redesign the boat basin to allow for more flexibility in dock layout, conform to modern design standards including ADA compliance, and withstand impacts from a 50-year tsunami. The resulting inner boat basin contains 234 fixed-size slips and approximately 1,615 feet of side tie space which provides flexible moorage for

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<sup>6</sup> Section 30101 defines “coastal-dependent development or use” as “...any development or use which requires a site on, or adjacent to, the sea to be able to function at all.” Section 30101.3 defines “coastal-related development” as “any use that is dependent on a coastal-dependent development or use.”

vessels of any length. This new basin can accommodate more vessels, and more variation in the size of vessels, compared to the original boat basin. Although the existing boat basin meets the demand of fishing vessels in the Harbor, the proposed LUP stills allow for a potential future expansion of seasonal slips by keeping the area where recreational slips were historically installed zoned and designated Harbor Dependent Recreational to allow the slips to be reinstalled in the future. The existing boat repair facility, seafood processing plants and commercial docks, and other commercial support facilities also would remain in their current Harbor Dependent Marine Commercial land use and zoning designation.

The Coastal Act protects both commercial fishing and recreational boating, but ultimately, section 30234 prioritizes commercial fishing over recreational boating. The updated LUP considers this balance of priority uses and allows for future flexibility with respect to uses within the Inner Boat Basin. While there is currently ample space for both commercial and recreational boating demands, if fishing conditions improve in the future, space may become more competitive. In order to address future uncertainty, the proposed LUP includes Policy 3.2.2-4 – Future Berthing Needs, which states that when and if space becomes more limited in the future, adequate space for the commercial fishing fleet will be preserved by several measures including (1) continuing to rent slips to commercial vessels at reasonable rates, (2) allowing commercial vessels the first right of refusal for empty slip spaces, (3) designating slip spaces for commercial vessels and only allowing commercial slips that cannot be rented to commercial fishing boats to be rented on a month-to-month basis by other vessels, and/or (4) providing additional slips elsewhere, such as seasonal recreational slips in the outer Harbor.

Thus, as the proposed updated LUP as submitted protects existing coastal-dependent and coastal-related development while planning for future coastal-dependent needs in the Harbor, the Commission finds that the LUP amendment as submitted ensures that coastal-dependent priority uses are protected consistent with the priority use policies of the Coastal Act.

#### Protection of Priority Visitor-Serving Uses

In addition to its importance for commercial fishing and other coastal dependent uses, the Harbor provides a wide array of visitor-serving uses and recreational opportunities. The Anchor Beach Motel is the only motel within the Harbor Area and is located on private land between Highway 101 and lands owned by the Harbor District. A total of 14 motels with 600 rooms are located within walking distance (less than one mile) from the Harbor. There are two recreational vehicle (RV) parks within the Harbor area with prices starting at \$40 per night for back-in RV spots. The Harbor provides facilities for visitors staying in their boats overnight in the Harbor, including shower and laundry facilities, free wifi, a sewage pump-out station, and a fuel station. The open water portion of the Harbor and adjacent Pacific Ocean are used for a wide variety of recreational areas, including boating, diving, fishing, kayaking, rowing, sailing, surfing, paddle boarding, and wind surfing.

As previously discussed, updates to land use designations include replacing the Harbor Related Commercial/Industrial classification with the Harbor Visitor Serving Commercial Use and increasing visitor serving, recreational, and interpretive opportunities and uses in the Harbor. The proposed LUP policies identify and maintain the current variety and number of public access points and recreational support facilities and promote vertical and lateral access, sandy beach uses, open-water recreational uses, and visitor-serving accommodations. Policy 2.3.1-6: Visitor Accommodation Affordability includes language from Coastal Act section 30213 to preserve low-cost visitor-serving amenities. Policy 2.3.1-1 ensures that South Beach shall remain available for public recreational uses. Policy 2.3.1-4 prioritizes visitor-serving commercial recreational facilities over general commercial uses. Policy 2.3.1-8 states: "Overnight accommodations in the harbor area shall be protected for transient use (30 days or less) and shall not be converted to private residential use; other than camp host/ employee caretaker unit type residences." Thus, Policy 2.3.1-8 ensures that facilities like RV parks will not become private residential uses and will remain as visitor-serving overnight accommodations.

The proposed updated LUP as submitted describes additional ways that planned uses and policies for the Harbor encourage the public's use of the coast as follows (Section 2.3.1):

Tidelands and submerged lands are State lands held in trust by the Harbor District. These lands are subject to the public trust doctrine and are limited to public trust uses, such as navigation, fisheries, commerce, public access, water-oriented recreation, open space and environmental protection. The open water of the Harbor and of the Pacific Ocean adjacent to the Harbor are used for a wide variety of recreational activities, including boating, diving, fishing, kayaking, rowing, sailing, surfing, paddle boarding, and wind surfing. Development in the form of marinas, moorings, piers, and equipment rentals provide recreational opportunities and water access.

The day use facilities at the Harbor are available free of charge. There is no charge for parking in the Harbor area nor are there any charges for use of public restrooms or the fish cleaning stations. Access throughout the harbor by walking or bicycle is available, although some restrictions are in place to prevent conflict with commercial activities such as seafood unloading and boat repair. A segment of the California Coastal Trail was recently completed from the northern Harbor Area east to Starfish Way and the Harbor District improved walkways and railings around the Inner Boat Basin, facilitating walking and bicycling by the public. The water area of the harbor is also available for use by the public. Windsurfing, kayaking and paddle boarding are examples of frequent activity in the harbor that are free for the public. Access by trailerable boat to the waters of the harbor requires a nominal use charge for the boat ramp.

Presently there are only limited coastal-related educational and interpretative facilities and programs that are either free or have a nominal charge. The Harbor District intends to seek funding for these facilities, including an Interpretative Center and Nautical Museum.

The various goals, policies, and programs of the proposed updated LUP as submitted are consistent with the policy requirements of the Coastal Act that dictate priority uses and appropriate development, because (1) coastal-dependent uses, visitor serving uses, and public recreation are prioritized over other types of development; (2) the proposed land use types appropriately protect priority uses while continuing to allow for development that can be supported consistent with adequate services and the protection of coastal resources; (3) the LUP appropriately balances coastal-dependent commercial and industrial uses with recreational and visitor-serving uses based on (a) a careful analysis of present and anticipated future demand for coastal-dependent uses and flexibility to assure that future coastal-dependent needs in the Harbor can be met, and (b) recognition that the Harbor functions as a popular visitor destination point for recreational uses, and it therefore is appropriate to expand the Harbor Visitor-Serving Commercial land use designation in the Harbor; and (4) the updated LUP preserves low-cost visitor serving amenities and protects overnight accommodations in the Harbor area for transient use rather than for residential use. These provisions, in conjunction with various policies and standards to protect and maximize public access as discussed below, protect and prioritize coastal dependent uses and public opportunities for coastal recreation consistent with the Coastal Act.

## **2. Public Access**

### **Relevant Coastal Act Policies**

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in relevant part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the

impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30214 of the Coastal Act states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the



amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

## **Analysis**

The Harbor District manages over 4.5 miles of shoreline seaward of the mean high tide line, stretching from the Shoreline Campground to Nickel Creek, near the end of Endert's Beach Road. The Harbor contains diverse public access and recreation opportunities for both local residents and visitors. Lateral access is available throughout the Harbor with walking and bicycling routes connecting the different public access areas. Key public access points include sandy beaches including the four-mile length of South Beach, the Inner Boat Basin and associated access to the water's edge, and the Anchor Way Groin with overlooks to Crescent Beach and the Harbor. Whaler's Island includes a small sheltered cove for kayakers and surfers to launch from. Vertical access points range from formal pathways to several informal and less accessible pathways through rip rap and rocky paths. Free parking is available at several locations throughout the Harbor and additional parking for South Beach is available just outside of the Harbor Area boundary along Highway 101. In addition to free ample parking, the Harbor contains three separate public restrooms and a fish cleaning station, both free of charge. As previously discussed, existing development in the form of marinas, moorings, piers, and equipment rentals provide recreational opportunities associated with coastal and water access.

The proposed Harbor LUP goals, policies, and programs related to public access, visitor-serving uses, and recreation are found in Chapter 2.3: Visitor-Serving and Recreational Facilities and Chapter 3.0: Access and Recreation. The updated LUP's goals provide clear guidance for protecting public access, including Goal 3.1.1-1, which states "Public access and recreational opportunities within the Harbor shall be protected, and where feasible, expanded and enhanced." The public access goals are implemented through eight policies. Policy 3.1.1-1 states that harbor development shall not impair the public's right of access to the sea, including, but not limited to, the use of dry sand and rocky coastal beaches. Policy 3.1.1-2 requires new waterfront commercial development to provide new public access where appropriate and to integrate public access and recreational amenities into the project design, and Policy 3.1.1-3 states "Public accessways, trails to the shoreline and public parklands shall be a permitted use in all Harbor Area land use and zoning designations." This latter broad policy ensures that trails are an allowable use in all designations/districts. Policy 3.1.1-7 requires new development to provide public access from the nearest public roadway to and along the shoreline, except where (1) it is inconsistent with public safety or (2) adequate access exists nearby. This policy also provides specific examples where access is not required due to its potential to create a public hazard. These exceptions include boat and ship building and repair facilities, facilities involving flammable liquids, and marine loading and unloading facilities, among others. Finally, Policy 3.1.1-8 requires signage as part of a uniform coastal access program with interpretive information and information to direct the public to parking areas, restrooms, and other support facilities.

The proposed LUP includes five programs aimed at increasing and improving public access opportunities, including plans to create an overall parking and shared parking plan to meet the combined commercial and public needs of the Harbor that also considers sites of future bus stops, plans to continue to pursue funding to implement a long-range Harbor public trails and walkways plan, efforts to ensure that support facilities are distributed evenly to avoid overcrowding, and a commitment to incorporate ADA access into public viewing areas.

For all of the reasons stated above, the Commission finds that the proposed updated LUP, as submitted, provides for maximum public access and recreational opportunities, thereby meeting the requirements of the applicable public access and recreation policies of Chapter 3 of the Coastal Act cited above.

### **3. Protection of Water Quality and Coastal Waters**

#### **Relevant Coastal Act Policies**

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with the surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30233 of the Coastal Act states:

- a. The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this

division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (4) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (6) Restoration purposes.
- (7) Nature study, aquaculture, or similar resource dependent activities.

b. Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.

c. In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...

## **Analysis**

The Coastal Act requires the protection and enhancement of marine resources and water quality and only allows for the permitted diking, filling, or dredging of open coastal waters such as the Crescent City Harbor if there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects. Due to accumulation of sediment transported from the Smith River, the Harbor must be periodically dredged in certain areas, including the designated entrance channel, other navigable channels, the marina, Coast Guard moorings, the inner boat basin, and the commercial piers. Adverse effects to water quality may occur both from dredging activities, which can cause temporary

localized turbidity impacts, and from proposed development and uses that would be allowed under the updated LUP as submitted.

The coastal waters of the Crescent City Harbor contain abundant marine life, including, but not limited to, numerous types of fish (e.g., herring, surfperch, flounder, rockfish, sculpin, dogfish sharks, leopard sharks, bat rays, and others) and marine mammals (e.g., sea lions and harbor seals). Eelgrass (*Zostera marina*) also is found within the Harbor, primarily around the Inner and Outer Boat Basins.

Commission staff coordinated closely with County staff throughout the development of the Harbor Plan update to assist with development of new policies to protect water quality and ensure that policies related to future dredging or filling activities in the Harbor are consistent with the Coastal Act policies cited above. (As previously discussed, Chapter 1 of the updated LUP makes clear that the Commission retains permitting jurisdiction on submerged lands, tidelands, and public trust lands, and in areas of Commission retained CDP jurisdiction, the Coastal Act is the standard of review for CDPs, with the LCP providing guidance.)

The proposed Harbor Plan in section 4.2 includes sixteen policies covering development restrictions related to marine resources and water quality. Coastal Act section 30230 and 30232 are incorporated into the Plan through LUP policies 4.2.1-1 and 4.2.1-3. Additional LUP policies provide details on plans that are required for new development, including Erosion and Runoff Control Plans and Post-Development Runoff Plans. Unlike the existing certified Harbor Plan, the proposed updated LUP as submitted includes a new definition of “Developments of Water Quality Concern” and a new policy (4.2.1-6 Post-Development Runoff Plan for Development of Water Quality Concern) that requires additional post-development runoff plans for specified categories of development that have a greater potential for adverse water quality and hydrologic impacts. The proposed LUP also includes definitions for Low Impact Development (LID) and Best Management Practices (BMPs). Other policies require (in part) development to avoid construction of new stormwater outfalls and to direct stormwater to existing facilities with appropriate treatment and filtration where feasible (Policy 4.2.1-10); to require parking lots to incorporate BMPs designed to prevent or minimize runoff of oils, grease, car fluids, and other pollutants (Policy 4.2.1-11); and to minimize impervious surface increases (Policy 4.2.1-12).

The Water Quality and Hydrology section of the proposed LUP includes one Program related to Citizen’s Dock, which is a wooden dock constructed in the 1950s. The Program advises that the wooden structure should be upgraded as feasible with new components (including decking, stringers, floats, bumpers, and piers) composed of concrete, metal, polymer, ceramics, or other materials suitable for marine application. While this program is specific to Citizen’s Dock, several other policies in the Water Quality section including the cited Coastal Act policies described above would apply more broadly to in-water and over-water repair and construction in the Harbor Area.

Chapter 4.3 of the proposed LUP includes narrative, one goal, three policies, and one program related to diking, dredging, and fill within the harbor. The Harbor District has for

many years faced an ongoing challenge related to disposal of dredged spoils. In many instances, dredged materials contain sand suitable for beach replenishment within the harbor area, either at Whaler Island or along South Beach. However, dredged material that is too fine grained or contaminated is not appropriate for beneficial reuse. Such non-suitable material may be temporarily stored at an upland dredge materials site owned and operated by the Harbor District. While the proposed LUP does not attempt to solve the long-term issue of disposing of dredged material, Goal 4.3.1-1 references the need to find a permanent solution for both large and small grain dredge material. Related Policy 4.3.1-3 states that “Permanent offshore, near shore and on-shore dredging sediment disposal site(s) shall be pursued within an economical distance of the Harbor” and Policy 4.3.1-2 allows for continued use of the upland dredge storage ponds until an alternative site for disposal is secured. Policy 4.3.1-1 references Coastal Act section 30233, only allowing diking, dredging, and fill of open coastal waters and wetlands for one of the uses consistent with 30233 and requiring that new projects consider the least environmentally damaging feasible alternative and feasible mitigation measures.

Therefore, the proposed LUP as submitted, including the proposed definitions and policies, are consistent with sections 30230, 30231, 30232, and 30233 of the Coastal Act.

#### **4. Biological Resources and Environmentally Sensitive Habitat Areas (ESHAs)**

##### **Relevant Coastal Act Policies**

Section 30107.5 of the Coastal Act states:

“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30240 of the Coastal Act states:

- a. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- b. Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

In addition, as cited above, section 30233 of the Coastal Act protects coastal wetlands, only allows certain limited uses in wetlands, and requires the use of feasible mitigation measures to minimize adverse environmental effects.

## Analysis

### Biological Resources Within the Harbor Area

The Harbor Area, which historically consisted of coastal sandy beach with coastal dunes, has been greatly altered from its original condition. Natural features of the Harbor have been altered by development and Harbor -related activities, including extensive fill along the breakwater to Whalers Island and fill to create areas for paved parking, buildings, and for the inner boat basin and boat ramps. Undisturbed areas within the Harbor Area are limited to smaller pockets of wetlands and upland areas containing potential habitat for sensitive species. A Biological Assessment was completed as part of a 2006 master planning process and concluded that “Much of the study area has been covered with paving or other types of hardscape, leaving only a few small areas along the highway and the beach close to their natural conditions.” Five areas were specifically called out as wetlands or other types of environmentally sensitive habitat areas (ESHAs), including: (1) a willow thicket along the north side of the dredge material temporary holding site; (2) a wetland located next to Highway 101 and the Anchor Beach Motel; (3) a third wetland south of Anchor Way and west of Highway 101; (4) potential Wolf’s Evening Primrose (Oenothera wolfii) habitat near the inner boat basin; and (5) Wolf’s Evening Primrose habitat near Highway 101 and the Anchor Beach Motel. Wolf’s Evening Primrose is listed as a California Rare Plant Rank 1B.1 species, meaning that it is considered rare, threatened, or endangered in California and elsewhere. An additional Biological Resources Study was prepared in 2011 as part of a project proposing a segment of the California Coastal Trail through the Harbor area. The second report included the previously identified habitat areas and noted additional habitat including an area of beach pea (Lathyrus japonicus) on the undisturbed portion of Whaler Island. Beach pea is a California Rare Plant Rank list 2 species, meaning it is also considered rare or endangered in California, but is more common elsewhere. Due to their rarity, habitat areas for both of these species are considered ESHA under the Coastal Act’s definition, which is cited in Chapter 4 of the proposed LUP. The definition of wetlands as defined in section 30121 of the Coastal Act also is cited in the Biological Resources chapter.

### Proposed LUP Policies

The proposed Harbor LUP includes Chapter 4: Coastal Resource Protection, and Section 4.1: Biological Resources. The Biological Resources section of the proposed LUP identifies biological resources and freshwater wetland areas within the Harbor and measures to protect these environmentally sensitive areas, including through specific policies and requirements for new development. The proposed LUP establishes standards for development within and adjacent to ESHA and wetlands. Policies 4.1.1-3 and 4.1.1-4 cover development within and adjacent to ESHA using the language from section 30240 to a large extent. Policy 4.1.1-1 outlines requirements for site-specific Biological Surveys required for new development and Policy 4.1.1-2 describes requirements for wetland delineations. Surveys and delineations are required when an initial site review associated with a planned development project indicates the possible presence of sensitive species, sensitive natural communities, or indicators of coastal

wetlands. Additional proposed LUP policies include requirements for buffers of sufficient size “to maintain the biological integrity and preservation of the habitat they are designed to protect...” provisions for mitigation and monitoring (for allowable impacts to wetlands and other ESHA), requirements to use native vegetation in new developments in and adjacent to wetlands and ESHAs, and policies requiring new development to shield and/or direct lighting away from ESHAs. The proposed LUP specifies that wetlands and ESHA shall have a buffer width of 100 feet, which is generally a sufficient distance (especially in generally flat areas like the Harbor) to protect adjacent sensitive resources from impacts that would significantly degrade the ESHA. According to the buffer policy, the 100-ft setback can be reduced when accompanied by a justification by a qualified biologist.

### Harbor Greenery Designation

Under the existing certified LUP, the only area within the Harbor designated as Greenery is a 2.3-acre strip of land extending between Highway 101 and Starfish Way, in between a hotel just outside of the Harbor Area and ending approximately 200 feet from Citizen’s Dock Road. It is not clear why this area was originally designated as Greenery, although the existing LUP generally describes Greenery areas as those areas set aside “to be utilized for wind or weather screens and for visual effect.” The proposed LUP narratives, policies, and land use map would rename the Greenery designation to Harbor Greenery (HG) and expand the use description to include habitat protection, restoration, and passive recreation. As shown in Table 1 above, the total acreage of HG lands would increase to 9.0 acres in the proposed LUP. The southern two-thirds of the stretch of land currently designated as a Greenery area would remain in the HG designation, while the northern portion would be redesignated to Harbor Visitor Serving Commercial. Land proposed to be added to the HG designation includes areas that were identified as wetlands or other ESHA in recent Biological Assessments and include the open beach area in between the Inner Boat Basin and Shoreline Campground, a small parcel near the Anchor Beach Motel, and the relatively undisturbed rocky portion of Whaler Island. Given the evidence of sensitive habitat areas located on these parcels, the more resource-protective HG designation is a more appropriate land use than the existing Harbor Dependent Commercial, Harbor Dependent Recreational, and Harbor Related designations. While several acres of land would change to HG under the proposed LCPA, not all of the areas of potential ESHA identified in the Biological Assessments were redesignated as HG areas. One notable area is the strip of land south of Anchor Way and west of Highway 101 along South Beach, which would remain in its current (Harbor Dependent Recreational) designation. While this area is presumed to contain potential Evening primrose and wetland habitats, a full biological study has not been completed and a more site-specific study would need to be completed to determine the potential buildability of the site. Furthermore, the property, which is presumed to contain ESHA, would be subject to the requirements of Section 4.1.1 Harbor Biological Resources. As such, any new development proposed within this area would need to be accompanied by a site-specific survey and analysis by a qualified biologist as well as a wetland delineation pursuant to proposed policies

4.1.1-1 and 4.1.1-2. Any identified ESHAs would be protected against significant disruption through implementation of the additional policies in this section.

### Conclusion

As submitted, the Harbor LUP Biological Resources policies ensure conformity with the natural resource protection policies of the Coastal Act, including but not limited to sections 30233 and 30240.

## **5. Archaeological Resources**

### **Relevant Coastal Act Policies**

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

### **Analysis**

The Harbor is located in the ethnographic territory of the Tolowa, whose aboriginal boundaries extended from the Sixes River in Curry County, Oregon to the Applegate River drainage of Josephine County, Oregon in the east, to Wilson Creek in Del Norte County, California to the south, and the sea stacks off the Pacific coast to the west. Today, three federally recognized Tribes are culturally affiliated with lands in Del Norte County and the Crescent City area: Elk Valley Rancheria, Tolowa Dee'Ni Nation, and Yurok Tribe.

The existing 1987 Harbor LUP briefly mentions two archaeological sites in the Harbor area associated with former Tolowa villages. The 1987 LUP includes a policy stating that "Development at the Harbor will not impact any known historic, archaeological or paleontological resources." The proposed LUP includes additional information on cultural resources throughout Del Norte County, including prehistoric life forms that are preserved in geologic formations, artifacts from Tribes, and sites and buildings associated with special periods of history, events, and architecture. The proposed LUP clarifies that the two known archaeological sites in the Harbor area are not actually within close proximity to the Harbor Area and are under the planning and permitting jurisdiction of the City of Crescent City, not the County.

The proposed LUP adds three new policies to identify, protect, and mitigate for impacts to archaeological and cultural resources. These include Policy 4.5.1-1 Inadvertent Discovery, which outlines specific requirements if any historical, archaeological, paleontological, or cultural sites or artifacts are discovered. In the event that archaeological resources are discovered during any development activity, Policy 4.5.1-1 requires that all construction cease and consultation with a qualified cultural resource specialist, in consultation with relevant Tribal Historic Preservation Officers, occur in order to develop an avoidance or mitigation plan, as appropriate. The avoidance or



mitigation plan must be reviewed and approved by the County, who determines whether the changes require a permit amendment. Policy 4.5.1-2 Tribal Notification references requirements to contact the area Tribes (Elk Valley Rancheria, Tolowa Dee'Ni Nation, and Yurok Tribe) when a project has the potential to adversely impact the remaining undisturbed portion of the original Whaler Island. Policy 4.5.1-2 also references AB 52, which requires tribal consultation for any proposed project in the Harbor. The third policy, 4.5.1-3 Mitigation for Adverse Impacts, copies the language of Coastal Act section 30244 and requires reasonable mitigation measures to be implemented when development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer. Therefore, as submitted, the Archaeological Resources component of the Harbor LUP is consistent with section 30244 of the Coastal Act.

## **6. Visual Resources**

### **Relevant Coastal Act Policies**

Section 30251 of the Coastal Act states, in applicable part, as follows:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

### **Analysis**

Although there are no designated "highly scenic areas" within the Harbor planning area, the existing Del Norte County LCP recognizes Citizen's Dock and Anchor Way as important access areas that provide views of the ocean, beach, and Harbor. The Harbor provides views of open ocean waters, the harbor, sandy beaches, offshore rocks, and distant coastal bluffs.

The proposed LUP as submitted includes four policies related to visual resources under the "Scenic and Visual Resources" section. Policy 4.4.1-4 (All Development) includes the policy language from section 30251 and applies to all permitted development within the Harbor. Policy 4.4.1-1 (Sandy Beach Area Development) limits new development on sandy beach areas to those structures directly supportive of visitor-serving recreational uses, such as lifeguard towers, recreational equipment, restrooms and showers. Such development shall protect coastal views and minimize encroachment onto sandy beach areas. Policy 4.4.1-2 (Lighting Limitations) requires new exterior lighting, except for traffic lights, navigational lights, and other safety lighting, to be minimized to the extent practicable and shielded so that light is directed downward. Policy 4.4.1-3 (Whaler Island Development) is specific to the undeveloped portions of Whaler Island and requires new public support facilities, such as restrooms, to be located on the landward

(developed) side of the island in order to retain the undisturbed portions for public access and visual resource uses.

Because the proposed policies include all applicable requirements of section 30251 along with additional specifications to minimize glare and protect public views to scenic beach areas and Whaler Island, the proposed LUP as submitted is consistent with the visual resource policies of the Coastal Act.

## **7. Hazards**

### **Relevant Coastal Act Policies**

Coastal Act section 30253 states in part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

Coastal Act section 30235 states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

Coastal Act section 30270 states:

The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.

### **Analysis**

The Crescent City Harbor is situated on a low-lying portion of the coast, and Crescent City is one of the nation's most susceptible cities to tsunamis owing to the configuration of the region's coastline and the shape of the ocean floor. In addition to being within a tsunami hazard area, the Harbor is vulnerable to adverse impacts from seismic events, coastal erosion, wave runup, and flooding. Although no active faults are located within

the Harbor area, the Harbor is located within a seismically active region and is at risk of strong seismic shaking and subsidence. Much of the coastal areas around Del Norte County consist of alluvial coastal plains, and therefore could be subject to liquefaction during a catastrophic seismic event. Portions of the Harbor are mapped within the FEMA mapped flood zone, and Base Flood Elevation (BFE) levels within the Harbor vary from 13 feet elevation near Whaler Island and Anchor Way, up to 25 feet along South Beach.

The Harbor will also be impacted by sea level rise (SLR). In the past century, the average global temperature has increased by about 0.8°C (1.4°F), and global sea levels have increased by 7 to 8 inches (17 to 21 cm). In addition, SLR has been accelerating in recent decades, with the global rate of SLR tripling since 1971 (IPCC, 2021). There is strong scientific consensus that SLR will continue over the coming millennia regardless of future human actions, but the exact rate and amount will depend on the amount of future greenhouse gas emissions as well as the exact contribution from sources such as the Antarctic and Greenland ice sheets, which are areas of continuing research. While planning coastal development under this uncertainty presents challenges, it is widely documented that underestimating SLR could result in costly damages and adverse outcomes to coastal resources. Planning and development decisions on the California coast must, therefore, be appropriately precautionary and made with the full understanding that SLR will change coastal landscapes and hazard conditions. Currently, the best available science on SLR projections in California is provided in the State of California Sea-Level Rise Guidance (OPC 2018) and is reflected in the Coastal Commission Sea Level Rise Policy Guidance (CCC 2018). These documents present probabilistic SLR projections as well as an extreme “H++” scenario for twelve locations (tide gauges) along the California coast and provide recommendations for which projections to use in various planning contexts based on level of risk aversion and project type. By 2100, the Crescent City tide gauge is projected to experience 2.5 feet of SLR under the low risk aversion scenario and up to 9.3 feet of SLR under the extreme H++ scenario.

Section 30253 of the Coastal Act requires minimization of risks to new development from coastal hazards, including the need for new development to ensure long-term structural integrity, minimize future risk, and generally precludes protective devices that would destroy the site or surrounding area. Section 30235 identifies the criteria for when shoreline armoring might be allowable. Coastal Act sections 30235 and 30253 acknowledge that seawalls, revetments, groins, and other such structural or “hard” methods designed to forestall erosion also alter natural landforms and natural shoreline processes. Accordingly, under section 30235, shoreline protective devices (SPDs) may be allowed for limited purposes, including to serve a coastal-dependent uses, or to protect existing (not new or redeveloped) structures or public beaches in danger of erosion. Where SPDs are allowed, adverse impacts to local shoreline sand supply must be mitigated or eliminated, and other coastal resource impacts must also be addressed. The Coastal Act provides these limitations because SPDs can have a variety of negative impacts on coastal resources, including adverse effects on sand supply, public

access, coastal views, natural landforms, and overall shoreline beach dynamics on and offsite, ultimately resulting in the loss of beaches.

To ensure consistency with the above cited Coastal Act policies, an updated LUP must, at a minimum, include policies that (1) require new development to minimize hazards risk, including as these hazards may be exacerbated in the future due to climate change and sea level rise; (2) specify which uses are potentially allowed SPDs (e.g., coastal-dependent uses); and (3) specify the requirements and mitigation measures needed to ensure resultant coastal resource impacts from SPDs are mitigated.

Much of the Harbor Area already includes armored and engineered features to protect coastal-dependent uses as allowed under the Coastal Act, including vessel mooring and berthing areas, public boat launches, and commercial and recreational fishing facilities. The boundaries of the Harbor Area are largely comprised of constructed seawalls and breakwaters, and include the Marina Breakwater, Inner Breakwater, Whaler Island Groin, and the Anchor Way Breakwater. Citizens Dock is connected to the land via a sand-filled groin and seawalls. The Lighthouse Way Breakwater is the largest breakwater and is located just outside of the Harbor District boundary. The primary purpose of the existing breakwaters is to create a still water Harbor area for commercial and sports fishermen, and recreational boaters to moor, launch, and retrieve their watercraft. The breakwaters are oriented to protect the Harbor from both northwest and south swells. The breakwaters and seawalls along the commercial/industrial fish processing area provide areas for unloading to docks and servicing fishing vessels. Where appropriate, these structures also provide public access throughout the harbor.

Original components of the Harbor were constructed as early as the mid-1800s, however multiple natural disasters have since damaged or destroyed several of the existing structures, and most of the harbor has been rebuilt or repaired extensively over the last several decades. The Harbor, along with several areas within the County and Crescent City, were heavily damaged following a 1964 tsunami. Many of the original structures were not rebuilt, and instead the inner boat basin was constructed along the northern side of the harbor. A series of heavy winter storms in 2006 and 2008 caused damages to the Inner Harbor breakwater necessitating extensive repairs and upgrades to the inner breakwater. As previously discussed, the Commission retains permitting jurisdiction on submerged lands, tidelands, and public trust lands (with the Coastal Act rather than the certified LCP used as the standard of review for CDPs), including areas where existing breakwaters, seawalls, and groins, and other SPDs have been constructed. The Commission approved CDP 1-08-047 on June 10, 2010, authorizing reconstruction of the inner breakwater. Most recently, the March 11, 2011 tsunami generated by an earthquake off the coast of Japan caused additional damage within the Harbor Area requiring further repairs to the inner boat basin, Citizens Dock, commercial

fish docks, and other areas along the shoreline.<sup>7</sup> When the inner boat basin was eventually replaced in 2014, it was designed to withstand waves resulting from a 50-year tsunami event.

The Harbor District completed an AB 691 SLR study in 2019. The study included an assessment of impacts of SLR in the Harbor Area, mapped anticipated impacts for the years 2030, 2050, and 2100, estimated the financial costs of SLR for the Crescent City Harbor, and described proposed methods to protect and preserve resources and structures that would be impacted by SLR. The report describes adaptation measures including accommodation, protection, and retreat and considers where different measures may be appropriate. For instance, one recommended adaptation measure is to limit new development in mapped flood hazard areas, and another is to potentially protect existing areas of seawall that are currently protecting coastal-dependent uses. The report considers the ways in which the Harbor District can continue to monitor impacts of SLR and climate change, including collecting data from NOAA tidal gauges, monitoring existing resources, and incorporating SLR adaptation strategies as needed. Consideration is also given to regional partnerships to address SLR, and the report discusses the existing partnerships that the Harbor District has formed with respect to tsunami preparedness, and the opportunity to leverage those partnerships to include a discussion of SLR into regional planning and coordination efforts. Many of the goals and recommendations from the AB 691 SLR Study are reflected in the proposed updated LUP.

Proposed LUP Chapter 2.1 – Hazards and Protective Devices discusses existing protective devices within the harbor, including approximately 15,000 lineal feet of protective rip-rap, 300 lineal feet of steel sheet piling, the sand-filled groin and breakwater connecting to Whaler Island, and various other seawalls currently protecting the Harbor Area. As past events have shown, these existing features are vulnerable to future damage by tsunamis. In addition to potential impacts to the in-water infrastructure surrounding the harbor, the proposed LUP discusses the general threats that additional flooding, geologic, and seismic hazards pose to the harbor. To address these threats, the proposed hazards chapter of the LUPA includes two goals, nine policies, and three programs that generally require hazard avoidance and adaptation measures to protect harbor dependent and harbor related development. The proposed LUP includes requirements to minimize risks of such hazards and addresses the impacts of sea level rise, and the implications on land use and infrastructure planning, which is not addressed in the existing LUP.

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<sup>7</sup> CDP 1-10-035 (approved February 11, 2011) approved various repairs and rehabilitation to the Inner Boat Basin and was amended three times to include additional repairs, public access improvements, and a replacement pump house facility. CDP 1-13-003 (approved May 9, 2013) approved replacement of damaged and/or missing fender piles at Citizens Dock and three commercial fish docks.

Proposed Policy 2.5.1-1 is the General Hazard Policy that includes the language of Coastal Act section 30253 requiring that new development be sited and designed to avoid, or where avoidance is infeasible, to minimize risk to life and property from both geologic and flooding hazards, including as influenced by sea level rise over the anticipated life of the development. Policy 2.5.1-1 also requires new development to assure stability and structural integrity and neither create nor contribute significantly to erosion, geological instability, or destruction of the site or surrounding area. These policy directives and limitations will generally preclude the use of hard armoring for new development consistent with section 30253, as the destructive effects on beaches and surrounding habitats from hard armoring is well documented. Policy 2.5.1-1 also incorporates by reference the Hazard Areas Chapter of the County LUP for the balance of the County, including requirements and seismic design criteria for new development specific to earthquake-induced liquefaction, ground shaking, and displacement.

Policy 2.5.1-5 requires a site-specific Hazard Evaluation, prepared by a licensed civil engineer with relevant expertise, for proposed development. The evaluation must consider the impacts associated with coastal hazards over the anticipated lifetime of the development and must also consider SLR and tsunami risks.

Given the past damage caused by tsunamis and the continued risk to the harbor, Policy 2.5.1-4 requires an evaluation of tsunami hazards for new development proposed in the harbor. Under 2.5.1-4, new development is required to consider the best available science regarding tsunami hazards, including information on tsunami inundation areas, amplitude, flow depth, velocity, and momentum flux as well as scour and debris impacts for tsunami events ranging from the 50-year event to the maximum expected tsunami. In addition, the policy includes language that “hazardous materials associated with any development shall be protected, through siting and design methods, against unintentional releases in the event of tsunami impacts.” Policy 2.5.1-6 requires a tsunami safety plan for any new structures intended for human occupancy, including a demonstration of the feasibility of safe pedestrian evacuation time given tsunami travel times to the Harbor from primary tsunami sources. The safety plan shall be prepared in coordination with the Del Norte County Office of Emergency Services, and copies shall be posted conspicuously or distributed to all occupants of the structures.

Policy 2.5.1-3 address SLR planning. This policy requires consideration of the best available science regarding the effects of SLR at the time of the CDP application, completion of SLR analyses for all new development that considers a range of SLR scenarios and calls for future development to identify SLR thresholds for which alternative adaptation strategies should be considered. Policy 2.5.1-3 also identifies the risk-aversion scenarios appropriate for different development categories in line with the Commission’s current SLR guidance, which may be adapted to similar categories of precautionary projections in future updated statewide guidance.

Policy 2.5.1-9 requires as a condition of coastal permit approval for new development in an area subject to current or future hazards that applicants be required to record a deed restriction to acknowledge and agree to the inherent risks associated with developing in a hazardous location, and to agree to remove or relocate the development should it

become unsafe due to coastal hazards. Under this policy, the assumption of risk/deed restriction must include acknowledgment that “except for coastal-dependent structures, the applicant has no rights under Coastal Act section 30235 and related LCP policies to shoreline armoring in the future” as well as acknowledgments that future SLR could threaten future access and/or services to the site, and that the boundary between public land (tidelands) and private land may shift with rising seas, and future encroachment must either be removed or found to be legally permissible by the Coastal Commission and State Lands Commission.

Policy 2.5.1-2 addresses future repair, maintenance, and enhancement of critical infrastructure including revetments, breakwaters, groins, and other protective devices that are integral to harbor serving coastal-dependent uses. This policy includes requirements that the repair and maintenance be the least environmentally damaging feasible alternative and that all adverse coastal resource impacts be appropriately mitigated, including impacts to local sand supply, public views, and public access. As previously mentioned, all of the existing breakwaters, seawalls, and other SPDs in the Harbor protect coastal-dependent uses within the Harbor including vessel mooring and berthing areas, public boat launches, and commercial and recreational fishing facilities. In addition, all of the existing SPDs are in the water or below mean high tide and thus are within the Commission’s retained permitting jurisdiction. As mentioned above, the Commission has permitted various repairs and improvements to existing breakwaters following storm damages. Future proposed SPDs within most of the Harbor planning area also would be located in the Commission’s permitting jurisdiction, subject to review pursuant to the Coastal Act, with the LCP acting as guidance. Within the small portion of the Harbor Area located in the County’s permitting jurisdiction, the proposed LUP policies referenced above, and taken together, would apply to new development and would ensure that new development minimize risk to life and property, assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

The proposed LUP includes long-term planning goals within the “Programs” section of the Hazards chapter. One of the three proposed programs encourages ongoing coastal hazard studies and consideration of anticipated impacts associated with SLR and calls for adaptation strategies that include options for relocating non-coastal dependent structures outside of SLR and tsunami hazard areas. This program includes the Harbor’s overarching goal to “function as a safe harbor for the boating public and the commercial fishing industry.”

As stated previously, the majority of the area covered under the Harbor LUP is in the Commission’s retained jurisdiction. The proposed LUP includes policies that address requirements for new development, including site-specific general hazard, tsunami, and SLR studies. The LUP policies emphasize the importance of maintaining existing SPDs for the continued coastal dependent uses located within the Harbor. Given the location of the Harbor within public trust lands, any proposed improvements to or new SPDs would most likely go through the Commission for approval, with the Harbor LUP policies providing guidance. For areas within the County’s permitting jurisdiction, LUP hazards policies will generally preclude new SPDs for other types of non-coastal dependent new

development. Thus, as submitted, the LUP amendment is in conformity with Chapter 3 policies relating to hazards.

## **D. IP Consistency Analysis**

Pursuant to Coastal Act section 30513, to certify the proposed amendment to the Implementation Plan (IP) portion of the Humboldt County LCP, the Commission must find that the IP as amended would be in conformity with and adequate to carry out the policies of the certified LUP as amended.

### **1. Proposed Changes to IP**

As compared to the major changes to the Land Use Plan, the proposed amendments to the IP portion of the County's LCP are relatively minor. The proposed updated IP document would not result in a significant change in content or format from the currently certified IP. As discussed above, portions of the County-wide existing certified IP implement the County-wide LUP as well as to the Harbor LUP. Applicable sections of the County's existing certified IP that currently implement the Harbor LUP and that would continue to do so under this LCP Amendment include: Title 21 – Coastal Zoning, Title 14 – Buildings and Construction, Title 16 – Subdivisions, and Title 18 – Signs. Proposed changes to the currently certified IP include the following and are shown in [Exhibit 6](#):

- Remove Harbor-specific zoning requirements from Title 20 – Harbor Zoning
- Amend Title 21- Coastal Zoning to include new Harbor-specific zoning requirements (sections 21.47 (A) – (D) and add a “C(H)” overlay to all of the proposed zoning designations.
- Amend section 21.47 – Harbor Public Access Provisions to (1) include a reference to the existing County IP Section 21.35.040 and (2) modify section 21.47.30 (Exemptions) by adding two additional exemptions where public access is not required due to potential public hazard risks.
- Add section 21.47 (E) – Harbor Area Parking
- Update the Land Use – Zoning Consistency Matrix and Zoning Map
- Replace the key to the Signage Table within Title 18 – Signs with a new key that includes the proposed new zoning designations.

The proposed IP amendment would replace the four existing zoning designations of Harbor Dependent Commercial (HDC), Harbor Dependent Recreational (HDR), Harbor Related Commercial/Light Industrial (HR), and Harbor Greenery (HG) with four new designations: Harbor Dependent Marine Commercial (HDMC); Harbor Dependent Recreational (HDR); Harbor Visitor Serving Commercial (HVSC); and Harbor Greenery (HG). Proposed modifications to the four Harbor zoning designations include updated



use descriptions and slight changes to the principal and conditional use types allowed within each zone. The minimum lot area, lot widths, and lot coverage requirements would remain the same. The proposed IP amendment would modify maximum building heights within the HDR and HVSC zones (reducing the maximum height from 50 to 45 ft in HDR and increasing the maximum height from 35 to 45 ft in HVSC zones). The building height would remain at 75 feet for the HDMC zone.

**2. Adequacy of IP Amendments to Carry Out LUP as Amended**

Conformity with the Land Use Designations and Uses

The proposed zoning district designations in the IP amendment are consistent with their respective land use designations within the proposed LUPA. The proposed land use descriptions carry over verbatim into the IP as the first subsection (labeled “Intent”) of each zone, and the listed principally and conditionally permitted uses provide additional clarification on specific types of uses allowed within each zone. The zoning maps would be amended to also match the proposed modified land use designations. As summarized in Table 2, the proposed purpose and principal uses for each zone designation as submitted conform with and are adequate to carry out the proposed LUP purpose and use policy provisions.

Table 2: Conformity between proposed LUP land use designations and IP zoning standards as submitted. The purpose of the land use designations are as described in LUP Policy 2.1.1-1. The IP principal permitted uses are as listed in proposed IP sections 21.47A – 21.47D.

| <b>Land Use Designation</b><br>(Land Use Category Descriptions from LUP Policy 2.1.1-1)  | <b>Corresponding Zoning Principal Permitted Uses</b>  |
|--|---|
| <p><b>HDMC</b></p> <p>Prioritizes the needs of the commercial fishing industry while also accommodating other coastal-dependent commercial and industrial development and coastal-related support facilities within or immediately adjacent to the waters of the Harbor to encourage the continuation of commercial fishing and other coastal-dependent marine commercial and industrial activities, maintain the marine theme and character of the Harbor, and encourage physical and visual access to the Harbor where appropriate</p> | <p><b>Harbor Dependent Marine Commercial</b></p> <ul style="list-style-type: none"> <li>a) Marinas and boat basins, boat berthing and float facilities, docks, barge, boat, and ship loading and unloading facilities, boat and ship building and repair facilities for nontrailerable boats, dry boat storage, and breakwater devices and piers.</li> <li>b) Processing and packaging plants for fish and/or marine products and wastes from such plants, processing plants for waste products from fish and/or marine products processing plants, aquaculture and auxiliary facilities, net repair and gear repair and the storage of commercial fishing gear on vacant parcels.</li> <li>c) Marine products purchasing and storage facilities, marine electronic repair and sales, ice production and sales facilities, marine fuel sales and service facilities, and commercial fisheries supply stores.</li> <li>d) Boat ramps, boat launching facilities and boat cleaning areas.</li> <li>e) Seafood sales.</li> </ul> |

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|--|--|
|  | <ul style="list-style-type: none"> <li>f) Non-flashing signs appurtenant to any permitted use not exceeding forty square feet in aggregate area.</li> <li>g) Accessory uses and buildings appurtenant to a permitted use including parking areas.</li> <li>h) Pipelines that need ocean access (e.g., pipelines for disposal of dredged spoils, ocean outfall and intake pipelines, boat and ship loading and unloading pipelines, pipelines serving offshore facilities, etc.).</li> <li>i) Import and export facilities requiring a waterfront location.</li> <li>j) Maintenance dredging and dredge materials disposal at approved disposal sites.</li> <li>k) Harbor District offices, harbor maintenance facilities, Coast Guard docks and quarters</li> </ul>  |
| <p><b>HDR</b></p> <p>Provides for public and commercial recreational development within or immediately adjacent to the waters of the Harbor to encourage the continuation of recreational boating and other water-oriented visitor-serving and recreational uses and mutually supportive businesses that enhance public opportunities for coastal recreation, maintain the marine theme and character of the Harbor, and encourage physical and visual access to the Harbor waterfront</p> | <p><b>Harbor Dependent Recreational</b></p> <ul style="list-style-type: none"> <li>a) Recreational marinas and boat basins, boat berthing and float facilities, docks, piers, moorings, and breakwater devices.</li> <li>b) Bait and tackle shops, fuel sales for boats, party boat offices, recreational boat sales and rental, boat and boat motor sales and service, marine electronic shops, and dry storage for trailerable boats.</li> <li>c) Custom fish processing and canneries.</li> <li>d) Restaurants, drinking places, and cafes with a harbor theme, coastal-related retail shops (including specialty shops) of 3,000 square feet or less in areas that are located and designed to foster pedestrian access within the harbor, and seafood sales.</li> <li>e) Harbor-related outdoor seasonal sales and events.</li> <li>f) Accessory uses and buildings appurtenant to a permitted use including parking areas.</li> <li>g) Maintenance dredging and dredge materials disposal at approved disposal sites.</li> <li>h) Non-flashing signs appurtenant to any permitted use not exceeding forty square feet in aggregate.</li> </ul> |
| <p><b>HG</b></p> <p>Lands set aside as open space areas to be utilized for habitat protection/restoration, passive recreation, wind or weather screens and visual effect; may also include day use public recreational facilities and be utilized as utility corridors, but any vegetation removed in the course of installing or maintaining utility lines shall be replaced in kind</p>  | <p><b>Harbor Greenery</b></p> <ul style="list-style-type: none"> <li>a) Day use public recreational facilities requiring little or no alteration to existing landforms.</li> <li>b) Native tree plantings.</li> <li>c) Habitat restoration.</li> <li>d) Public trails or pathways.</li> <li>e) Public events.</li> <li>f) Publicly owned directional or site identification signs.</li> <li>g) Utility lines, provided that any removed vegetation shall be replaced in kind unless a public safety risk is involved with the vegetation replacement.</li> </ul>   |

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| <p><b>HVSC</b></p> <p>Provides for accommodations, conveniences, goods, and services intended to primarily serve Harbor area visitors where specific use does not necessarily require location immediately adjacent to Harbor waters; priority shall be given to visitor-serving commercial facilities designed to enhance public opportunities for coastal recreation</p> | <p><b>Harbor Visitor Serving Commercial</b></p> <ul style="list-style-type: none"> <li>a) Visitor serving facilities that provide overnight accommodations such as hotels, motels, and hostels.</li> <li>b) Bait and tackle shops, fuel sales for boats, party boat offices, recreational boat sales and rental, boat and boat motor sales and service, commercial fisheries supply stores, marine electronic shops, and dry storage for trailerable boats.</li> <li>c) Dry storage of commercial fishing gear.</li> <li>d) Custom fish processing.</li> <li>e) Restaurants, drinking places, cafes, harbor visitor serving retail shops (including specialty shops), and seafood sales.</li> <li>f) Visitor serving facilities that provide local information and history such as an interpretative center, visitor center, nautical museum.</li> <li>g) Visitor serving outdoor seasonal sales and events.</li> <li>h) Accessory uses and buildings appurtenant to a permitted use including parking areas.</li> <li>i) Boat and auto service including washing and cleaning facilities.</li> <li>j) Administrative and professional offices with limited or no accessory retail and services uses. Offices that are not principally devoted to the administration of activities within the marina and surrounding open-ocean (or are not an accessory use to another permitted use) are not be permitted on the first floor of this district. Medical offices are not permitted.</li> <li>k) Non-flashing signs appurtenant to any permitted use not exceeding forty square feet in aggregate.</li> <li>l) Harbor District offices and harbor maintenance facilities</li> </ul> |
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Most of the conditional uses allowed in each zone ([Exhibit 6](#)) are uses that either are ancillary to or supportive of coastal-dependent uses or other priority uses and therefore clearly consistent with the purpose of the land use allowances and purpose as described in LUP Policy 2.1.1-1. Certain other conditionally permitted uses, such as habitat restoration, are not ancillary to or supportive of coastal-dependent or visitor-serving priority uses but otherwise are aligned with other overriding Coastal Act requirements that also apply to harbor lands.

Section 30603(a)(4) of the Coastal Act provides that local approval of any development in a Coastal county (i.e., unincorporated areas) that is not designated as the principal permitted use results in an action that is appealable to the Commission. Unless a single use is designated as the principally permitted use in a particular zoning district, all development approved by the County in that particular zoning district is appealable to the Commission. The proposed IP does not identify a single use as being principally permitted and instead lists several uses as principally permitted within each zone. This

results in all of the listed principal uses being appealable to the Commission, which is something that staff has attempted to remedy through suggested modifications in past LCPAs. However, in the case of the Crescent City Harbor, the entire Harbor Area is located in between the sea (Pacific Ocean) and the first public road (Highway 101) and, therefore, all development here is appealable to the Commission pursuant to section 30603(a)(1) of the Coastal Act. Therefore, new development within the County's permitting jurisdiction (which, as discussed above and shown in [Exhibit 2](#) is a small portion of the Harbor Area) would be appealable to the Commission even if the County designated a single principal use, and there is no need to narrow the principal uses in the IP.

Unlike many coastal cities and counties where securing a coastal development permit would be required along with any other type of discretionary or ministerial authorization, the Del Norte County IP provides for four types of approvals to also serve as a coastal development permit: (1) building and grading permits; (2) conditional use permits; (3) variances; and (4) tentative subdivision map approvals. Therefore, the requirements for securing an entitlement equivalent to a CDP are spread throughout the existing certified IP in the respective chapters related to the specific entitlement (e.g., Chapter 14.06 CA Coastal Zone Entitlement Procedures) as well as in Chapter 21.50 CA Coastal Zone Entitlement Procedures – General Provisions, which states “It is the intent of this chapter and all subsequent Entitlement Procedures chapters to implement the policies and requirements of the California Coastal act and General Plan Coastal Element by establishing the procedures for the processing of coastal development permits.” Chapter 21.50 includes the language of Coastal Act regulations outlining situations where no local CDP is required, including improvements to existing structures, repair and maintenance activities, and maintenance dredging activities, provided that those activities do not involve a risk of substantial adverse environmental impact. Therefore, the proposed IP amendment as submitted is adequate to carry out the proposed LUP policies related to new development within the Harbor Area.

#### Conformity with the Public Access Policies of the LUP

The proposed amended IP includes polices related to public access and parking in section 21.47. The public access policies would remain largely the same as the existing certified IP with two changes. The proposed IP would add a reference to section 21.35.040 of the existing countywide IP, which includes a number of public access regulations and information on public access dedications. The proposed IP policy would include language clarifying that “In the event of any conflict between this Section 21.47 and Section 21.35.040, these Harbor -specific regulations shall control.” The proposed IP also would add two new exemptions where public access does not need to be required where use conflicts may result in a public hazard risk. The two new exemptions are for the inner breakwater and the breakwater for the inner boat basin.

The proposed IP includes a newly added section 21.47E for Harbor Area Parking, which requires that adequate parking be provided for all uses within the Harbor Area, includes language of shared parking and when it might be adequate to satisfy parking requirements, as well as provisions to reduce the number of parking requirements for

uses with unique operating characteristics that result in lower parking demand. Specifically, section 21.47E.20 allows for shared parking (allowing land uses within different peak and off-peak parking demand schedules to share required onsite parking spaces) provided that a parking plan is developed and approved by the Community Development Director that demonstrates (a) sufficient parking to meet the combined needs of the uses involved, (b) facilities and/or programs are included to provide for the use of alternative modes of transportation such as public transit, bicycling, or walking, and (c) that less parking will not result in interference with public access or overcrowding or over use of any single area.

Finally, proposed IP section 21.47.20 provides:

No development shall be permitted within the harbor area which would interrupt public access both to and along the shoreline. Alternatives to open access may be access along a corridor to the shoreline provided access along the shoreline is maintained. Physical alteration of the shoreline shall incorporate access by the public to the shoreline, when feasible, except as noted in Section 21.47.030.

These standards ensure that the proposed IP amendment as submitted conforms with and is adequate to carry out the public access policies of the LUP as amended.

#### Conformity with the Coastal Hazards Policies of the LUP

The existing certified IP includes coastal hazard regulations covering coastal bluff areas, tsunami and coastal erosion areas, and slope failure risk areas (included in Chapter 21.35 of the existing certified Countywide IP). These regulations only apply to parcels that have a “C(H)” coastal area combining district classification on the County’s zoning district maps. Currently, none of the parcels within the Harbor planning area are classified with a “C(H)” coastal area combining district classification, and there are no IP regulations related to coastal hazards within the Harbor Area. The proposed IP amendment would add the “C(H)” combining district classification to all four proposed zoning districts. These policies include requirements for geologic studies for new construction within coastal bluff areas and tsunami assessments within any identified tsunami hazard areas (which includes the entire Harbor Area as mapped by the California Geological Survey Tsunami Hazard Area Maps<sup>8</sup> and shown in [Exhibit 3](#)). The newly added combining district would ensure that the existing IP policies for coastal hazards apply within the Harbor area.

With respect to storm flood hazards, the existing certified Countywide IP includes a floodplain ordinance (Chapter 21.45) that applies to all areas of the County identified by

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<sup>8</sup> [https://maps.conservation.ca.gov/cgs/informationwarehouse/ts\\_evacuation/?extent=-13839547.0025%2C5115780.7074%2C-13811551.9409%2C5131392.9704%2C102100&utm\\_source=cgs%2Bactive&utm\\_content=delnorte](https://maps.conservation.ca.gov/cgs/informationwarehouse/ts_evacuation/?extent=-13839547.0025%2C5115780.7074%2C-13811551.9409%2C5131392.9704%2C102100&utm_source=cgs%2Bactive&utm_content=delnorte)

the Federal Emergency Management Agency (FEMA) on their Flood Insurance Rate Maps (FIRM), including the Harbor's coastline which is a designated coastal high hazard area (Zone VE) ([Exhibit 3](#)). The FEMA FIRM area only includes the lower lying portions of the Harbor and does not include some of the areas within the County's permitting jurisdiction along Highway 101. Although some portions of the Harbor Area are excluded from the requirements of the floodplain ordinance, those areas would still be subject to the proposed LUP policies related to Hazards Evaluations, Sea Level Rise Analyses, and the other requirements proposed within Chapter 2 of the amended LUP. The existing certified IP does not include policies related to SLR planning and the County is not proposing to add any Harbor-specific SLR policies to the IP through this amendment. The County may, in the future, decide to complete a comprehensive LCP update for the balance of the County that includes a discussion of and policies to address SLR. In the meantime, the proposed LUP policies related to SLR would be the standard of review for any new development located in the Harbor and within the County's permitting jurisdiction, and the Coastal Act Chapter 3 policies would be the standard of review for new development within the low-lying portions of the Harbor within the Commission's permitting jurisdiction.

#### Conformity with Visual Resource Policies of the LUP

The proposed IP would regulate signs throughout the Harbor Area by amending the key to the tables that regulate what kinds and sizes of signs area allowed in each zoning designation, which is found in Title 18 – Signs. Only non-flashing signs appurtenant to permitted uses would be allowed, and signs can't exceed 40 square feet in aggregate. No signs are allowed in the Harbor Greenery zone. The three other zoning designations that would allow signs reference the provisions of Title 18 that establish regulations for 1) which types of signs are allowed, 2) the number, dimensions and location of signs allowed on a lot, and 3) what type of permitting the signs requires (no permit, a sign permit, or a sign permit and conditional use permit).

As discussed above, the proposed height limits for each zone would be similar to existing limits and would not dramatically increase the potential visual impacts from new buildings. The height limit would remain at 75 ft for the HDMC zone, would reduce from 50 ft to 45 ft in the HDR zone, and would increase from 35 to 40 ft in the HVSC zone (although the HVSC currently allows hotels up to 50 ft, which would decrease down to 45 ft).

#### Conformity with Archaeological Resource Policies of the LUP

The existing IP includes an archaeological policy referenced both in the section on grading standards and subdivision standards which states:

In cooperation with the State Historic Preservation Office, where it is determined development would adversely affect archaeological resources, reasonable mitigation measures shall be required. The State Historical Preservation Office shall have up to 15 days upon receipt of County notice to provide review. Reasonable mitigation measures shall be required as a condition of any permit. If in the course

of development any archaeological or cultural remains are encountered, work shall cease and the County shall be contacted immediately. An evaluation of the site shall be conducted by the County and any reasonable mitigation measures shall be required prior to commencement of development.

As previously mentioned, grading and subdivision permits are also CDPs according to the existing certified countywide IP, therefore any work that involves excavation or grading (which includes major vegetation removal) would be subject to the existing archaeological policy in the existing IP as well as the archaeological policies proposed as part of the LUPA. The existing IP includes policies to protect water quality and marine resources in the general grading standards section (section GS-1), including policies to minimize disturbance to on-site vegetation, reduce impervious surfaces, stabilize and revegetate exposed soils, and requirements for erosion control measures during and after construction.

#### Conformity with Other Coastal Resource Policies of the LUP

While the existing certified countywide IP includes several policies that implement the proposed Harbor LUP, there are some sections of the amended LUP that do not have corresponding IP standards addressing them, including but not limited to environmentally sensitive habitat areas and wetlands. While the IP does not include detailed resource-specific policies, the proposed LUP amendment includes several new coastal resource policies that include applicability provisions, standards and limitations, and information on required reports and analysis. The proposed LUP also includes general policy 3 which states that “Where conflicts occur between Harbor LUP policies and those in other County plans, policies, and regulations, the LUP policies shall take precedence in the Harbor Area.” While the absence of resource-specific Harbor Area policies in the IP does not necessarily mean there is a conflict between the two documents, this policy would ensure that the more protective LUP policies would take precedence in the Harbor Area. Therefore, both the existing countywide IP and the proposed IP policies for the Harbor Area are in conformance with and adequate to carry out the amended LUP.

### **E. California Environmental Quality Act (CEQA)**

As set forth in Section 21080.9 of the California Public Resources Code, CEQA exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of LCPs and LCP amendments. Instead, the CEQA responsibilities are assigned to the Coastal Commission, and the Commission's LCP review and approval program has been found by the Secretary of the Natural Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5. Therefore, the Commission is relieved of the responsibility to prepare an EIR for each LCP or LCP amendment action.

Nevertheless, the Commission is required, in approving an LCP or an LCP amendment, to find that the approval of the proposed LCP, as amended, does conform with CEQA

provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact which the activity may have on the environment [14 CCR §§13542(a), 13540(f), and 13555(b)]. In fulfilling that review, this report has discussed the relevant coastal resource issues with the proposed LCP update and has concluded that approval is not expected to result in any significant environmental effects, including as those terms are understood in CEQA.

The County's LCP amendment consists of both LUP and IP amendments. The Commission incorporates its findings on Coastal Act and LUP conformity into this CEQA finding as it is set forth in full herein. As discussed throughout the report and hereby incorporated by reference, the LUP amendment as originally submitted has been found to be in conformity with, and adequate to carry out, the Chapter 3 policies of the Coastal Act, and the IP amendment has been found to be in conformity with, and adequate to carry out, the policies of the certified LUP. This report has discussed the relevant coastal resource issues with the proposal and concludes that approval of the LCP amendment as submitted will not result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

The Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of CEQA. Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures which would substantially lessen any significant adverse impact which the activity may have on the environment [14 CCR §§ 13542(a), 13540(f), and 13555(b)]. These findings represent the Commission's analysis and consideration of all significant environmental issues raised in public comments received, including with regard to potential direct and cumulative impacts of the proposed LUP update, as well as potential alternatives to it.



**APPENDIX A – Substantive File Documents**

- LCP Amendment Application No. LCP-1-DNC-21-0053 and associated file documents.
- Relevant Policies and Standards from the Certified County of Del Norte LCP that implement the Updated Harbor LUP (including, but not limited to: Title 14 Buildings and Construction; Grading Standards; Title 16 Subdivisions; Chapter 21.35 Coastal Area Combining District; Title 18 Signs)