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To: Commissioners and Interested Persons

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Subject: City of Marina LCP Amendment Number LCP-3-MRA-25-0006-1 (Coastal Hazards Update)

SUMMARY OF STAFF RECOMMENDATION

The City of Marina is a community of approximately 23,000 residents that spans some 10 square miles on the southern half of the Monterey Bay, just north of the City of Seaside and just south of mostly undeveloped dunes and agricultural lands that stretch some six miles all the way to Moss Landing. The City's coastal zone is mostly located west of Highway 1 along a roughly three-mile stretch of coast that is generally sparsely developed, other than a nearly half-mile node of visitor-serving and State Parks development along Dunes Drive. The limited amount of shoreline development in an otherwise developed City is fairly unique in coastal California, and something of which the City is understandably proud.

The Commission originally certified the City's Local Coastal Program (LCP) in 1982, and its coastal hazard provisions have been essentially unchanged since that time. Given its irreplaceable shoreline environment, and the threats to it from global climate change and sea level rise, the City embarked on a coastal hazards update in 2017 with a roughly \$85,000 grant from the Commission's Local Assistance Grant Program (which was augmented by an additional grant of \$100,000 in 2022). As part of these efforts, the City comprehensively assessed existing conditions and vulnerabilities, including an in-depth review of the existing built and natural environment along the City's shoreline and the degrees to which it was exposed to both current and future coastal hazards threats under varying sea level rise scenarios. Among the more pertinent findings, the City's assessment found that the City currently has no shoreline armoring and is generally well suited to address current and future hazard risks through non-armoring solutions, which formed the foundation of the City's proposed LCP amendment.

The proposed amendment would add a new 'Coastal Hazards and Sea Level Rise' chapter to the LCP Land Use Plan (LUP) and a corresponding section to the LCP Implementation Plan (IP), the primary goals of which are to maintain the City's mostly undeveloped shoreline, to keep its beaches open and accessible to all, and to keep its

shoreline free of armoring into the future. To implement these goals, the proposed amendment includes a suite of provisions that require new development to be sited, designed, and conditioned to avoid coastal hazard threats in a manner that does not require shoreline armoring, either now or in the future. The provisions also require technical studies, including a Coastal Hazards Report, and implementing measures, such as deed restrictions, real estate disclosures, and bonding/in-lieu fees to fund future relocation and cleanup efforts to accomplish stated policy requirements. For development currently present that may be at risk, the proposed LUP requires the preparation of a Coastal Hazards Response Plan that identifies the ways in which the development will respond to and address such threats, including through means such as nature-based/green infrastructure approaches, dune restoration, beach nourishment, and retreat/relocation. Notably, neither existing development nor new development that might be developed under the LCP would be allowed armoring – ever – including that the proposed amendment would prohibit all shoreline armoring in the City of Marina.

Overall, the proposed amendment provides a strong regulatory structure that implements many of the key coastal hazard provisions associated with the Coastal Act, including in a manner that tracks other recent successful LCP coastal hazard updates. In fact, it includes many of the best practices recommended by the Commission's 2015 Sea Level Rise Policy Guidance, and its supporting vulnerability assessment and adaptation planning work is consistent with and fulfills the requirements of Senate Bill 272 at this time. The proposed amendment requires new development to be set back a sufficient distance from the shore to avoid coastal hazards risks without needing shoreline armoring, and it requires detailed technical studies to ensure that this requirement is effectively carried out. In addition, it includes recommended best practices such as identifying triggers for phased adaptation; committing the City to continuous study and future LCP updates as the best available science and on-the-ground conditions change over time; and requirements for notice and disclosure of hazards risks to permittees, including to ensure that they – and not the public – internalize any risks for coastal development, including as it may eventually extend to cleanup and hazards abatement. The amendment, through such triggers and other techniques, is proactive about avoiding these problems in the future, all with the goal of keeping the City's beaches clean, open, and available to the general public as a recreational public commons and important natural resource. At this broad level, the proposed LCP amendment can be seen as a model of coastal hazard management best practices.

That said, and although staff can empathize with the intent, the proposal to outright ban shoreline armoring does raise concerns. While the Coastal Act clearly and emphatically requires coastal resource protection, and clearly disallows shoreline armoring as a general rule, it also includes Section 30235 that acts as an 'override' to potentially allow armoring in discrete cases even if other Coastal Act provisions would require its denial (i.e., due to the nature of its adverse coastal resource impacts). In fact, Section 30235 requires approval of shoreline armoring when required to protect endangered pre-1977 structures, public beaches, and coastal-dependent uses. The pre-1977 "existing structure" provision is perhaps most well-known, and it allows for structures that pre-date the permitting requirements of the Coastal Act to be allowed shoreline armoring under certain circumstances because they weren't necessarily developed in a way that

would preclude the need for armoring, as is and was required of development that post-dated 1977. As to the other two, public beaches and coastal-dependent uses are two of the highest priority uses under the Coastal Act, and are called out for special treatment with respect to armoring for this purpose, including because they are necessarily located at the ocean-shore interface. Put another way, these three types of endangered 'things' are offered special dispensation under the Coastal Act, sometimes referred to as rights. And while it is true that LCPs can be more protective than the Coastal Act, they cannot be inconsistent with it, and an outright ban on armoring cannot be found consistent with Section 30235.

In response, the City argues that its proposal can be found Coastal Act consistent, and offers three reasons why. First, banning armoring, and keeping the City's beaches and dunes free from it, is inherently more protective of coastal resources than allowing it. If the overall purpose of the Coastal Act is to protect and enhance coastal resources, then a policy that prohibits something that inherently adversely affects those resources upholds the intent of the law. Second, the City argues that armoring within Marina would never be found consistent with the Section 30235 tests. Given the unique factors in Marina, there either are no qualifying uses (e.g., existing structures), there are viable alternatives other than armoring (e.g., relocation inland and away from the threat), or the impact is something that is not otherwise allowed and could not be sufficiently mitigated (e.g., placing armoring along/within dunes). And third, and related to the first two arguments, the City argues that the Commission could choose to exercise its discretion and approve an armoring ban via conflict resolution, whereby the Commission determines whether a proposal is, on balance, most protective of significant coastal resources when there are conflicting Coastal Act Chapter 3 requirements.

However, Commission staff respectfully disagrees with these assertions. Although it is true that the Coastal Act generally disallows shoreline armoring due to its adverse effects on coastal resources, it is also true that, for the structures/beaches/uses enumerated by Section 30235, those adverse effects are permissible, in part because not allowing them would have their own adverse effects (e.g., precluding certain important public access facilities). In essence, Section 30235 is already an override of other Coastal Act provisions to ensure that certain structures/beaches/uses are protected. Put another way, Section 30235 is conflict resolution in the legislative state, and there is no conflict between Section 30235 and other Coastal Act provisions because the Legislature already resolved the conflict within the Coastal Act. And while it may be true that an armoring free shoreline is generally more protective of coastal resources, that is immaterial as to what the law requires in this circumstance.

As to the argument that there are no structures/beaches/uses that could meet Section 30235 tests in the City's coastal zone, and thus an armoring ban simply recognizes this fact, staff respectfully disagrees, and notes that this is simply too speculative an argument to make. While the circumstances that give rise to the "existing structure" portion of the override can be identified now, and if there were no pre-1977 structures then one could eliminate that prong consistent with the Act, the fact is that there are certain pre-1977 structures in the City's coastal zone. As to whether they meet Section 30235 tests to allow armoring, that is a case specific investigation that is based on the

time when such structures might become endangered, which is not the case now. Put another way, the outcome of a Section 30235 analysis for such structures now may not be the same as for them in the future when Section 30235 is actually triggered. And, to be clear, the public beach and coastal-dependent use prongs are specific to those beaches/uses, and could even allow for armoring when one is first proposed, if the tests are met. As such, there is little way to know now what might meet the public beach and coastal dependent use prongs and that would require armoring under Section 30235. Notably, despite these Section 30235 allowances, staff believes that given the nature of the built and natural environment of the City's shoreline that it is actually quite unlikely that there would be the possibility for any type of significant armoring in the future. It is just that it cannot be concluded that way now, and thus an armoring ban – while well intentioned – is inappropriate. Thus, staff recommends that that language be modified to provide for the allowance of armoring pursuant to the Coastal Act Section 30235 tests. Suggested modifications are also included to clarify proposed definitions; to ensure that relocation of at-risk, non-resource-dependent development is not placed within the sensitive dune environment; and to ensure that erosion triggers and other adaptation planning measures are incorporated into CDP conditions of approval. Staff has worked with the City on the suggested modification language, and while they still prefer to affirmatively ban all armoring in Marina as they have proposed, they indicate they are in agreement with the modification language and the staff recommendation should the Commission choose to not certify their proposed language and instead choose to certify with modifications that restructure armoring allowances consistent with Section 30235.

As proposed and as modified, the City's coastal hazards amendment provides a strong regulatory framework to ensure the safety, resiliency, and protection of Marina's natural and built shoreline environment. Staff has worked in close partnership with City staff over the years on this amendment and has had respectful and productive conversations about shared objectives as well as certain Coastal Act legal requirements. The Commission has a good partner in the City in advancing innovative coastal resource protections, and appreciates the City's willingness to take on difficult but important coastal management endeavors.

In conclusion, staff recommends that the Commission approved the amendment if it is modified as identified, and the four motions necessary to do so are found on page 7 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on August 1, 2025. The proposed amendment affects the LCP's LUP and IP, and the 90-working day deadline for the Commission to take action on it is December 11, 2025. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until December 11, 2025 to take a final action on this LCP amendment. Therefore, if the Commission fails to take a final action in this case (i.e., if the Commission instead chooses to postpone/continue LCP amendment consideration), then staff recommends that, as part of such non-final action, the Commission extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion below. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The

motion passes only by an affirmative vote of a majority of the Commissioners present.

Alternate Time Extension Motion: *I move that the Commission extend the time limit to act on City of Marina Local Coastal Program Amendment Number LCP-3-MRA-25-0006-1 to December 11, 2026, and I recommend a yes vote.*

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EXHIBITS

- Exhibit 1: City of Marina Location Maps
- Exhibit 2: City of Marina Photos
- Exhibit 3: Proposed LCP Amendment
- Exhibit 4: Suggested Modifications

1. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LUP and IP amendments with suggested modifications. The Commission needs to make two motions on the LUP amendment and two motions on the IP amendment in order to act on this recommendation. In each case, the proposed amendment in each category needs to first be denied, and then approved if modified, to complete the staff recommendation.

A. Deny the LUP Amendment as Submitted

Staff recommends a **NO** vote on the following motion. Failure of this motion will result in denial of the LUP amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Motion: *I move that the Commission certify Land Use Plan Amendment LCP-3-MRA-25-0006-1 as submitted by the City of Marina, and I recommend a no vote.*

Resolution to Deny: *The Commission hereby denies certification of Land Use Plan Amendment LCP-3-MRA-25-0006-1 as submitted by the City of Marina and adopts the findings set forth below on the grounds that the Land Use Plan Amendment as proposed does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan Amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.*

B. Certify the LUP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the following motion. Passage of the motion will result in certification of the LUP amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

Motion: *I move that the Commission certify Land Use Plan Amendment LCP-3-MRA-25-0006-1 for the City of Marina if it is modified as suggested in this staff report, and I recommend a yes vote.*

Resolution to Certify: *The Commission hereby certifies Land Use Plan Amendment LCP-3-MRA-25-0006-1 for the City of Marina if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan Amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan Amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would*

substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

C. Deny the IP Amendment as Submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the Implementation Plan Amendment 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: *I move that the Commission reject the Implementation Plan Amendment LCP-3-MRA-25-0006-1 as submitted by the City of Marina, and I recommend a yes vote.*

Resolution to Deny: *The Commission hereby denies certification of LCP Amendment Number LCP-3-MRA-25-0006-1 as submitted by the City of Marina and adopts the findings set forth below on grounds that the Implementation Plan Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment as submitted.*

D. Certify the IP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the Implementation Plan Amendment with suggested modifications and the adoption of the following resolution and findings. The motion to certify with suggested modifications passes only by an affirmative vote of a majority of the Commissioners present:

Motion: *I move that the Commission certify LCP Amendment Number LCP-3-MRA-25-0006-1 as submitted by the City of Marina if it is modified as suggested in this staff report, and I recommend a yes vote.*

Resolution to Certify: *The Commission hereby certifies LCP Amendment Number LCP-3-MRA-25-0006-1, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan 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.*

2. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Coastal Act and Land Use Plan consistency findings, respectively. If the City of Marina accepts the suggested modifications within six months of Commission action (i.e., by May 7, 2026), by formal resolution of the City Council, the modified amendment will become effective upon the Executive Director's reporting the determination that this acceptance has been properly accomplished to the Commission. Where applicable, text in underline/strikethrough format denotes text to be added/deleted by the Commission. See **Exhibit 4** for the suggested modifications in context.

3. FINDINGS AND DECLARATIONS

A. LCP Amendment Background

The City of Marina has approximately 23,000 residents, covers 10 square miles and is located at the southern end of the Monterey Bay and the northern end of the urbanized portion of the Monterey Peninsula, just north of the City of Seaside and just south of the undeveloped dunes and agricultural lands that stretch some six miles all the way to Moss Landing. The coastal zone portion of the City is roughly 1.6 square miles with most of that area located west of Highway 1. This stretch of coast is over three miles and is comprised, from south to north, of Marina State Beach, a State Parks'-owned public parking lot and restroom, a former wastewater facility (and related infrastructure/offices), hotels/visitor-serving uses, the Marina Dunes Preserve, and undeveloped beach and dune space to the City's northern border at the former Cemex sand mining facility (see **Exhibits 1 and 2**). Thus, the City's shoreline is mostly sparsely developed, with a more developed node accessed off of Dunes Drive, but otherwise undeveloped beach and dunes and mostly held in public ownership. The limited amount of shoreline development in an otherwise developed City is fairly unique in coastal California, and something of which the City is understandably proud.

The Commission originally certified the City's LCP in 1982. And but for just a handful of amendments in the intervening years, the LCP is largely the same document today as it was in the early 1980s, particularly in terms of its provisions addressing coastal hazards and the standards new development must meet along the land/ocean interface. As such, and to address modern hazards planning in light of sea level rise, and to better reflect on-the-ground conditions moving forward (particularly with respect to the cessation of sand mining at the former Cemex site as a result of the Commission's 2017 Consent Cease and Desist Order to phase out such mining by 2020¹), the City sought to update its LCP's coastal hazards provisions. The City began this coastal hazards

¹ Commission Order CCC-17-CD-02, which also specified a phase out period after mining operations ceased, and site restoration and sale of the property at a reduced rate to a public or non-profit entity for habitat restoration and public access purposes. As of 2025, sand mining has ceased, and Cemex is working with Commission staff on habitat, access, and acquisition parameters.

update in 2017 with a roughly \$85,000 grant from the Commission's Local Assistance Grant Program, which was augmented with an additional grant of \$100,000 in 2022.²

As part of these efforts, the City undertook a comprehensive existing conditions and vulnerability assessment³ that inventoried the existing built and natural environment present along the City's shoreline, and evaluated these assets' exposures to and vulnerabilities associated with various current and future coastal hazards threats under different sea level rise scenarios. Among the more pertinent findings, the assessment found that the City "faces minimal exposure to most coastal hazards and sea level rise" despite the fact that it faces "some of the highest rates of erosion in California." The primary reason is that the vast majority of the urban City is located inland of Highway 1 and protected by its unique high dune topography. Thus, and even accounting for the higher erosion rates in this part of Monterey Bay (which the City surmises is due to a legacy of sand mining, and which should therefore lessen as the effects of mining cessation are felt), the City currently has no shoreline armoring. The assessment concluded on what it deemed "Positive Findings:"

- *The pending cessation of sand mining and subsequent projected reduction in future erosion and hydraulic connectivity has substantially reduced the potential long term impacts of sea level rise and coastal hazards to the City.*
- *There are no projected impacts to any residential land uses from erosion even with up to 5 feet of sea level rise.*
- *The City of Marina currently has no coastal armoring, which allows for the continuation of natural coastal and dune processes and maintenance of beach width over time.*
- *The coastal zone of the City is among the highest income areas and as a result, there is very little social vulnerability for those living in the coastal zone. The access to coastal recreational in the City is fee-free, creating fewer barriers for accessibility to all populations.*

The report did, however, highlight a few key vulnerabilities. First, for natural resources, the analysis showed that currently about 50 acres of coastal dune habitat is at risk from erosion, which increases to roughly 150 acres with 5 feet of sea level rise. Recreational development/infrastructure is also currently at risk, including portions of existing coastal access trails and Marina State Beach's primary public parking lot that is located at the end of Reservation Road. With 5 feet of sea level rise, the majority of the parking lot could be vulnerable to erosion (including the restroom), and about 1,300 linear feet of coastal trail to the south of the parking lot that traverses the dunes could be eroded. As for other public infrastructure, the seaward-most buildings at the Marina Coast Water

² A third LCP Local Assistance grant is funding a comprehensive update to the rest of the LUP, and Commission and City staff are collaboratively working together on it as it commences Planning Commission and ultimately City Council review and approval, with subsequent submittal to the Coastal Commission for certification.

³ "City of Marina Existing Conditions and Sea Level Rise Adaptation Report," August 2023.

District's former wastewater treatment plant are currently potentially exposed to erosion risk, and with 5 feet of sea level rise additional such buildings, several fire hydrants, and access roads may be at risk. And finally, for private development, while nothing is currently at risk, portions of the Sanctuary Beach Resort, a hotel facility set atop the dunes, could be with 5 feet of sea level rise.

Putting all this together, the assessment recommended various policy approaches to address these risks. These ranged from required real estate disclosures to ensure that property owners are aware of such risks, to supporting and furthering proposed beach nourishment programs, to identifying triggers for when certain adaptation planning measures will be taken to ensure that development is being appropriately planned. The assessment also recommended engagement with State Parks and the Marina Coast Water District to ensure mutual understanding of how to manage their facilities. Perhaps the most notable suggestion:

...A policy should be developed to clearly state that coastal armoring will not be permitted within the City of Marina, except in certain limited circumstances if overruled by the California Coastal Commission. This policy would protect beaches for perpetuity within the City and continue the coastal management leadership tradition that the City has championed with its role in terminating the sand mine.

In lieu of armoring, and in combination with other envisioned adaptation techniques such as erosion triggers, the assessment lays out several options for hazards management, including facilitating structure relocation inland and away from erosion risks. Given the geography of the City's shoreline and the generally small amount of development, particularly compared with other communities, and combined with larger lots and the ability for relocation/retreat to be a viable adaptation strategy, the assessment suggests the City prioritize these options first before any hard armoring. All of this formed the foundation of the City's proposed LCP amendment.

B. Proposed LCP Amendment

The proposed amendment would add⁴ a new 'Coastal Hazards and Sea Level Rise' chapter to the LCP Land Use Plan (LUP) and a corresponding section to the LCP Implementation Plan (IP). LUP Policy HAZ-1 perhaps sums up the intent of the proposed amendment best:

HAZ-1. The Marina Coastal Zone is an irreplaceable resource and its protection and preservation as a natural living shoreline with connections between the ocean, beaches and dunes is a matter of great public importance.

It is the intent of the Local Coastal Program that the City responds to climate change impacts, and adapts to coastal hazard risks in a way that protects and

⁴ The City indicates the amendment will supersede any of the existing LCP's coastal hazards/shoreline armoring requirements. As noted earlier, the City is currently updating the rest of the LUP, and these existing provisions will be deleted/replaced as part of that effort.

preserves its unique natural coastline, valued coastal resources and valuable coastal dune habitats, and ensures public safety and welfare.

A history of proactive planning has avoided the construction of any shoreline protective devices. It is the intent of the Local Coastal Program to ensure that no shoreline protective devices are utilized for new or existing development. Furthermore, community stated preferences to expand coastal access opportunities, reduce the industrial uses of the coastal zone and maintain natural viewsheds of the coast, dunes, and ocean shall be considered in all development proposals.

The City thus seeks to maintain its mostly undeveloped shoreline, to keep its beaches open and accessible to all, and to keep its shoreline free of armoring into the future. To implement these goals, the proposed LUP includes 16 policies that require new development to be sited, designed, and conditioned away from coastal hazards threat and in a manner without shoreline armoring both now and in the future (and specifies the required technical studies, including a Coastal Hazards Report,⁵ and implementing instruments, such as deed restrictions, real estate disclosures, and bonding/in-lieu fees to fund future relocation and cleanup efforts to accomplish same). For existing development that may be at risk, the LUP requires the preparation of a Coastal Hazards Response Plan that identifies the ways in which the development will respond to and address such threats, including through means such as nature-based/green infrastructure approaches, dune restoration, beach nourishment, and retreat/relocation. As proposed, shoreline protection devices are not permissible hazards abatement techniques for any development:

HAZ-4. *Development shall be sited and designed to minimize risks to life and property and assure stability and structural integrity over the life of the development; and shall avoid shoreline protection devices.*

HAZ-6. *Shoreline protection devices, including revetments, breakwaters, groins, seawalls, and other such construction that alters natural shoreline processes shall not be allowed in the City of Marina.*

The proposed LUP also includes several policies committing the City to certain actions, including updating the LCP every 10 years to keep abreast of the latest science and mapping and to pursue grant funding from the State Coastal Conservancy and other funding agencies to monitor erosion and to fund retreat efforts (including acquiring properties and facilitating land swaps). And finally, the LUP includes several new definitions, including ‘Shoreline Protective Device’, which includes seawalls, revetments, sheet piles, breakwaters, groins, bluff retention devices, and pier/caisson foundation systems; ‘Existing Development’, which is a structure “in existence post January 1, 1977, and currently existing within the coastal zone;” ‘Pre-Coastal Act Development’,

⁵ Among other things, the Coastal Hazards Report is to identify “...the specific hazard threats facing the proposed development, including erosion, dune recession and wave uprush, and identification of the specific siting and design techniques to avoid such threats over the development’s life. All such analysis shall be based on a site-specific hazards report by a qualified geologist/engineer/geomorphologist....” See Policy HAZ-8.

defined as a structure “lawfully in existence prior to the effective date of the Coastal Act (January 1, 1977) that has not been redeveloped since;” and ‘Redevelopment’, defined as “alteration (including interior and/or exterior remodeling and renovations, demolition or partial demolition, etc.) of 50% or more of the structure’s major structural components (including exterior walls, floor and roof structure, and foundation) of such development” or an increase in floor area, where such “changes to floor area and individual major structural components are measures cumulatively over time from January 1, 1977,” at which point the structure is no longer existing and the entirety of it and any other development on the site must conform with all applicable LCP policies.

The IP generally maintains this construct, but carries it out through additional specificity regarding the technical information and other measures to effectively implement the LUP’s directives. For example, for new proposed development, the IP requires an initial coastal hazards assessment as a first screen to determine whether the site is or may in the future (generally the next 75 years) be subject to coastal hazards threats. If so, the applicant is responsible for preparing a Coastal Hazards Report that more fully evaluates those threats, avoiding and/or mitigating any on- or off-site impacts, and recording a deed restriction which, among other things, waives any rights to shoreline armoring, acknowledges the hazards and risk present at the site, requires the preparation of a Coastal Hazards Response Plan in the future should coastal hazards place the development at risk, and requires bonding to pay for future adaptation endeavors. The primary goal is to ensure that new development is safe from hazard risks, avoids shoreline armoring, and acknowledges, internalizes, and responds to potential future risk. This same goal applies to the City’s currently existing built environment.

The IP further fleshes out the LUP’s adaptation planning requirements by identifying specific triggers and responses to those triggers for certain development. For example, for the Marina Coast Water District’s office buildings (those that were identified as potentially at risk in the City’s hazards assessment), the IP states that, should erosion of the dune crest come to within 20 feet of such buildings, then the property owner must prepare a Coastal Hazard Response Plan. The IP includes similar trigger prescriptions for State Parks’ parking lot and restroom (i.e., dune erosion to within 10 feet of the parking lot and 30 feet for the restroom) as well as the Sanctuary Beach Resort (i.e., 40 feet of the first row of ocean-facing buildings). The Response Plan is to be prepared by a qualified geologist, engineer, and/or geomorphologist, and, among other things, is to identify the specific measures and mechanics as to how to respond to coastal hazard threats without shoreline armoring, up to and including structure removal/relocation, site cleanup, and restoration, with costs and timelines identified, all of which are the property owners’ responsibility to carry out.

In short, the City has spent considerable time and effort, in conjunction with Commission staff through both grant monies and policy discussion, on crafting a proposed LCP that keeps its shoreline unarmored, and includes detailed regulatory requirements to effectuate that overall policy goal.

Please see **Exhibit 3** for the full text of the proposed LCP amendment.

C. Evaluation of Proposed LCP Amendment

1. Standard of Review

The proposed amendment affects the LCP's LUP and IP, and each has a different standard of review. The LUP changes must conform with the requirements of Chapter 3 of the Coastal Act, and the IP changes must be consistent with and adequate to carry out the provisions of the certified LUP, as it may be amended.

2. Proposed Land Use Plan Amendment

Applicable Coastal Act Provisions

The Coastal Act is, at its core, a law that requires coastal resource protection. In adopting the Act in 1976, the State Legislature included a series of goals and objectives. For example, Coastal Act Sections 30001 and 30001.5 state:

Section 30001. *The Legislature hereby finds and declares: (a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem. (b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation. (c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction. (d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.*

Section 30001.5. *The Legislature further finds and declares that the basic goals of the state for the coastal zone are to: (a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources. (b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state. (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. (e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone. (f) Anticipate, assess, plan for, and, to the extent feasible, avoid, minimize, and mitigate the adverse environmental and economic effects of sea level rise within the coastal zone.*

In short, the law recognizes the coastal zone as a special place, where coastal resources are of “paramount concern,” and requires that it both be protected against degradation and enhanced where feasible. To implement these objectives, Chapter 3 of

the Coastal Act includes a series of specific provisions that clearly and emphatically require the protection of coastal resources (including public recreational access, sensitive habitats, natural landforms, public views, marine resources), as summarized below.⁶

Public Recreational Access

Protecting and providing for maximum public recreational access is one of the main cornerstones of the Coastal Act, where the most explicit such provisions are found in Sections 30210 through 30224, with other sections also speaking to similar goals and requirements (such as Section 30240 protecting parks and recreational areas). The Coastal Act states:

Section 30210. *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. *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(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, or, (3) agriculture would be adversely affected. ...*

Section 30213. *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

Section 30220. *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. *Oceanfront land suitable for recreational use 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 in the area.*

Section 30222. *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*

⁶ See, for example, more than 40 sections found in Chapter 3, including sections related to public access, recreation, the marine environment, and land resources.

general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223. *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Section 30240(b). *Development in areas adjacent to ... 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 ... areas.*

These overlapping Coastal Act provisions protect public recreational access to and along the beach/shoreline and to offshore waters, particularly free and low-cost access. Specifically, Section 30210 requires the Commission to provide the general public maximum access and recreational opportunities, while respecting the rights of private property owners. Section 30211 prohibits development from interfering with the public's right of access to the sea, including as it relates to the use of dry sand and rocky coastal areas. In approving new development, Section 30212(a) requires new development to provide access from the nearest public roadway to the shoreline and along the coast, save certain limited exceptions, such as when there is existing adequate access nearby. Section 30213 protects lower cost forms of access, such as the free access available at the City's shoreline. Section 30220 protects coastal areas suited for ocean-oriented activities, such as offshore surfing and water recreational areas, for such purposes. Sections 30221 and 30223 protect oceanfront and upland areas for public recreational uses, and Section 30222 prioritizes visitor-serving amenities providing for public recreational use. Section 30240(b) protects parks and recreation areas, like the City's beach/shoreline, from degradation, and requires any allowed development to be compatible with the continuation of those areas.

Finally, Coastal Act Section 30210's direction to maximize public access and recreation opportunities represents a different threshold than to simply provide or protect such access, and is fundamentally different from other similar provisions in this respect. In other words, it is not enough to simply provide public recreational access to and along the coast, and not enough to simply protect such access, but rather that such access must also be maximized. This terminology distinguishes the Coastal Act in certain respects, and provides fundamental direction to maximize public recreational access opportunities with respect to projects and LCP amendments along the California coast that raise such issues, like this one.

In addition, with sea levels rising and coastal erosion occurring, the mean high tide line will generally move landward over time depending on the beach/shoreline profile, seasonal tidal activity, and continued sea level rise. Given that that line often defines the demarcation point between public and private property (with the public's property lying on the seaward side, and generally held in public trust by the California State Lands Commission),⁷ it is also important to consider what is best understood as an ambulatory

⁷ The State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds and manages these lands for the benefit of all people of the State for statewide purposes consistent with the common

public trust area, including where shoreline structures can halt the inland migration of the mean high tide line, and thus potentially halt the inland migration of public trust areas, at least physically.⁸ Thus, it is also important that the Commission assess the effect of proposed projects and amendments on public trust resources.

Marine and Land Resources

The Coastal Act protects the marine resources and habitats along the land/ocean interface and offshore. Coastal Act Sections 30230 and 30231 provide:

Section 30230. *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. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

In addition, Section 30233 only allows for fill of coastal waters in certain limited circumstances, and only when such projects are the least environmentally damaging feasible projects, and where all unavoidable impacts are mitigated. Section 30233 states in applicable part:

Section 30233. *(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*

law Public Trust Doctrine ("public trust"). In coastal areas, the landward location and extent of the State's sovereign fee ownership of these public trust lands are generally defined by reference to the ordinary high-water mark (Civil Code Section 670), as measured by the mean high tide line (*Borax Consol. v. City of Los Angeles* (1935) 296 U.S. 10), and these boundaries generally remain ambulatory as natural processes dictate.

⁸ The artificial fixing of a shoreline does not permanently fix the legal property boundary (see *United States v. Milner*, 583 F.3d 1174 (9th Cir. 2009)).

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. ...

Section 30230 and 30231 require that marine resources “be maintained, enhanced, and where feasible, restored.” Further, uses of the marine environment must 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. And Section 30233 limits the situations when coastal waters can be filled.

For sensitive land-based resources such as dunes and habitats that support rare/endangered species, Section 30240 protects environmentally sensitive habitat areas, or ESHA, from any significant disruption of their habitat values, and also strictly limits the types of uses allowable within such habitats to only those that are dependent on the resource. In addition, Section 30240 limits development adjacent to ESHA to that which does not significantly degrade the resource, and is compatible with its continuance. Section 30240 states:

Section 30240. *(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.*

Public Views and Community Character

The Coastal Act provides that the scenic and visual qualities of coastal areas are resources of public importance that must be protected, and that new development is required to protect public views and designed to be visually compatible with the surrounding area. In highly scenic areas, such as the immediate shoreline, proposed development is also required to be subordinate to the character of its setting. Section 30251 states:

Section 30251. *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 landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New*

development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Coastal Hazards and Shoreline Armoring

Shoreline armoring of all kinds (e.g., seawalls, revetments, retaining walls, bulkheads, etc.) generally has significant adverse impacts on the coastal resources protected by the above-described provisions of Chapter 3 of the Coastal Act, leading to unavoidable impacts on natural landforms, public recreational access, natural processes (which also significantly impacts public recreational access) and public views.⁹ These impacts are all inconsistent with the Coastal Act's resource protection requirements, and consequently, the Coastal Act generally directs that armoring be denied in order to meet these coastal resource protection requirements. This general prohibition is echoed by Coastal Act Section 30253, which requires that all development must not create or contribute to erosion or destruction of the site, or substantially alter natural landforms, stating, in applicable part:

Section 30253. *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. ... (emphasis added)*

Section 30253 also requires new development to minimize risk to life and property in areas of high flood hazard, and Section 30270 specifically discusses sea level rise as one of those risks:

Section 30270. *The Commission shall take into account the effects of sea level rise in coastal resource 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.*

Section 30235, however, allows the Commission to approve armoring to abate shoreline risks under very limited circumstances:

Section 30235. *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*

⁹ See, for example, Commission findings in LCP amendments LCP-3-SCO-20-0066-2 (Santa Cruz County Hazards Update) and LCP-3-MRB-21-0047-1 (Morro Bay Land Use Plan Update), and in CDPs A-3-SCO-07-095/3-07-019 3-07-019 (Pleasure Point Seawall), 3-09-025 (Pebble Beach Company Beach Club Seawall), 3-09-042 (O'Neill Seawall), 2-10-039 (Lands End Seawall), 3-14-0488 (Iceplant LLC Seawall), 3-16-0345 (Honjo Armoring), 3-16-0446 (Rockview Seawall), 2-17-0702 (Sharp Park Golf Course), 3-18-0720 (Candau Armoring), 3-20-0166 (Wavefarer Partners LLC Armoring), 2-21-0912 (San Francisco PUC Ocean Beach Armoring), 3-22-0440 (Casanova Armoring), and 3-22-1027 (Hofmann Seawall).

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.

...

Under Section 30235, armoring is allowed when required to serve coastal-dependent uses or to protect public beaches or existing structures in danger from erosion, and only when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and to mitigate all other coastal resource impacts. In other words, when there are qualifying uses, beaches, or structures, armoring must be allowed only if it is required to serve/protect them, meaning when there are no other less environmentally damaging feasible alternatives that can perform that same function.¹⁰ When framed in this way, Section 30235's limited requirement to approve shoreline armoring is probably best understood as an exception to the Coastal Act's coastal resource protection provisions, or put another way, an 'override' of the other Coastal Act sections found in Chapter 3 that would require the Commission to otherwise deny the armoring.

Importantly, the Section 30235 override as applicable to non-coastal dependent uses only applies to "existing structures." The issue of what constitutes an "existing structure" for Section 30235 purposes has been debated for many years, but was recently resolved by a Court of Appeal in the *Casa Mira* case.¹¹ There, the court held that "the phrase 'existing structures' in Section 30235 refers to structures that existed prior to January 1, 1977, the Coastal Act's effective date."¹² Thus, the Section 30235 requirement to allow for armoring despite its coastal resource impacts or its inconsistencies with other Coastal Act resource protective provisions only applies to coastal-dependent uses, or pre-Coastal Act structures (structures lawfully existing prior to January 1, 1977 that have not been redeveloped since), essentially allowing pre-Coastal Act structures the benefit of armoring as an exception to the otherwise applicable Coastal Act requirements.¹³ As the court noted, this interpretation of existing structure in Section 30235 is necessary "to comport the Coastal Act's predominant goal of 'preservation of the fragile coastal ecology from overzealous encroachment.'"¹⁴

In short, the Coastal Act reflects a broad legislative intent to allow armoring under only certain very limited circumstances, generally only for coastal-dependent uses, public beaches, or structures that existed when the Coastal Act was adopted and when such structures are in danger from erosion and impacts are avoided or mitigated (Section 30235), but new development constructed after adoption of the Act generally is not

¹⁰ In very rare circumstances, a project may include shoreline armoring and the overall project may still be consistent with the Coastal Act, and the Commission may not need to invoke Section 30235.

¹¹ See *Casa Mira Homeowners Assn. v. California Coastal Com.*, 107 Cal.App.5th 370 (2024), as modified on denial of rehearing (December 30, 2024), and where State Supreme Court review was denied (March 12, 2025).

¹² *Casa Mira* at 388.

¹³ In addition, pre-Coastal Act structures can lose their 'existing' status under Section 30235 if they are modified in such a way that they are no longer the same structure, but rather a replacement structure (often referred to by the Commission as a 'redeveloped' structure).

¹⁴ *Casa Mira* at 385 (quoting *Save Oxnard Shores v. California Coastal Com.* (1986) 179 Cal.App.3d 140, 152).

entitled to armoring due to its coastal resource impacts (including explicitly by Section 30253, but also due to the coastal resource protection provisions of other Coastal Act sections).

Consistency Analysis

As noted above, the Coastal Act includes a suite of protections for coastal resources, both natural ones like sensitive habitats and beaches, and social ones like recreational opportunities. As such, the Act generally requires new development to be set back a sufficient distance from the shoreline so as to avoid impacting these resources, to minimize the risk (both to life and the development itself, as well as to the natural environment) from coastal hazards threats, and to ensure that shoreline protective devices such as seawalls are not needed now or in the future. The Coastal Act provides for these limitations because shoreline armoring 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 off site, ultimately resulting in the loss of beaches. But again, given these facts, particularly that armoring would generally run afoul of the rest of the Coastal Act, Coastal Act Section 30235 is an override over other Coastal Act provisions that allows armoring if it is required to protect endangered coastal-dependent uses, public beaches, and/or existing structures.

At a broad level, the proposed LCP amendment is a strong regulatory document that implements the above-described Coastal Act requirements. In fact, it includes many of the best practices as recommended by the Commission's 2015¹⁵ Sea Level Rise Policy Guidance and the *Framework for a Phased Approach to Updating LCPs for Sea Level Rise*.¹⁶ In addition, the proposed LCP amendment, and the supporting vulnerability assessment and adaptation planning work, is consistent with and fulfills the requirements of Senate Bill (SB) 272 at this time.¹⁷ The City's 2023 Existing Conditions and Sea Level Rise Adaptation Report describes vulnerabilities associated with sea level rise consistent with best available science and identifies a range of recommended adaptation responses (and relevant lead implementing agencies/asset managers) for both near and medium-term horizons (specifically prioritizing soft solutions and strategies that avoid the use of shoreline armoring). The City also completed a Social Vulnerability Assessment in concert with the 2023 adaptation planning work and is included in a 2016 economic analysis¹⁸ for Southern Monterey Bay. As highlighted below, this adaptation work is reflected in a variety of LUP and IP provisions that ensure that risks from future sea level rise are minimized and adaptation strategies are

¹⁵ And updated in 2024.

¹⁶ Which was adopted by the Commission in 2021 in conjunction with the Local Government Working Group: <https://documents.coastal.ca.gov/reports/2021/12/W7d/W7d-12-2021-exhibits.pdf>.

¹⁷ It should be noted that SB 272 is not the standard of review for certifying the LCP amendment, and the Commission is not required to make SB 272 consistency findings. However, describing consistency with SB 272 requirements is helpful for ensuring good sea level rise planning and for the City to demonstrate that it is complying with the law.

¹⁸ Economic Impacts of Climate Adaptation Strategies for Southern Monterey Bay (The Nature Conservancy, 2016).

implemented consistent with the Coastal Act.

More specifically, the amendment requires new development to be set back a sufficient distance from the shore to avoid coastal hazards risks without shoreline armoring, and requires detailed technical studies to ensure that this requirement is effectively carried out. In addition, it includes recommended best practices such as identifying triggers for phased adaptation, committing the City to continuous study and future LCP updates as the best available science and on-the-ground conditions change in a highly dynamic environment, and requires notice and disclosure to new property owners to alert them of hazards risks, including to ensure that they – and not the public – are the entities responsible for cleanup and hazards abatement. The amendment, through such triggers and other techniques, is proactive about avoiding these problems in the future, all with the goal of keeping the City's beaches clean, open, and available to the general public as a recreational public commons and important natural resource, all of which is consistent with Coastal Act public access and recreation, natural resource protection, and sea level rise minimization requirements. Again, at this broad level, the LUP as proposed requires new development to minimize risk and avoid shoreline armoring, and to generally protect the resources protected by the Coastal Act.

That said, the proposal does raise certain issues that warrant further discussion as to its consistency with the Coastal Act. While the Act clearly and emphatically protects natural resources, it also specifically allows certain development. As noted above, Coastal Act Section 30235 serves as an override over other Coastal Act provisions to require approval of shoreline armoring for certain structures/beaches/uses when certain criteria are met. Put another way, the Coastal Act strictly limits armoring, but for those limited cases where the criteria are met, the Coastal Act requires that it be permitted.¹⁹ It does not affirmatively ban all armoring, and there are important public policy reasons underlying this allowance. Two of the prescribed uses – coastal-dependent uses and public beaches – are both priority land uses under the Coastal Act. Disallowing groins that retain beach widths for public recreational purposes (which is relatively common in Southern California, for example), or a seawall to protect/serve a boating facility, would preclude the ability for these important uses to be located where they need to be. In addition, development built before the Coastal Act was enacted was, naturally, not subject to the requirements of the Coastal Act, including its requirement to be set back a sufficient distance from the shore to avoid armoring. Hence, the Coastal Act affords development that existed prior to the Coastal Act's implementation certain rights, including the ability to armor when it meets several criteria listed in Section 30235, as a matter of fairness. These are not blanket allowances, as there are still important measures to satisfy before armoring may be approved, including in terms of mitigation for adverse impacts, but it is a recognition that the Coastal Act affords certain uses certain rights.

In sum, Coastal Act Section 30235 affords coastal-dependent uses, public beaches, and structures built prior to 1977 (and not redeveloped since) the right to shoreline armoring if the criteria of that Section are met and all impacts are adequately mitigated.

¹⁹ Again, without the 'override', armoring would very rarely be permissible, as it would run afoul of other Coastal Act resource protection requirements.

And while LCPs can be more protective than the Coastal Act,²⁰ they cannot be inconsistent with it.²¹ In other words, an LCP may, for example, maximize public access to a greater degree than strictly required by the Coastal Act, but it cannot include a policy that directly contravenes an affirmative policy of the Act. As such, the proposed amendment's affirmative ban of all shoreline armoring in all cases is inconsistent with Coastal Act Section 30235.

Nevertheless, the City argues that its proposal can be found Coastal Act consistent, and offers three reasons as to why. First, banning armoring, and keeping the City's beaches and dunes free from it, is inherently more protective of coastal resources than allowing it. If the overall purpose of the Coastal Act is to protect and enhance coastal resources, then a policy that prohibits something that inherently adversely affects those resources upholds the intent of the law. Second, the City argues that armoring within its jurisdiction would never be found consistent with the Section 30235 tests. Given the unique factors in Marina, the City asserts that there either are no qualifying uses (e.g., pre-Coastal Act structures), or that there are viable alternatives to armoring (e.g., relocation inland and away from the threat), or that the impact is something that is not otherwise allowed and could not be sufficiently mitigated (e.g., placing armoring along/within dunes). And third, and related to the first two arguments, the City argues that the Commission could choose to exercise its discretion and approve an armoring ban via conflict resolution, whereby the Commission determines whether a proposal is, on balance, most protective of significant coastal resources when there are conflicting requirements.²²

The Commission respectfully disagrees with these assertions. While it is true that the Coastal Act generally does not allow shoreline armoring due to its adverse effects on coastal resources, it is also true that, for the structures/beaches/uses enumerated under

²⁰ Coastal Act Section 30005: "No provision of this division is a limitation on any of the following: (a) Except as otherwise limited by state law, on the power of a city or county or city and county to adopt and enforce additional regulations, not in conflict with this act, imposing further conditions, restrictions, or limitations with respect to any land or water use or other activity which might adversely affect the resources of the coastal zone."

²¹ The *McAllister* court case (169 Cal.App.4th 912, 930) states: "Although local governments are responsible for drafting the "precise content" of their local coastal programs (§ 30500, subd. (c)), those programs must, at a minimum, conform to and not conflict with the resource management standards and policies of the Act." (§§ 30005, subd. (a), 30200, subd. (a), 30514, subd. (a); *Yost v. Thomas*, supra, 36 Cal.3d at p. 572.)" (emphasis added.) Footnote 9 of the *McAllister* case says: "A local coastal program need not be identical to the Coastal Act. As long as a local coastal program is not inconsistent with the Coastal Act, it can be more restrictive." (*Yost v. Thomas*, supra, 36 Cal.3d at pp. 572, 573; *Dunn v. County of Santa Barbara*, supra, 135 Cal.App.4th at p. 1297.)" (emphasis added.)

²² Section 30007.5 states: "The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies."

And Section 30200(b) states: "Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts."

Coastal Act Section 30235, those adverse effects are permissible, in part because not allowing them would have their own adverse effects (e.g., precluding certain important uses such as public access facilities and boating facilities, which themselves are important coastal resources, as described above). In essence, Section 30235 is already an override of other Coastal Act provisions to ensure that certain uses, which may be impactful, are still permissible. Accordingly, there is no conflict between 30235 and other Coastal Act provisions, because the legislature already resolved the conflict via Section 30235. Thus, the argument proffered by the City that armoring in dune ESHA, for example, would not be approvable because it is not a resource-dependent use and the impact too great, is inaccurate. Yes, it would be impactful and would require mitigation, but doing so is potentially permissible under 30235, if the other factors are met. In short, the Commission disagrees that conflict resolution is appropriate here since there is no conflict in the first place. And while it may be true that an armor-free shoreline is generally a good thing for most coastal resources, that is immaterial as to what the law requires.

And as to the argument that no use could meet 30235's tests, the Commission finds that too speculative an argument to make. While it is true that there are very few structures that currently are eligible for armoring in this particular community, either because they were built after 1977 and thus are not existing structures,²³ have a CDP condition prohibiting future armoring,²⁴ or appear to have viable alternatives to armoring (e.g., relocating State Parks' parking lot inland and away from the shoreline), it is too speculative to make an affirmative determination that no structures/beaches/uses (including ones proposed in the future) could ever meet the 30235 tests, particularly in a dynamic shoreline environment. In fact, such an assessment isn't even triggered until one of those things is in danger, which is not the case currently, and then the facts and context at that time are evaluated, where the facts and context in the future may well be different than they are today. And while it is also true that the Commission believes it is likely there will not be a need for any significant armoring in the future and will work with the City to make sure that all non-armoring alternatives are properly explored, taking away the ability to make project and site-specific determinations based on the factors at hand at that specific time is not Coastal Act consistent.²⁵

²³ For example, the Sanctuary Beach Resort was approved by the Commission in 1997 under Commission CDP A-3-MAR-96-094, and therefore does not meet the definition of an existing structure under the Coastal Act/LCP. In fact, the City indicates the only 'existing structures' are the Marina State Beach parking lot, certain sand mining infrastructure at the Cemex site, and the facilities at the Marina Coast Water District's former wastewater treatment plant, and the LCP's goals are to relocate these structures out of harm's way over time rather than armor them (and the Cemex site is already required to be removed per the Commission's Consent Cease and Desist Order).

²⁴ The CDP approving California American Water Company's desalination infrastructure (CDP A-3-MRA-19-0034/9-20-0603) includes a special condition that does not allow armoring should such infrastructure become threatened in the future. The CDP allows for the operation of desalination infrastructure for a 25 year term, or until 2050, whichever date occurs first (no such infrastructure is currently in place as of 2025). At that time, the Permittee must apply for a new CDP or an amendment to its current CDP to extend its term, or is to remove the infrastructure and restore the site.

²⁵ For example, as part of future CDP applications, the Commission will work with the City and State Parks to identify the feasibility of relocating/removing all or portions of the Marina State Beach parking lot,

In sum, and for all the reasons specified above, the City's proposal to affirmatively ban all shoreline armoring both now and in the future, while well intentioned to keep its beaches clean and open, is inconsistent with Coastal Act Section 30235. Thus, suggested modifications to LUP Policies HAZ-1, HAZ-4, and HAZ-6 clarify that armoring is permissible if it otherwise meets the tests of Coastal Act Section 30235.²⁶ Suggested modifications are also included to clarify proposed definitions,²⁷ as well as to ensure that relocation of non-resource-dependent development is not placed within the sensitive dune environment in violation of Coastal Act Section 30240. See **Exhibit 4** for suggested modifications.

As proposed and as modified, the City's coastal hazards amendment provides a strong regulatory framework to ensure the safety, resiliency, and protection of its natural and built shoreline environment, and can be found Coastal Act consistent.

2. Proposed IP Amendment

Applicable Land Use Plan Provisions

The standard of review for the proposed IP changes is whether they are consistent with and adequate to carry out the provisions of the LCP's LUP, including as it is proposed to be amended and with the identified suggested modifications. In addition to and as modified by LUP changes discussed above, which are considered a standard of review for the IP changes discussed below (see **Exhibit 4**), applicable LUP provisions include:

Policy HAZ-1. The Marina Coastal Zone is an irreplaceable resource and its protection and preservation as a natural living shoreline with connections between the ocean, beaches and dunes is a matter of great public importance.

It is the intent of the Local Coastal Program that the City responds to climate change impacts, and adapts to coastal hazard risks in a way that protects and preserves its unique natural coastline, valued coastal resources and valuable coastal dune habitats, and ensures public safety and welfare.

A history of proactive planning has avoided the construction of any shoreline protective devices in Marina. It is the intent of the Local Coastal Program, and consistent with this planning history, to ensure that shoreline protective devices

and to also identify where certain public coastal access facilities can be sited and designed in a manner without any armoring.

²⁶ The modifications also reference the Commission's regulations for purposes of CDP amendments in 14 CCR 13166 et. seq. as it may be amended, including in terms of avoiding changes to CDP terms and conditions related to armoring/coastal hazards that would lessen the intended effect of such terms/conditions, unless otherwise allowed per that regulation section. Thus, the modification provides for the process for amendments to existing (and future) CDPs, as specified in the Coastal Act and its regulations. A suggested modification would also add a definition of 'coastal-dependent use' that mirrors the Coastal Act definition. These modifications were suggested by the City for further clarity on these points.

²⁷ The modifications make clear that an 'existing structure' is one that was built prior to January 1, 1977 and not redeveloped since. The City had proposed using the term 'Pre-Coastal Act Development' as the definition title, with the term 'Existing Structure' to mean something that is currently extant, which confuses the matter and interchanges terms with different understandings under the Coastal Act.

are only utilized subject to very limited circumstances as specified in this LCP and with 14 CCR 13166 et. seq. as it may be amended. Furthermore, community stated preferences to expand coastal access opportunities, reduce the industrial uses of the coastal zone and maintain natural viewsheds of the coast, dunes, and ocean shall be considered in all development proposals.

Policy HAZ-4. *Development shall be sited and designed to minimize risks to life and property and assure stability and structural integrity over the life of the development; and shall avoid shoreline protection devices consistent with Policies HAZ-1 and HAZ-6.*

Policy HAZ-5. *Development shall not create nor contribute significantly to erosion, dune recession, geologic instability, or destruction of the site or surrounding area; shall not substantially alter natural landforms; and shall not adversely alter local shoreline sand supply.*

Policy HAZ-6. *Shoreline protection devices, including revetments, breakwaters, groins, seawalls, and other such construction that alters natural shoreline processes shall not be allowed in the City of Marina, unless 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 and all other coastal resources.*

Policy HAZ-8. *Development shall be screened for potential coastal hazards at the site, based on all readily available science. If the initial evaluation determines that the proposed development may be subject to coastal hazards over its lifetime, including if it is located within the Coastal Hazard Dune Erosion area (Figure 1-1), the following is required:*

- *Coastal Hazards Report, identifying the specific hazard threats facing the proposed development, including erosion, dune recession and wave uprush, and identification of the specific siting and design techniques to avoid such threats over the development's life. All such analysis shall be based on a site-specific hazards report by a qualified geologist/engineer/geomorphologist, the purpose of which is to ensure that such development considers such risk and adapts the project (e.g. changed building heights with larger setbacks) to avoid hazards so that it can be built and maintained in a manner consistent with the City's coastal hazards policies and with the greatest protection of coastal resources for the life of the development;*
- *A real estate disclosure and deed restriction shall be recorded against the property that identifies the property is located in an area subject to coastal hazards risks, that acknowledges it's the responsibility of the property owner to assume all risk and liabilities associated with such hazards risks, prohibits any shoreline armoring, acknowledges that the City may not be able to guarantee access and infrastructure, that the boundary between public and private land may shift with rising seas and that development approval does not permit any development to be located on public trust lands, along with any*

other site and project specific recommendations from the project's hazards report.

- *Development, including redevelopment, may be subject to bonding or in-lieu fees, including through payment of fees to the City prior to construction, to provide funding for remediation and/or removal of any nuisance conditions in the future due to coastal hazard impacts.*

Policy HAZ-9. *As a response to coastal hazards threats, and in lieu of armoring, the Applicant for any development or redevelopment shall prepare a Coastal Hazards Response Plan that identifies the ways in which the development will respond to and address such threats. This may include relocation to sites inland and away from any significant coastal hazards threat to avoid the need for any shoreline armoring (e.g., the City shall work with State Parks to pursue measures to relocate the existing public parking and restroom structures at the present location of the Marina State Beach Parking Lot to a site outside of the projected erosion hazards zone), and restoration of the site to dune/beach habitats.*

Policy HAZ-15: *Existing development threatened by Coastal Hazards, as identified in the 2023 Existing Conditions and Sea Level Rise Adaptation Report, shall be encouraged to prepare a Coastal Hazards Response Plan (CHRP) which identifies triggers and steps for relocation and response to such hazards. Proposed/new development or redevelopment shall require as a condition of approval to prepare a CHRP which identifies triggers and steps for relocation and response to such hazards. Proposed development or redevelopment in the Coastal Hazards Zone will be subject to in-lieu fees prior to construction to provide funding for remediation and/or removal of any nuisance conditions due to the development.*

Consistency Analysis

As noted previously, the proposed IP amendment maintains the same framework established under the proposed LUP amendment, but augments it with additional specificity to effectively carry it out. Put another way, the IP does not introduce new policy directives, but rather lists out the technical and procedural details to implement LUP requirements. In that sense, the IP can generally be understood as being consistent with and adequate to carry out the LUP.

However, the IP as proposed does raise the same issues with respect to shoreline armoring as the LUP as proposed did (i.e., prohibiting it when that is inconsistent with the Coastal Act), and thus similar modifications are needed to ensure the IP is consistent with the LUP as it was suggested to be modified as described in the preceding LUP consistency analysis. As such, suggested modifications are included in the IP Purpose section and in IP Section III.F to state that armoring is only allowed in very limited circumstances when required to serve a coastal-dependent use or to protect an existing structure or public beach in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and all other coastal resources. This language mirrors Coastal Act Section 30235, which the Commission has understood to mean, and implemented in CDP actions, as constituting

a four-part test: 1) is there a qualifying structure/beach/use; 2) is that qualifying structure/beach/use 'in danger from erosion,' meaning that it will be unsafe for use/occupancy as a result of coastal hazards threats in the next two or three years; 3) is armoring 'required' to abate that danger (i.e., whether armoring is the least environmentally damaging feasible alternative); and 4) are adverse impacts avoided as much as possible, and any remaining unavoidable ones mitigated, including in terms of sand supply and other coastal resource impacts.²⁸ Thus, the intent of the modifications is to establish this analytical construct for shoreline armoring in the LCP. As modified, the IP's shoreline armoring framework can be found consistent with the LUP.

Finally, the IP includes additional detail regarding shoreline monitoring, including identifying specific triggers for when certain actions need to be undertaken, namely the preparation of a Coastal Hazards Response Plan that articulates how the structure/use will prepare for and respond to coastal hazards threats. And while the overall concepts are sound, the proposed language lacks the regulatory hooks to make these requirements enforceable. That is, the proposed language simply says that shoreline landowners are required to monitor and prepare the response plan, but it does not tie these requirements to a CDP action. Put another way, policies in LCPs set up the framework for how new development is to be evaluated and the required standards they must meet, but LCPs themselves do not authorize or require any development actions – CDPs do. Thus, for a policy to be effectively carried out, it needs to be implemented via a CDP action. Suggested modifications are thus included to make this key link, thereby ensuring that these triggers and monitoring requirements are included as conditions of any CDP action. See **Exhibit 4** for suggested modifications.

As modified, the IP can be found consistent with and adequate to carry out the modified LUP.

D. California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the City found the proposed LCP amendment was not subject to CEQA per Public Resources Code Section 21080.9 and Section 15251 of the CEQA guidelines.

The Coastal Commission is not exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural

²⁸ Which the Commission has typically done in 20-year increments, including evaluating sand supply loss and the physical loss of beach/shoreline space via physical encroachment and passive erosion over that time frame.

Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, has addressed all comments received, and concludes that the proposed LCP amendment is expected to result in significant environmental effects, including as those terms are understood in CEQA, if it is not modified to address the coastal resource issues identified herein (all above findings are incorporated herein in their entirety by reference). Accordingly, it is necessary for the Commission to suggest modifications to the proposed LCP amendment to ensure that it does not result in significant adverse environmental effects. Thus, the proposed LCP amendment as modified will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

4. APPENDICES

A. Substantive File Documents

- LCP Amendment File for LCP-3-MRA-25-0006-1

B. Staff Contact with Agencies and Groups

- City of Marina
- Surfrider Foundation
- California American Water