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STAFF REPORT: REGULAR CALENDAR

Application Number: 1-24-0662

Applicant: California Department of Transportation (Caltrans)

Project Location: California Highway 1 between postmile 73.65 and postmile 75.62, approximately 12 miles upcoast of the City of Fort Bragg and 2 miles downcoast of the unincorporated community of Westport, Mendocino County.

Project Description: Division of 172 acres of State property across three assessor parcels (APNs 015-010-31, 015-370-03, 015-370-04) for the purpose of transferring 136 acres to Kai Poma (a tribally-chartered non-profit corporation governed by members of three federally recognized California Native American Tribes - Coyote Valley Band of Pomo Indians, Round Valley Indian Tribes, and Sherwood Valley Band of Pomo Indians), and implementation of a public access management plan by Kai Poma, and associated development.

Staff Recommendation: Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION

The California Department of Transportation (Caltrans) proposes to divide 172 acres of beach and bluff property across three assessor parcels (APNs) under its ownership located in rural Mendocino County seaward of State Highway 1 about 12 miles north of

Fort Bragg near the community of Westport (postmiles 73.65 to 75.62) (see **Exhibit 1**). After dividing the property, Caltrans will transfer 136 acres of contiguous, ocean-fronting land to Kai Poma, a tribally chartered, non-profit corporation governed by members of three federally recognized California Native American Tribes: Coyote Valley Band of Pomo Indians, Round Valley Indian Tribes, and Sherwood Valley Band of Pomo Indians. Upon receiving ownership of these lands, Kai Poma will implement a public access management plan (**Exhibit 4**) designed for providing public access, maintaining natural habitat, and protecting Native American cultural resources.

The state property proposed for division and transfer includes a large stretch of coastal bluffs and a beach area known as Blues Beach. The State of California acquired the subject lands in the 1960s for development associated with Highway 1 and to provide a scenic viewshed for highway travelers. Since that time, the lands have been managed by Caltrans for highway purposes. The property has also been popular for accessing the coast seaward of the highway, particularly at Blues Beach, a sandy beach on the northernmost parcel, which can be accessed from Highway 1 via an informal dirt road. While this informal access has occurred in various locations and intensities, unauthorized vehicular access and other activities around Blues Beach have resulted in significant impacts to sensitive natural and Native American cultural resources on site, as well as at times causing public safety emergencies.

To provide for more focused stewardship of the resources on these lands, in 2021 the Legislature passed and the Governor signed Senate Bill 231, which added Section 118.9 to the Streets and Highways Code ("SHC"). SHC Section 118.9 authorizes Caltrans to transfer the portions of its property that are not necessary for maintaining the highway to Kai Poma at no cost. The legislation requires the land to be maintained by Kai Poma as natural habitat, and limits use of the land to public access, natural habitat, and protection of Native American cultural resources. Section 118.9 further requires Kai Poma to provide free public access consistent with the requirement to protect natural and cultural resources, and codifies several limitations on public access to facilitate the balance of these priorities and to prevent damage to sensitive resources.

This proposed project represents Caltrans' fulfillment of the Legislature's intention in enacting Senate Bill 231. Caltrans proposes to divide the subject lands in order to transfer 136 acres of contiguous land (the "Blues Beach Property" or the "Property") along approximately two miles of shoreline to Kai Poma for ongoing management. Caltrans will retain portions of the parcels along Highway 1 and some of the beach area upcoast for the purpose of maintaining the roadway and associated infrastructure within the highway right-of-way, including drainage facilities and an existing highway vista point public parking lot. Caltrans and Kai Poma are also developing an easement agreement over the informal beach access road through the Property, which will allow Caltrans to continue to use the road to access the beach area north of the Property for construction activities necessary for maintaining the highway upcoast, which is currently undergoing emergency maintenance to address active landsliding.

The Coastal Act contains policies requiring that development, such as the proposed land division, does not adversely affect public coastal access. The Coastal Act also imposes requirements on transfers of State property located between the ocean and the first public road to private entities, to ensure public access is maintained consistent with Coastal Act policies. In line with these policies and requirements, and as required by SHC Section 118.9, Caltrans will include a restriction in the transfer deed limiting use of the Property to public access, natural habitat, and the protection of Native American cultural resources. This statutory requirement is reinforced by **Special Condition 1**.

Moreover, Kai Poma, in collaboration with Commission staff, has developed a public access management plan for the Property, which is nearly finalized. The management plan is an agreement between Kai Poma and the Commission that establishes a framework that will guide Kai Poma's management of the transferred land. The management plan describes how Kai Poma will provide public access and protect sensitive natural and cultural resources on site, including through the implementation of management measures codified in SHC Section 118.9. It also lays out a phased approach by which Kai Poma, in collaboration with the Commission, will craft long-term management strategies for stewarding the Property over time. Once Kai Poma becomes the property owner, it will be bound by the conditions of this CDP (see Standard Condition 5). **Special Condition 2(a)** requires that, before Caltrans transfers the property, Kai Poma and the Commission must finalize and execute the management plan in a form that substantially conforms to the draft attached to this staff report (**Exhibit 4**). **Special Condition 2(b)** requires Kai Poma to implement the final public access management plan once it receives title to the Property, and with it, this CDP. This CDP also authorizes development included in Phase 1 of the management plan, namely implementation of the nighttime access restriction codified in SHC Section 118.9 and installation of signage. **Special Condition 3** establishes a process for Kai Poma to install signage on the Property consistent with the Coastal Act. The management plan is intended to be adaptive, to allow Kai Poma to make changes based on resource survey results and as site conditions evolve. Development proposed as part of future phases of the management plan would be subject to Coastal Commission authorization as necessary through an amendment to this CDP.

In conclusion, the proposed project is the product of significant collaboration between Kai Poma and staff from Caltrans and the Coastal Commission over the past three years, and it will result in the return of 136 acres of coastal lands to Native American stewardship. Caltrans has delineated the proposed land division to allow for the transfer of multiple areas of sensitive natural and cultural resources to Kai Poma, while retaining Caltrans' ownership of areas needed for ongoing maintenance of Highway 1 and associated facilities. Through implementation of its public access management plan, Kai Poma will manage the Property for the collective benefit of tribal members, the public, and coastal resources. Thus, as conditioned, the proposed project can be found consistent with the Chapter 3 policies of the Coastal Act, and staff recommends **APPROVAL** of coastal development permit application 1-24-0662 as conditioned. The motion and resolution to act on this recommendation follow below on page 5.

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APPENDICES

[Appendix A – Substantive File Documents](#)

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EXHIBITS

[Exhibit 1 – Project Location Map](#)

[Exhibit 2 – Jurisdiction Map](#)

[Exhibit 3 – APN and Transfer Property Map](#)

[Exhibit 4 – Public Access Management Plan \(Draft\)](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit Number 1-24-0662 pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve the Permit:

The Commission hereby approves Coastal Development Permit Number 1-24-0662 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or (2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid, and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for an extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

- 1. Documentation of Transfer.** Any document transferring ownership of the property shall include a restriction limiting use of the property to public access, natural habitat, and the protection of Native American cultural resources consistent with the provisions of Streets and Highways Code Section 118.9.
- 2. Public Access Management Plan.**
 - a. Prior to transferring ownership of the Blues Beach Property, Caltrans shall confirm that Kai Poma and the Coastal Commission have signed and executed a public access management plan for the property.
 - b. Upon receiving ownership of the Blues Beach Property, Kai Poma and any future private entity successor in interest shall allow public access to and across the property consistent with the terms of the final public access management plan signed and executed by Kai Poma and the Coastal Commission and as may be amended in the future. The final public access management plan shall substantially conform with the draft plan dated March 18, 2025 (**Exhibit 4**).
 - c. In the event that Kai Poma and the Coastal Commission wish to amend the public access management plan, the Executive Director will first determine whether an amendment to this permit is legally required. If the Executive Director determines that an amendment to this permit is legally required, the amendment to this permit must be approved before the amendment to the plan can be executed.
- 3. Final Signage Plan**
 - a. Prior to installation of any signage on the Blues Beach Property, Kai Poma shall submit, for the review and written approval of the Executive Director, a final signage plan identifying final siting and design of signage to be posted that is consistent with the following:
 - i. Signs shall be subordinate to the character of the surrounding natural setting; shall be visually compatible with surrounding areas with respect to size, height, and bulk; and shall not significantly obstruct views from public vantage points.
 - ii. Any new signposts erected shall not be placed in wetlands or environmentally sensitive habitat areas.
 - iii. Signs shall be consistent with the provisions of Streets and Highways Code Section 118.9.

- iv. The final signage plan shall include, at a minimum, the following:
 - 1. A site map showing the specific locations of the proposed signs.
 - 2. A typical plan or sketch showing the contents of the signs and the dimensions of the signs and signposts.
 - 3. A schedule for the installation of the signs.
- b. Kai Poma shall install signs in accordance with the approved final signage plan. Any proposed changes to the approved final plan shall be reported to the Executive Director, so that the Executive Director may first determine whether an amendment to this permit is legally required. If the Executive Director determines that an amendment to this permit is legally required, the amendment to this permit must be approved before the change to the signage plan can be executed.

IV. FINDINGS AND DECLARATIONS

A. Project Description, Location, and Background

Project Description

The California Department of Transportation (“Caltrans”) proposes to divide 172 acres of property across three assessor parcels (hereafter “subject property”) under its ownership in the vicinity of Blues Beach. After dividing the subject property, Caltrans will transfer the majority of it to Kai Poma as one 136-acre parcel of contiguous, ocean-fronting property (the “Blues Beach Property”) (see **Exhibit 3**). Kai Poma is a tribally chartered, non-profit corporation governed by members of three federally recognized California Native American Tribes: Coyote Valley Band of Pomo Indians, Round Valley Indian Tribes, and Sherwood Valley Band of Pomo Indians. Upon receiving the Property, Kai Poma will implement a management plan for public access, cultural resource protection, and natural resource preservation (see **Exhibit 4**). Caltrans will retain a portion of the subject property along the highway and over the northernmost portion of beach in order to maintain the highway right-of-way and associated facilities.

Project Location

The proposed project is located in rural Mendocino County approximately 12 miles upcoast of the City of Fort Bragg and approximately 2 miles downcoast of the unincorporated community of Westport (see **Exhibit 1**). The project involves three consecutive ocean-fronting parcels (APNs 015-010-31, 015-370-03, 015-370-04, see **Exhibit 3**) currently owned by Caltrans. The parcels are characterized by a coastal terrace that gradually slopes down westward from Highway 1 and ends at a bluff edge overlooking rocky shoreline and the Pacific Ocean. The terrace is punctuated by several gulches cut by streams of varying size and frequency. The largest of these, Chadbourne Gulch, runs across the northernmost parcel. There, a perennial stream, Chadbourne Creek, flows under Highway 1 and through the parcel to the ocean. Chadbourne Creek

drains a watershed of approximately 1,730 acres dominated by mixed hardwood and conifer forests and reaches elevations of 560 feet near the headwater divide. Before reaching the ocean, Chadbourne Creek flows onto and across a long, sandy beach known colonially as Blues Beach. Blues Beach can be accessed via an informal, unpaved access road proceeding seaward from Highway 1 down Chadbourne Gulch along the north bank of Chadbourne Creek. Downcoast, approximately one-half mile north of the end of the southernmost parcel is Bruhel Point, a natural point in the bluff profile. Near where Highway 1 passes by Bruhel Point, Caltrans maintains a highway vista point that includes a paved parking lot and public access accommodations including interpretive signage, two pedestrian trails, and several benches.

As proposed, the property that will be transferred to Kai Poma (hereafter referred to as “transfer property,” “Property,” or “Blues Beach Property”) will include the majority of the three parcels. The Property’s northern extent will cross Blues Beach just upcoast of where Chadbourne Creek flows into the Pacific Ocean. From there, the Property will extend downcoast along approximately 1.5 miles of linear shoreline. This will include much of the Blues Beach access road, the sandy beach downcoast of Chadbourne Creek, and the blufftop terrace area south of Blues Beach and seaward of Highway 1, including the area around Bruhel Point and additional terrace area farther downcoast.

The inland boundary of the proposed transfer property abuts the operating area of the Highway 1 right-of-way, which will be retained by the State. Caltrans has delineated the proposed boundary dividing the Blues Beach Property and the highway right-of-way such that the State will maintain ownership of those lands which Caltrans has determined are necessary to maintain existing highway facilities and to accommodate potential future highway projects. Specifically, the State will retain ownership of the highway roadway itself, adjacent roadway drainage facilities, and the Bruhel Point Vista Point parking lot (but not the two pedestrian trails extending from the parking lot). The State will retain much of Chadbourne Creek seaward of the where the creek crosses Highway 1, in order to accommodate potential future improvements to fish passage under the highway.¹ The State will also retain the approximately northernmost one-third of the northern parcel (APN 015-010-31), including most of the sandy beach upcoast of Chadbourne Creek, for potential future construction of a slope stabilization project.² Caltrans and Kai Poma are currently developing an easement agreement by which Caltrans will maintain the right to use the Blues Beach access road to reach this retained portion of the parcel.

¹ Kai Poma has a significant interest in co-managing and eventually acquiring this portion of Chadbourne Gulch between Blues Beach and Highway 1, to ensure that the cultural, environmental, and habitat resources within and along the creek are stewarded and protected. Potential future land divisions for the purpose of transferring additional, contiguous State property to Kai Poma could be processed as an amendment to this CDP and the required management plan.

² Such a slope stabilization project is not within the scope of this permit and would require separate authorization from the Coastal Commission under the Coastal Act.

Background

The area known today as Blues Beach sits within the ancestral territories of several California Indigenous communities and has been a place of gathering since time immemorial. Through the colonization of this territory, Native Americans were displaced from their rights of access and use in favor of the privatization of the land into the hands of migrant settlers. In the 1960s, those settlers profited from the sale of land to the State of California. These lands were used to construct Highway 1 and to provide highway travelers with a scenic viewshed of the coastal blufftops and the Pacific Ocean. Today the State owns four assessor parcels encompassing Blues Beach and the surrounding bluffs seaward of the highway.³ Since their acquisition by the State, these lands have been managed by Caltrans, which is charged with maintaining California's State Highway System. As such, Caltrans' management has focused primarily on maintaining the Highway 1 corridor through the area and less on the recreational, access management, and conservation values of the land.

Public access to Blues Beach and the surrounding bluffs is largely unregulated. Due to its relatively remote location, on most days the area sees few visitors. However, on certain days, primarily weekends and holidays during the summer, large groups often visit the area. Most visitors use the informal road down Chadbourne Gulch to access Blues Beach. While some visitors park at a bulb-shaped informal parking area located at the end of the road just before the beach, on popular days in particular, many visitors drive their vehicles past the end of the road and onto the sand, where they camp, have parties, and engage in other activities. Based on staff discussions with County law enforcement and local fire department personnel, it is not uncommon on a summer weekend for the beach access road to be fully lined with cars parked informally on both sides, with additional cars along the beach itself. On occasion, visitorship is large enough that the beach access road becomes blocked by parked cars, and visitors have been observed driving either through Chadbourne Creek or through vegetated slopes in order to bypass the access road and reach the beach.

At times, these unauthorized activities have endangered public safety and required emergency response personnel. Caltrans cultural resources staff and California Native American Tribes have also observed the adverse impacts of these activities on sensitive cultural and natural resources in the vicinity, including looting and theft of sensitive Tribal cultural resources. Caltrans has made some efforts over the years to prevent activities on the property from damaging sensitive cultural and natural resources and from creating a public safety risk. Caltrans has previously installed physical barriers (e.g., boulders, K-rail) along portions of the beach access road to try to prevent vehicles from driving through sensitive resource areas or onto the beach. Many of these barriers were subsequently moved or removed by members of the public. Given these challenges, there is a collective recognition that the Blues Beach area would benefit

³ These parcels include the three parcels mentioned above as well as a fourth parcel to the north (APN 015-010-33, see **Exhibit 3**). Caltrans will retain ownership of the northernmost parcel because of the ongoing highway maintenance needs at that location due to bluff instability.

from more comprehensive management and stewardship beyond Caltrans' capacity as the state agency charged with managing the highway.

The repeated and ongoing incidence of destructive activities and public safety risks, coupled with a general growing interest in returning California properties to tribal stewardship, led the State to enact Senate Bill 231 in September 2021. Senate Bill 231 added Section 118.9 to the Streets and Highways Code ("SHC"), which authorizes Caltrans to transfer the lands at Blues Beach that are not part of the highway right-of-way at no cost to a non-profit corporation composed of members of the Sherwood Valley Band of Pomo Indians, the Round Valley Indian Tribes, and the Coyote Valley Band of Pomo Indians. Kai Poma was incorporated in response to this legislation.⁴

SHC 118.9 requires the transferred property to be "maintained as a natural habitat and for protection of Native American cultural resources," and limits future use of the land to public access, natural habitat, and the protection of Native American cultural resources. It affirmatively establishes that public access to the Property shall be allowed at no cost, and that access shall occur in a manner that is consistent with the requirement to maintain natural and cultural resources. In the event that Kai Poma does not manage the property consistent with these uses or ceases to exist, the Property would revert to the State. Due to the remoteness of the Property and the exceptional sensitivity of the resources on site, Section 118.9 mandates that public access be limited to daylight hours, and it also authorizes Kai Poma to restrict public access to any portion of the Property that contains a Native American burial ground. In enacting the legislation, the Legislature found that such a transfer "serves the public purpose of conserving highly vulnerable natural and cultural resources that must be preserved and protected from damage due to unauthorized activities."⁵

Senate Bill 231 took effect on January 1, 2022. The following month, Kai Poma initiated a series of meetings with Coastal Commission and Caltrans staff to identify and pursue the necessary steps to effectuate the transfer of the property consistent with the provisions of the legislation and other relevant law, including the Coastal Act. Since February 2022, Commission staff have had approximately 20 meetings with the Kai Poma Board members and their representatives. Many of these meetings took the form of tri-party consultations comprised of Commission staff, Caltrans staff, and Kai Poma Board members, including one group site visit to the Blues Beach Property in October 2022. These meetings have provided a constructive forum for mutual education, identifying and working through questions related to the transfer, and preparing the documentation necessary for the transfer to occur. The requested CDP is one product of this thorough coordination over the past three years and serves to effectuate Caltrans' transfer of the Blues Beach Property to Kai Poma consistent with the provisions of Senate Bill 231 and the Coastal Act.

⁴ See SHC Section 118.9(b).

⁵ See SHC Section 118.9, specifically subsections (c), (f)(2)(A), (g)(1), (h)(5), (i), and (j)(1).

B. Jurisdiction and Standard of Review

As described above, Caltrans proposes to divide land under its ownership in order to transfer 136 acres of contiguous property to Kai Poma and to retain the remainder for State highway management and maintenance purposes. This proposal constitutes development under the Coastal Act. Upon receipt of the property, Kai Poma proposes to implement a public access management plan over the transferred property.

On April 22, 2024, Commission staff provided Caltrans with a jurisdictional boundary determination that includes a map and narrative description of the coastal permitting jurisdiction of the Blues Beach Property (see **Exhibit 2**). In this determination, Commission staff concluded that the Blues Beach Property is located partially within the Coastal Commission's retained permitting jurisdiction and partially within Mendocino County's Local Coastal Plan (LCP) jurisdiction.

Under Coastal Act Section 30601.3, when a project requires a CDP from both a local government with a certified LCP and the Commission, the Commission may process a consolidated CDP application for the proposed development when the applicant, the local government, and the Commission's Executive Director agree to consolidate the coastal permit processing. The legal standard of review for a consolidated CDP is Chapter 3 of the Coastal Act, with the policies of the relevant certified LCP providing non-binding guidance.

On May 10, 2024, Caltrans submitted an application to Mendocino County requesting the County's agreement to allow the Commission to process a consolidated CDP for the proposed project. On May 16, 2024, the Commission's Executive Director sent a letter to the Mendocino County Board of Supervisors expressing the Commission's agreement to permit consolidation. On July 9, 2024, the Mendocino County Board of Supervisors voted to agree to the Commission processing a consolidated CDP. On July 31, 2024, Caltrans submitted an application to the Commission for a consolidated CDP for the proposed project. Therefore, the policies of Chapter 3 of the Coastal Act provide the legal standard of review for the proposed development. The policies of the Mendocino County certified LCP may be considered as non-binding guidance.

C. Public Access and Recreation

Coastal Act Section 30604(c) requires that every CDP issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." Within Chapter 3, and relevant here, Sections 30210 through 30213, 30221, and 30223 specifically protect public access and recreation by establishing the following requirements:

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.

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.

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...

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

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.

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

The Coastal Act also imposes requirements on transfers of State-owned property that is located between the first public road and the sea to a private entity, to ensure public coastal access is maintained. Coastal Act Section 30609.5 states, in relevant part:

30609.5. (a) Except as provided in subdivisions (b) and (c), no state land that is located between the first public road and the sea, with an existing or potential public accessway to or from the sea, or that the commission has formally designated as part of the California Coastal Trail, shall be transferred or sold by the state to any private entity unless the state retains a permanent property interest in the land adequate to provide public access to or along the sea. In any transfer or sale of real property by a state agency to a private entity or person pursuant to this section, the instrument of conveyance created by the state shall require that the private entity or person or the entity or person's successors or assigns manage the property in such a way as to ensure that existing or potential public access is not diminished. The instrument of conveyance shall further require that any violation of this management requirement shall result in the reversion of the real property to the state.

(b) This section shall not apply to the transfer of state land to a non-profit organization that exists for the purposes of preserving lands for public use and enjoyment and meets the requirements of subdivision (b) of Section 831.5 of the

Government Code.

(c) ...

Modern Public Access History

Since their acquisition by the State of California in the 1960s, Blues Beach and the adjacent blufftop lands have been managed by Caltrans, whose primary responsibility is to maintain the State Highway System. As such, Caltrans' management has focused primarily on maintaining the Highway 1 roadway and associated facilities such as culverts and other highway infrastructure.

Public access to the portions of Caltrans' property seaward of Highway 1 has been largely informal. The focal point of this access is Blues Beach itself, which can be accessed by exiting Highway 1 just north of Chadbourne Creek and traversing a short, unpaved road to access the beach. Periodic heavy, unmanaged vehicular access to Blues Beach has resulted in impacts to sensitive natural and cultural resources and, at times, public safety emergencies. These historic and ongoing issues are described in greater detail in the "Background" section of this report, above. Informal access also occurs along the bluffs downcoast of the beach. Based on Commission staff site visits and a review of aerial imagery, informal pedestrian trails extend seaward from Highway 1 in multiple locations across the subject property at highway pullouts and areas where the highway shoulder is wide enough to accommodate informal parking. These informal trails usually cross the blufftop terrace and proceed either along the bluff edge or down to the tideline. In visits to the area, Commission staff observed relatively light but consistent use of these informal trails by individuals seeking to fish or walk the bluffs, but the extent of this informal public access has not been documented.

In more recent years, Caltrans has developed some facilities that provide more formal public access to the bluffs downcoast of Blues Beach. In 2004, the Commission approved CDP No. 1-97-078 authorizing a rock revetment to protect the existing stretch of highway located approximately 7 miles upcoast of Blues Beach near the mouth of Hardy Creek.⁶ As mitigation for the public coastal access impacts resulting from construction of the revetment, the CDP required Caltrans to construct a highway vista point seaward of Highway 1 near Bruhel Point, approximately 1 mile downcoast of Blues Beach at Postmile 74.1 on a site that had historically been used by Caltrans for materials storage. Caltrans completed construction of the Bruhel Point Vista Point in 2005 pursuant to a local CDP and conditional use permit approved by Mendocino County on January 27, 2004 (CDU 2-2002). The vista point consists of a paved public parking lot striped for 20 parking spaces, a viewing area with interpretive signage and several benches, and two pedestrian trails. One of the trails extends seaward from the parking lot to the bluff edge, while the other, which originally was constructed to be accessible for people of all abilities but is currently deteriorated, proceeds roughly south

⁶ Caltrans originally constructed the revetment in 1998 to stabilize the bluff supporting Highway 1 at that location. The Commission granted Emergency CDP #1-98-043-G to temporarily authorize construction until Caltrans could obtain a follow-up CDP for the revetment.

from the parking lot for 300 feet, with a bench approximately every 100 feet. Today the vista point is the only formal means by which the public accesses the coast in the vicinity of Blues Beach, and it sees regular public use.

Proposed Land Division, Transfer, and Management Plan

As described in the “Project Description” section of this report, Caltrans proposes to divide 172 acres of its property in order to convey the majority of the land to Kai Poma as one 136-acre parcel (the “Blues Beach Property”). There are three main locations where the public enters the land within the Blues Beach Property. One of these is the Caltrans-maintained Bruhel Point Vista Point, which is located approximately one-half mile upcoast of the proposed southern property boundary. While the State will retain ownership of the vista point parking lot, the majority of both existing pedestrian trails will be located on the transfer property. A second entry point to the coastal terrace portion of the property is located upcoast at a highway pullout on the seaward side of the highway along the central part of the Property at approximately PM 74.56, roughly halfway between the vista point and Chadbourne Gulch. There, highway travelers may park their vehicles in the pullout and walk through gaps in the existing wooden fence that runs roughly along the boundary of that portion of the Property. From there, visitors follow informal trails across the Property, proceeding down the terrace and through riparian vegetation and blufftop bushes and grasses, to the bluff edge and along the blufftop. The third location at which the public currently accesses the subject lands, and generally the only accessway to the beach, is the access road leading to Blues Beach itself, discussed above.

Upon completing the land division, Caltrans will transfer ownership of the Blues Beach Property to Kai Poma at no cost. Caltrans will retain the lands adjacent to and within the Highway 1 corridor for the purpose of maintaining the roadway and associated infrastructure, including drainage facilities and the highway vista point parking lot at Bruhel Point. Caltrans will also retain an easement over the beach access road at Blues Beach within the Blues Beach Property, which will allow Caltrans to continue to use the road to access the beach area north of the Property for construction activities necessary for maintaining the highway upcoast. (See **Exhibit 3** for a depiction of the proposed easement.) The document transferring the Property to Kai Poma will include a restriction limiting use of the land to public access, natural habitat, and the protection of Native American cultural resources, as required by SHC Section 118.9.

Upon receiving the Property, Kai Poma will implement a public access management plan, which Kai Poma has drafted in collaboration with the Commission (see **Exhibit 4**). The plan is an agreement entered into and signed by Kai Poma and the Commission. The purpose of the management plan is to provide for coordinated, comprehensive management of the Blues Beach Property by Kai Poma in a manner that is informed by traditional ecological knowledge along with site studies, surveys, and research; and consistent with Kai Poma’s vision for Indigenous land stewardship, the provisions of SHC Section 118.9, and the Coastal Act. The plan identifies Kai Poma’s roles and responsibilities and will inform the Coastal Commission and the public as to how Kai

Poma will manage the Property. It also provides a framework for long-term adaptive management and serves as a vehicle for ongoing collaboration between Kai Poma and the Commission. This collaboration will include the efficient processing of any amendments to this CDP, which will pass to Kai Poma with the Property (see Standard Condition 5), that are needed to implement future management strategies and potential associated development on the Property.

The public access management plan is structured in phases. Phase 1 will establish a management “baseline” for the Property. In this initial phase, public access will continue to occur via the three access points described above currently used for entering the property: the Chadbourne Gulch beach access road, the highway pullout at PM 74.56, and the two pedestrian trails at the Bruhel Point Vista Point.⁷ The only change to public access made during this phase will be the implementation of the nighttime property closure, which is required by SHC Section 118.9(i). Kai Poma will work collaboratively with Commission staff to design and identify locations to install signage to inform the public about the nighttime closure and any other relevant information related to accessing the Property.⁸

With this baseline in place, Kai Poma will initiate Phase 2 of the public access management plan, during which Kai Poma will complete multiple studies of the Blues Beach Property (upon securing adequate funding). A cultural resource protection study will identify and research sacred sites, burial grounds, and other Tribal Cultural Resources on the Property. A natural habitat study will identify culturally and environmentally important species and ecosystems on the Property as well as potential opportunities for ecological restoration. Additionally, a creek study will specifically research the species and habitats present in the segment of Chadbourne Creek on the Property. As Kai Poma completes these studies, Kai Poma and the Commission will collaborate to develop long-term management and maintenance strategies informed by the studies and in response to site conditions and use patterns. Such strategies will be designed to maintain public access to and across the Property in a manner that also ensures Kai Poma can fulfill its obligations to protect natural habitat and sensitive cultural resources on site, and its ability to make use of the site for other Tribal uses. These strategies may include the development of access-related infrastructure, habitat restoration, or other forms of development designed to provide public access and protect natural and cultural resources consistent with the Coastal Act, SHC Section 118.9, and Kai Poma’s vision for Indigenous land stewardship. Kai Poma and the Commission will amend the public access management plan and this CDP as needed to incorporate and implement these long-term management and maintenance strategies.

⁷ CDP #1-97-078 did not specify standards to which Caltrans is obligated to maintain the trails at the Bruhel Point Vista Point. To provide for comprehensive management under the terms of a single document, future maintenance of the trails by Kai Poma will be governed by the management plan authorized and required by this CDP.

⁸ Kai Poma intends to compete and maintain a Letter of Agency with the Mendocino County Sheriff’s office for consistent enforcement of the nighttime access restriction.

The third and final phase of the public access management plan enumerates several additional objectives identified by Kai Poma to further enhance and protect public access and coastal resources on the Blues Beach Property. Among these, Phase 3 contemplates that Kai Poma may seek to develop further site improvements to improve public access and/or protect cultural or natural resources. Kai Poma and the Commission will collaborate to amend the management plan and this CDP as needed to authorize and incorporate any such improvements consistent with the Coastal Act. Kai Poma also maintains an interest in collaborating with Caltrans to pursue future transfers of additional excess property under Caltrans' management, particularly along the Chadbourne Creek. Finally, Kai Poma intends to invite any willing neighboring landowners to enter into co-management agreements to promote coordinated resource management and enhancement throughout the larger Chadbourne Creek watershed.

Consistency with the Public Access and Recreation Policies of Chapter 3

The Chapter 3 policies cited above establish overlapping protections for coastal access and recreation opportunities for the public, particularly free and low-cost access. These policies put a particular emphasis on lands between the first public road and the sea, requiring that such lands be protected for recreational use (Section 30221) and that public access from the roadway to the shoreline be provided (Section 30212(a)). These mandates must be satisfied in a manner that also protects sensitive coastal resources. Section 30210 declares that maximum access to the coast shall be provided consistent with the need to protect natural resource areas from overuse. Similarly, Section 30212(a) requires public access from the nearest roadway to the coast to be provided except where inconsistent with the protection of fragile coastal resources. Collectively, these policies establish a broad requirement for new development on lands between the ocean and the first public road to maintain and provide public coastal access and for that access to be sited and designed to avoid damage to sensitive coastal resources.

Divisions of land can result in impacts to public access by promoting new physical development that can inhibit access to the coast and, more broadly, by complicating the patchwork of land ownership that the public must navigate in order to reach the coast. However, in this instance, the proposed land division has been designed to foster more intentional stewardship of the Blues Beach Property, including for public access. Caltrans has delineated the division so that the State will retain only those lands which Caltrans has determined are necessary for maintaining the Highway 1 right-of-way. The remaining lands will be transferred to Kai Poma specifically for public access and natural and cultural resources protection. SHC Section 118.9 and **Special Condition 1** require the document transferring the Property to limit future uses to those uses. Section 118.9 establishes that if the property is not managed consistent with these uses or ceases to exist, the Property would revert to the State.

Overall, this arrangement will allow for more specialized land management by both Caltrans and Kai Poma. By reducing its land holdings through the Blues Beach area to just those that Caltrans has determined are necessary to maintain the highway right-of-way, Caltrans will be in a more focused position to carry out its statutory charge of

maintaining Highway 1, which is the primary arterial along which the public accesses the coast through this region of the state. The division and transfer will also result in enhanced stewardship of the 136 acres transferred to Kai Poma through the public access management plan. Although the management plan is a voluntary agreement, **Special Condition 2** requires the plan to be finalized before the Property is transferred, and requires Kai Poma, once it owns the Property, to adhere to the final management plan for the protection of public access and consistency with the Coastal Act's public access provisions.

As described above, Kai Poma has drafted the management plan in coordination with the Commission to provide a framework for public access to continue to occur on the Blues Beach Property in a manner that also protects sensitive cultural and natural resources. Phase 1 of the plan includes no changes to current public access other than implementation of the nighttime closure of the Property as required by SHC Section 118.9(i). Given the propensity for unauthorized activities that damage cultural and natural resources at Blues Beach to happen at night, the Commission agrees with the findings of the Legislature that a nightly closure is appropriate due to the remoteness of the Property and the exceptional sensitivity of the resources on site. Such a measure is in line with the shared goal of SHC Section 118.9 and the public access policies of the Coastal Act to provide public access consistent with the protection of sensitive coastal resources. As part of implementing this restriction, this CDP authorizes, and Phase 1 of the management plan includes, installation of signs to inform the public of the nighttime access restriction and any other relevant information related to accessing the Property. **Special Condition 3** establishes a process for Kai Poma to work with the Commission's Executive Director to develop a plan for designing and siting signage on the Property consistent with the Coastal Act.

Under Phase 2, long-term management strategies will be informed by cultural and natural resource surveys and will be developed collaboratively with the Commission consistent with the Coastal Act. As signatories to the management plan, Kai Poma and the Commission will amend the plan to add these measures.⁹ This flexibility to amend the management plan will also allow Kai Poma, in coordination with the Commission, to make adjustments to management strategies as site conditions and use patterns evolve. These aspects of the plan will ensure that public access, cultural resource protection, and natural resource preservation occur effectively and harmoniously on the Property into the future.

Thus, the proposed land division will maintain public access to the Blues Beach Property while allowing for enhanced stewardship of coastal resources on site. **Special Condition 1** reinforces the provision in SHC Section 118.9 limiting future use of the Property to public access, natural habitat, and the protection of Native American cultural

⁹ Per **Special Condition 2**, before amending the management plan, the Commission will first determine whether an amendment to this CDP is legally required. If it is, Kai Poma (as landowner and permit holder) will apply for an amendment to this CDP, which must be approved before the parties amend the management plan.

resources. The public access management plan that will be implemented by Kai Poma pursuant to **Special Conditions 2** will provide a framework for developing long-term management strategies that provide public access, maintain natural habitat, and protect Native American cultural resources. By facilitating the strategic siting and design of future public access to avoid impacts to sensitive resources, including the installation of appropriate signage pursuant to **Special Condition 3**, the management plan will safeguard the coastal resources that make the Blues Beach Property popular to visit, thereby maintaining the quality of the public's experience there. Thus, the Commission finds that the proposed development as conditioned is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

Consistency with Coastal Act Section 30609.5

Section 30609.5 of the Coastal Act imposes particular requirements on transfers of certain coastal properties from the State to a private entity. Public lands are a vital resource for protecting and providing public access to the coast. When the State proposes to relinquish ownership of lands located between the ocean and the first public road—land that generally provide the public with direct access to the coast and ocean—Section 30609.5 requires adequate measures to be in place to ensure that public coastal access will be maintained after the property has passed into private ownership. Thus, Section 30609.5 safeguards the rights of public access protected by Chapter 3 in these cases.¹⁰

Section 30609.5 provides multiple pathways by which a transfer of property between the first public road and the sea from the State to a private entity may be permissible under the Coastal Act. Most relevant to the proposed project, subdivision (b) enumerates requirements that, when met, allow for the transfer of such property from the State to a non-profit organization. Specifically, subdivision (b) allows for such a transfer if the Commission finds that the transferee is a non-profit organization that (1) exists for the purposes of preserving lands for public use and enjoyment and (2) meets the criteria in Government Code Section 831.5(b). These criteria include:

- (1) The non-profit organization is incorporated under United States Internal Revenue Code Section 501(c).
- (2) The non-profit organization has set forth in its articles of incorporation, among its principal charitable purposes, the conservation of land for public access, agricultural, scientific, historical, educational, recreational, scenic, or open-space opportunities.
- (3) The non-profit organization has entered into an agreement with the State Coastal Conservancy requiring the non-profit organization to hold the lands or, where

¹⁰ The applicability of Section 30609.5 to the proposed transfer is reinforced by SHC Section 118.9(g)(2), which explicitly requires the transfer of the Blues Beach Property to be consistent with Section 30609.5.

appropriate, to provide non-discriminatory public access consistent with the protection and conservation of either coastal or other natural resources, or both.

In this case, Kai Poma has demonstrated that it is an organization dedicated to preserving lands for public use and enjoyment. Kai Poma has worked collaboratively with the Commission to draft the public access management plan, which is nearly finalized. **Special Condition 2** requires the plan to be finalized and signed before the property transfer occurs, and requires Kai Poma upon receiving the property to maintain public access pursuant to the terms of the signed plan. As described above, the management plan will serve as a framework for continued coordination between Kai Poma and the Commission as Kai Poma manages the Property into the future for public access and natural and cultural resource protection. **Special Condition 1**, along with SHC Section 118.9, reinforce these management priorities by requiring Caltrans to include a restriction in the transfer document limiting use of the Property to public access, natural habitat, and the protection of cultural resources. Additionally, Kai Poma has provided the Commission with documentation demonstrating its compliance with the three requirements of Government Code Section 831.5(b).¹¹ Thus, the proposed land division and transfer have been designed to ensure that appropriate public coastal access on the Blues Beach Property will be maintained into the future consistent with the public access policies of the Coastal Act as well as Section 30609.5.

In conclusion, the proposed project represents an important return of coastal land to Native American stewardship. Together, the public access management plan and this CDP will provide a foundation for ongoing partnership between Kai Poma and the Commission as Kai Poma manages the Blues Beach Property into the future. These documents will serve as a vehicle for consideration of potential future development on the Property associated with natural and cultural resources protection and public access, consistent with the Coastal Act and Kai Poma's vision for Indigenous land stewardship. Thus, the Commission finds that the proposed development as conditioned is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. The Commission also finds that Kai Poma has taken the necessary steps to satisfy the requirements of subdivision (b) of Section 30609.5. The public's continued ability to access the Blues Beach Property is also specifically protected by SHC Section 118.9 and has been clearly delineated by Kai Poma in the public access management plan. Therefore, the Commission finds that the proposed land division and transfer are permissible under the Coastal Act.

D. Tribal Cultural Resources and Tribal Consultation

Section 30244 of the Coastal Act requires in part that development projects implement reasonable mitigation measures to protect archaeological resources identified by the State Historic Preservation Officer (SHPO), and states:

¹¹ On August 22, Kai Poma entered into an agreement with the State Coastal Conservancy pursuant to Section 831.5(b)(3).

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

Though the focus of the policy wording is on archaeological resources identified by the SHPO, since adoption of its Tribal Consultation Policy in 2018, the Commission has consistently recognized the importance of protecting archaeological resources broadly defined as tribal cultural resources, including sites, features, places, cultural landscapes,¹² sacred places, and objects with cultural value to California Native American tribes, including those that are included or determined to be eligible for inclusion in the California Register of Historical Resources and those included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). Tribal cultural resources may also include historical resources described in Public Resources Code Section 21084.1, a unique archaeological resource as defined in Public Resources Code Section 21083.2(g),¹³ or a “nonunique archaeological resource” as defined in Public Resources Code Section 21083.2(h).¹⁴

The area in which the Blues Beach Property sits is part of a multi-layered living cultural tapestry consisting of overlapping cultural landscapes of the individual and collective Tribes whose members govern Kai Poma. Through the colonization of what is known today as northern California and the subsequent formation of the State of California, Native Americans were displaced from their rights of access and use in favor of the privatization of the land into the hands of migrant settlers. In the 1960s, those settlers profited from the sale of this land to the State of California, which purchased the subject lands for development associated with Highway 1 and to provide a scenic viewshed for highway travelers.

The region, including the Blues Beach Property specifically, is home to a dense concentration of traditional cultural landscapes, sacred sites, and other cultural resources dating back thousands of years. California Native American Tribes also maintain knowledge of multiple individual sites of cultural significance and sensitivity on the Blues Beach Property. Through cultural resources surveys, Caltrans has also documented (and registered with SHPO) multiple sensitive cultural sites on the property

¹² A cultural landscape is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

¹³ As defined in that section, “unique archaeological resource” means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria: (1) contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information; (2) has a special and particular quality such as being the oldest of its type or the best available example of its type; (3) is directly associated with a scientifically recognized important prehistoric or historic event or person.

¹⁴ As used in this section, “nonunique archaeological resource” means an archaeological artifact, object, or site which does not meet the criteria in subdivision (g).

during the years of its ownership. The locations of these sites are confidential due to the nature and sensitivity of their resources.

Since Senate Bill 231 took effect in January 2022, Commission staff have had approximately 20 meetings with the Kai Poma Board members and their representatives as well as Caltrans staff to discuss the proposed land division, property transfer, and development of the proposed public access management plan. A site visit to the Blues Beach Property was also conducted in October 2022 that included representatives from the Commission, Kai Poma, and Caltrans. These meetings and on-site discussions have provided a constructive forum for mutual education, identifying and working through questions, and preparing the documentation necessary for the proposed land division, property transfer, and tribal-led management of the Property moving forward.

As discussed above, Caltrans proposes to divide the subject property for the purpose of transferring one 136-acre parcel to Kai Poma, returning the land to Native American stewardship. Caltrans will retain remainder areas that it has identified as necessary for maintaining the roadway and associated roadway infrastructure within the highway right-of-way, including drainage facilities and an existing highway vista point parking lot. Caltrans and Kai Poma are also developing an easement agreement intended to allow Caltrans to continue to use the beach access road through the Blues Beach Property to access the beach area north of the Property for construction activities necessary for maintaining the highway upcoast, which is currently undergoing emergency maintenance activities to address active landsliding. Upon receiving title to the Property, Kai Poma will implement its public access management plan that will guide future management of the Property. Kai Poma has developed the management plan in coordination with the Commission during the consultation meetings summarized above, and the plan will be finalized prior to transfer in a form that substantially conforms to the current draft (**Exhibit 4**), per **Special Condition 2**.

While divisions of land can in some contexts result in the creation of lots designed to support denser and more intense development in areas that would impact archaeological and other coastal resources, in this case, the Commission finds that the proposed land division will protect archaeological and tribal cultural resources by facilitating Tribally led programmatic stewardship of the Blues Beach Property pursuant to the public access management plan, as required by **Special Condition 2**. The management plan provides a framework for continued public access to and across the Blues Beach Property consistent with the protection of archaeological and tribal cultural resources (as well as natural resources, as discussed in the findings below).

As described in greater detail in the “Public Access and Recreation” section of this report, Phase 1 of the public access management plan establishes a baseline for public use of the Property in which no changes to existing public access will occur other than implementation of the nighttime access restriction required by Senate Bill 231 and installation of signage. Upon securing adequate funding, Kai Poma will then conduct formal surveys of the Property, including a cultural resources study. Based on the findings of the cultural resources study, Kai Poma will work in collaboration with

Commission staff to develop any management practices necessary for resource protection. The findings of these surveys will inform long-term management strategies designed to provide continued public access in a manner that avoids impacts to resources. Kai Poma and Commission staff will work together as management needs arise to amend this CDP as necessary to authorize any development associated with implementation of specific management strategies and, if needed, to amend the public access management plan in response to changes in use patterns and site conditions. Overall, the plan will provide a written foundation for Kai Poma, with the support and partnership of the Commission, to successfully steward the Property for the collective benefit of archaeological and tribal cultural resources protection, tribal stewardship and cultural heritage preservation, and public access.

Thus, the proposed land division, transfer, and public access management plan will provide for comprehensive management of the Blues Beach Property. The proposed project will return the Property to tribal stewardship and, in doing so, will provide for enhanced protection of the sensitive tribal cultural resources on site. Therefore, the Commission finds that the proposed development as conditioned is consistent with Coastal Act Section 30244.

E. ESHA, Marine Resources, Wetlands, and Water Quality

The Coastal Act specifically protects environmental sensitive habitat areas (ESHA), which are defined under Coastal Act section 30107.5 as “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 protects environmentally sensitive habitats and sensitive species:

- (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 recreation areas.

The Coastal Act also contains policies broadly protecting coastal wetlands, waters, and marine resources. 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 maritime environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy population 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 for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effect of waste water discharges and entrainments, 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 2015, Caltrans performed a natural resource survey of Chadbourne Gulch and the surrounding area, comprising the northern portion of the proposed transfer property. These surveys identified three predominant habitat types: coyote brush scrub, willow riparian, and salt grass flats. Coyote brush scrub is concentrated along the steep bluffs beginning on the north side of the beach access road and continuing upcoast. This common coastal plant community is dominated by coyote brush (*Baccharis pilularis*), typically with a mix of other species such as monkeyflower (*Mimulus aurantiacus*), phacelia (*Phacelia nemoralis*), California blackberry (*Rubus ursinus*) and vetch (*Vicia gigantea*). Immediately south of the beach access road, Chadbourne Creek flows in a westward direction, entering the inland side of the Property through a highway culvert and flowing approximately 1000 feet to its confluence with the ocean. The creek corridor is thoroughly vegetated by riparian tree species including red alder (*Alnus rubra*), Hooker's willow (*Salix hookeriana*), and arrow willow (*Salix lasiolepis*). Giant horsetail (*Equisetum telmateia*), red elderberry (*Sambucus racemosa*), and California figwort (*Scrophularia californica*) were also observed. Where Chadbourne Creek flows onto the sandy beach, the habitat transitions to salt grass flats. Caltrans surveys reported that while some plant species are present in the sandy beach area (e.g., beach bur (*Ambrosia chamissonis*), American dune grass (*Elymus mollis*)), the beach area is largely degraded and denuded as a result of unauthorized public vehicle use and other activities.¹⁵ No special status plant species were observed in this portion of the Property, though Caltrans determined that parts of the site have the potential the support special status plant species.

Caltrans' survey also observed more than a dozen wildlife species on the property, including Osprey (*Pandion haliaetus*), Winter wren (*Troglodytes troglodytes*), Swainson's thrush (*Catharus ustulatus*), and Purple finch (*Carpodacus purpureus*). No

¹⁵ As described in Caltrans' 2015 survey report, "The use by the public has played a large part in the degradation of the area adjacent to the access road and parking area. A considerable amount of trash was seen during both surveys. In addition, evidence of motorcycles being driven onto the slopes adjacent to the project site was seen."

special status wildlife species were observed on the property. However, other existing resources indicate the presence of or potential for sensitive aquatic and marine species. The U.S. Fish and Wildlife Service has identified Chadbourne Gulch as critical habitat for federally threatened Northern California steelhead (*Oncorhynchus mykiss irideus*). During a fish passage assessment conducted by Humboldt State University at the Highway 1 culvert for Chadbourne Creek in 2002, ten juvenile steelhead were observed upstream and downstream of the culvert.¹⁶ Chadbourne Creek has also been identified as potential habitat for Tidewater goby, a federally endangered and state species of special concern, though Tidewater goby has not been observed in the creek. The sandy beach area has also been identified as a potential haul-out site for Pacific harbor seal (*Phoca vitulina*) and California sea lion (*Zalophus californianus*), although there is no documentation of marine mammals previously hauling out on Blues Beach.

The results of these surveys provide insight into the species and habitat types that are present, or have the potential to be present, in the northern portion of the Blues Beach Property. Although some areas have been degraded by human activity, much of the vicinity of Chadbourne Gulch, particularly the creek corridor and the intertidal zone, contain high-value habitat, including for protected salmonids and marine mammals. For this reason, these portions of the Property rise to the level of being considered ESHA under Section 30107.5.

These past surveys cover only the northern portion of the property currently proposed for transfer. The remainder of the property to the south, which constitutes the majority of the Blues Beach Property, has not been formally surveyed and appears to contain different habitat types more commonly associated with coastal blufftops as well as a stand of mature trees immediately upcoast of the highway vista point. Given the largely undisturbed state of the blufftop portion of the Property, it is likely that parts of this portion of the Property may also qualify as ESHA, though the precise types and locations of these areas are unknown at this time.

The proposed project will lead to informed, comprehensive management of the entire Blues Beach Property for the protection of natural resources, consistent with the co-equal objectives (and statutory requirements) to provide public access and protect tribal cultural resources. As described above, the requested CDP would authorize Caltrans to divide its property in the vicinity of Blues Beach for the purpose of transferring the 136-acre Blues Beach Property to Kai Poma. As required by SHC Section 118.9, and reinforced by **Special Condition 1**, the deed transferring the Property will limit future use of the land to public access and natural and cultural resource protection. Upon receiving the Property (and with it, this CDP), Kai Poma will implement a phased public access management plan as required by **Special Condition 2**.

¹⁶ A 2008 Stream Inventory Report conducted by the California Department of Fish and Wildlife documents current conditions for Chadbourne Gulch and makes recommendations for potential enhancement of habitat for coho salmon and steelhead trout.

The public access management plan for the Blues Beach Property will provide a framework by which Kai Poma will comprehensively manage the Property for public access and natural and cultural resources protection consistent with the Coastal Act and SHC Section 118.9. As described in greater detail in the “Public Access and Recreation” section of this report, Phase 1 of the plan will establish a public access baseline that will largely maintain current informal use patterns except for implementation of the nighttime access restriction and installation of signage. Relevant to natural resources, **Special Condition 3** requires any signage associated with property management to be placed outside of wetlands or sensitive habitat areas. In Phase 2, Kai Poma will complete a natural habitat study of the entire Property as well as a survey of Chadbourne Creek. This study and survey, coupled with the traditional knowledge of the Kai Poma Tribes, will establish an informational foundation to guide future natural resources management on the Property. Using this information, Kai Poma, in collaboration with the Coastal Commission, will develop long-term management strategies to maintain public access on the Property while protecting sensitive natural and cultural resources. As part of implementing these strategies, Kai Poma may pursue development, including habitat restoration projects, that are designed to facilitate harmonious public access and natural and cultural resource protection. Such development would be subject to approval under the Coastal Act. Kai Poma also plans to pursue co-management agreements with willing neighboring landowners in the surrounding area (Phase 3). Such agreements would allow for coordinated resource enhancement and management throughout the broader Chadbourne Creek watershed for the collective benefit of the landscape, its resources, and the public.

This CDP will require implementation of the public access management plan and will also authorize the development associated with Phase 1 of the plan (i.e., the nighttime closure and installation of related signage). As Kai Poma moves into subsequent phases of the management, Kai Poma and the Commission will remain in close consultation and will collaborate to amend the management plan and this CDP as needed to incorporate long-term management strategies and associated development consistent with the Coastal Act, and to make any adjustments based on site conditions and use patterns. Per **Special Condition 2**, in the event that Kai Poma and the Commission wish to amend the management plan, the Commission’s Executive Director will first determine whether an amendment to this CDP is legally necessary. If a CDP amendment is necessary, that amendment must be approved by the Commission before the amendment to the management plan is executed. Thus, the management plan will serve as a living agreement between Kai Poma and the Commission and will be adapted to facilitate continued stewardship of the Blues Beach Property for public access and the protection of natural and cultural resources.

The Commission notes that, in general, divisions of land have the potential to result in impacts to natural coastal resources, including ESHA and wetlands, by enabling more intense land uses and development patterns. However, in this case, the proposed land division will not result in any additional development rights that will result in impacts to ESHA or other natural resources. The land being transferred to Kai Poma comes with

statutory limits specifying that the Blues Beach Property may be used only for public access and natural resources and cultural resources protection – uses generally compatible with and allowed under the Coastal Act resource protection policies cited above. More fundamentally, the very purpose of the enabling legislation, the proposed division and transfer, and the management plan are to provide for more active, comprehensive protection of the resources on the Property.

In conclusion, Caltrans' proposed land division and Kai Poma's implementation of a public access management plan for the Blues Beach Property have been carefully crafted to provide for enhanced protection of sensitive natural resources on the Property. The planned natural habitat study and creek survey, coupled with the Kai Poma Tribes' traditional knowledge, will provide a comprehensive understanding of the types and locations of sensitive terrestrial, wetland, and marine resources on the Blues Beach Property. This understanding will inform long-term, adaptive management strategies designed to avoid significant disruption of habitat values while maintaining the public's access to and enjoyment of the property, the latter of which inherently depends on the preservation of those habitat values, consistent with Section 30240. Implementation of the public access management plan will similarly promote the health of marine resources, coastal wetlands, and water quality on and in the vicinity of the Property, consistent with Sections 30230 and 30231. Therefore, the Commission finds that the proposed development is consistent with the relevant Coastal Act policies cited above protecting ESHA, marine resources, wetlands, and water quality.

F. Visual Resources

Section 30251 of the Coastal Act (codified in Policy 3.4-1 of the Mendocino County certified Land Use Plan) states (emphasis added):

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. 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.

Section 30116 of the Coastal Act defines Sensitive Coastal Resource Areas as follows:

"Sensitive coastal resource areas" means those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. "Sensitive coastal resource areas" include the following:

- (a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped and designated in Part 4 of the coastal plan.
- (b) Areas possessing significant recreational value.
- (c) Highly scenic areas.
- (d) Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.
- (e) Special communities or neighborhoods which are significant visitor destination areas.
- (f) Areas that provide existing coastal housing or recreational opportunities for low- and moderate-income persons.
- (g) Areas where divisions of land could substantially impair or restrict coastal access.

Relevant to 30116 (c), Mendocino County certified Land Use Plan (LUP) policy 3.5-3 states in applicable part the following (emphasis added):

The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

- The entire coastal zone from the Ten Mile River estuary ... north to the Hardy Creek Bridge,

...New development should be subordinate to natural setting and minimize reflective surfaces. All proposed divisions of land and boundary line adjustments within "highly scenic areas" will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies.

In addition, although not the standard of review, LCP policies may be used as guidance, and in this case, the Mendocino County certified LUP policy 3.5-7 addresses signs as follows:

Off-site advertising signs, other than small directional signs not exceeding 2 square feet, will not be permitted in designated "highly scenic areas".

Direction, access, and business identification signs shall minimize disruption of scenic qualities through appropriate use of materials, scale and location. Caltrans should be requested to develop and install a system of small, standardized highway signs, which will identify, by easily recognized symbols, a full range of visitor services and accommodations, including restaurants, inns, and campgrounds. Appropriate handcrafted signs should be encouraged.

Section 30251 of the Coastal Act requires public scenic and visual qualities of coastal areas to be protected, and that new development be sited and designed to protect public views to and along the ocean and scenic coastal areas and be visually compatible with the character of surrounding areas. New development in designated highly scenic areas must be subordinate to the character of its setting, and any signage erected in these areas shall minimize disruption of scenic qualities through appropriate use of materials, scale, and location.

The stretch of Highway 1 through the project area is designated as a highly scenic area under the Mendocino County certified LCP within the meaning of Coastal Act Section 30116. As stated above, the subject property was originally acquired by the State in part to provide the traveling public with scenic views of the surrounding coastal terrace landscape and the Pacific Ocean. Moreover, although Highway 1 through Mendocino County is not an officially designated scenic highway, it is on the list of highways eligible for scenic designation by the State Scenic Highway System.

Divisions of land can present the potential for impacts to visual resources by enabling future physical development on subdivided parcels that would impact public coastal viewsheds. However, in this case, the proposed division is intended to facilitate the protection and stewardship of resources on the Blues Beach Property. As described in greater detail above, SHC Section 118.9 requires the transfer deed to limit future use of the land to public access and natural and cultural resource protection. **Special Condition 1** reinforces this requirement. Moreover, as required by **Special Condition 2**, Caltrans will not transfer the Property until the public access management plan has been finalized, and upon transfer Kai Poma will implement the management plan, which will guide long-term management of the Property for public access and resource protection purposes. This CDP authorizes development associated with Phase 1 of the management plan, including the installation of signage. **Special Condition 3** ensures that any signage will not impact visual resources, by requiring Executive Director approval of a signage plan prior to installation and by requiring signs to be subordinate to the character of the surrounding natural setting and visually compatible with surrounding areas.

In conclusion, Caltrans' proposed land division and Kai Poma's subsequent implementation of the management plan have been designed to protect the resources on the Blues Beach Property, which will by extension serve to protect the visual landscape of the Property and surrounding lands. Thus, the Commission finds that the project, as conditioned, is consistent with Section 30251 of the Coastal Act.

G. California Environmental Quality Act (CEQA)

Caltrans, acting as the lead CEQA agency, determined that the proposed project was exempt from further CEQA review pursuant to CEQA Guidelines Section 15325 for transfers of ownership of interest in land in order to preserve open space, habitat, or historical resources.

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with CDP applications showing the application to be consistent with any applicable requirements of CEQA. Public Resources Code Section 21080.5(d)(2)(A) prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission's review and analysis of CDP applications like this has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA. The preceding findings in this report, incorporated herein, have discussed the relevant coastal resource issues with the proposal, and the CDP terms and conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources.

As conditioned, there are no other feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts, either individual or cumulative, that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of the Coastal Act and thus conforms with CEQA.

APPENDICES

APPENDIX A – Substantive File Documents¹⁷

- CDP Application File No. 1-24-0662
- CDP Application File No. 1-97-078
- Notice of Final Action on Mendocino Co. CDP #CDU 2-2002 (approved 1/27/2004)
- County of Mendocino certified LCP

APPENDIX B – Staff Contact with Governments, Agencies, and Groups

- California Department of Transportation
- California State Coastal Conservancy
- Kai Poma
- Coyote Valley Band of Pomo Indians
- Round Valley Indian Tribes
- Sherwood Valley Band of Pomo Indians
- County of Mendocino

¹⁷ These documents are available for review in the Commission's North Coast District office in Arcata.