

To Members of the City Council of City of Del Mar, and their City Attorney

"The State Lands Commission ("Commission") has jurisdiction and management control over those public lands of the State received by the State upon its admission to the United States ("sovereign lands"). Generally these sovereign lands include all ungranted tidelands and submerged lands, beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straights. The Commission manages these sovereign lands for the benefit of all the people of the State, subject to the Public Trust for water related commerce, navigation, fisheries, recreation, open space and other recognized Public Trust uses."

The words quoted above were written by the Office of the Attorney General of California, and are the opening lines of a lease that the State Lands Commission is offering to enter into with a homeowner on the west side of Sandy Lane, who is maintaining a rip-rap wall as a protective structure on a parcel whose title says that the owner owns the land to the line of mean high tide.

For purposes of determining legal authority over the lands west of Sandy Lane, so far as the City of Del Mar is concerned, where the line of mean high tide is, at any time, is immaterial. If the land is above the line of mean high tide it is private property entitled to the "due process" protections of the Constitution. If the land is below the line of mean high tide, it is "tidelands and submerged lands" under the "jurisdiction and management control" of the State Lands Commission, and subject to the Public Trust for the benefit of all the people of the State. There simply are no lands west of Sandy Lane over which the City of Del Mar has legal jurisdiction and management control. For the City to assume such jurisdiction and management control in the face of a clear statement by the State that it is the State Lands Commission that has such control is clearly an act that is unsupported by legal authority and such an act could lead to serious legal consequences for the City and its elected officials.

Respectfully submitted by the Jaeger and Burns families; 2998 and 3002 Sandy Lane

Written by William P Jaeger (my father) in 2003

GET Legal!

No "Bluff Overlay Zone!"

From Jack Jaeger  
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From

Larry Wolf

143 23rd Street

- Flood and damage risk approaching a moderate level (5% annual chance of extreme flooding and damage)
- Average or successive winter beach widths approaching 25 ft
- Average or successive summer beach widths approaching 80 ft

Once adaptation measures are implemented to increase beach widths and/or reduce flood/damage risks, then the flood risk would be estimated for the adapted condition with future sea-level rise. Increasing flood/damage risks and decreasing beach widths would then continue to be monitored and compared against the beach width thresholds above. Table 9.2.1 shows projected beach widths with increasing chance of extreme flooding/damage.

**Table 9.2.1**  
**Projected beach width with increasing chance of extreme flooding/damage**


Annual chance of extreme flooding/damage (1983 event)	1%	5%	15%	50%	100%
Summer/fall beach width	120 ft	80 ft	34 ft	0 ft	0 ft
Winter/spring beach width	65 ft	25 ft	0 ft	0 ft	0 ft

Other beach adaptation criteria may be considered or added through further refinement, application, and re-evaluation of the Adaptation Plan, which could include the following:



- Beach elevation at the toe of the sea walls and revetments to serve as an indication of the exposure of the structure to wave action.
- Risk of sea wall failure.

As the beach narrows with sea-level rise, the beach and dunes could be nourished to improve beach access, aesthetics and habitat function, as well as limit future damages in areas that are eroded during storm events. Even so, it must be noted that with enough sea-level rise (e.g., 3 ft, corresponding to 50% chance of extreme flooding), the shoreline adaptation measures that would be required to maintain existing structures would be insufficient. ~~Beachfront and adjacent homes and buildings could instead be raised.~~ Table 9.2.2 presents the Beach Adaptation monitoring criteria and adaptation measures and anticipated beach width ranges for which each measure would be effective.

**Table 9.3**  
**Summary of likely California Coastal Act approval and permitting process**  
**for beach erosion adaptation measures**

Adaptation Measure	LCP Jurisdiction	CCC Jurisdiction	Note
Beach and dune nourishment	✓	✓	<ul style="list-style-type: none"> <li>• LCP review for above water portion</li> <li>• CCC Coastal Development Permit required for below water portion</li> </ul>
Sand retention measures	✓	✓	<ul style="list-style-type: none"> <li>• Contingent on CCC approval and funding</li> <li>• Likely to require mitigation</li> </ul>
Raised/improved sea walls and revetments	✓		<ul style="list-style-type: none"> <li>• LCP redevelopment policies and regulations</li> <li>• Coastal Act limitations may apply</li> </ul>
<del>Raise structures</del> 	✓		<ul style="list-style-type: none"> <li>• LCP redevelopment policies and regulations</li> </ul>
Relocate infrastructure	✓		<ul style="list-style-type: none"> <li>• LCP policies</li> </ul>

**Table 9.2.2**  
**Beach erosion monitoring criteria to consider adaptation options**

Criteria & Thresholds	Summer beach width	120 ft	80 ft	35 ft	0 ft
	Winter beach width	65 ft	25 ft	0 ft	0 ft
	Annual risk of extreme flooding*	5%	15%	50%	100%
Adaptation Options	Protect (soft measures)	Beach and dune nourishment			
	Protect (hard measures)	Raise/improve sea walls			
	Protect (hard measures)	Sand retention structures			
	Accommodate	Raise structures			
	Retreat	Relocate public infrastructure			

\*Risk of flooding without adaptations

### 9.3 Beach adaptation coastal permitting

The Coastal Development Permit review and approval for beach adaptation measures would be processed by either the City of Del Mar through the LCP and/or by the California Coastal Commission, pursuant to the California Coastal Act. In general, adaptation measures that involve construction or disturbance above the Mean High Water (MHW) line are within the City's LCP jurisdiction, while adaptation measures taken below MHW is within the California Coastal Commission's jurisdiction. The likely coastal permitting mechanisms for beach adaptation measures are summarized below for the purpose of informing the development of the LCP Amendment as a next step. For measures that would be permitted through the California Coastal Commission rather than the LCP Amendment, policies developed by the City within the LCP Amendment that support particular adaptation measures may be considered by the California Coastal Commission in their review process. However, the Coastal Act would remain the standard of review for measures within the CCC's retained jurisdiction. The likely coastal permitting mechanisms for beach adaptation measures are summarized in Table 9.3 for the purpose of informing the development of the LCP Amendment as a next step. Other approvals and permits would also be required and would need to be addressed separately.