

**CALIFORNIA COASTAL COMMISSION**

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September 28, 2018

Dwight Worden
City of Del Mar
1050 Camino del Mar
Del Mar, CA 92014-2698

Re: City of Del Mar – Sea Level Rise Local Coastal Program Amendment Draft

Dear Mayor Worden,

Thank you for the opportunity to provide the following comments on Del Mar's draft September 2018 version of the City's Local Coastal Program Amendment (LCPA), including draft amendments to the Land Use Plan (LUP) and Implementing Ordinances. These drafts were prepared with support from a Round 3 Coastal Commission LCP Grant, pursuant to Grant Agreement LCP-16-13 A/1.

We appreciate the collaborative process that the City has conducted over the past three years toward the development of this LCPA that has included relevant stakeholders, community members, and Commission staff. These efforts have been focused toward the creation of a plan that will ensure that the City of Del Mar will remain a resilient community going forward in the face of likely hazards associated with future sea level rise. We commend the scientific approach utilized in the City's Vulnerability Assessment and Sediment Management Plan specifically, both of which identify and analyze current and future threats to the City from flooding and accelerated erosion due to changing future ocean conditions.

As a part of this process going forward, it is also important to acknowledge the City's existing LCP, and more specifically the Beach Overlay Zone, which includes many provisions and agreements that allow for protection of the City's coastal communities. The current efforts included in this LCPA are not meant in any way to diminish or significantly alter the implementation of the existing LCP; but rather, they are intended to provide additional resiliency and options going forward given the existing and future coastal hazards identified in the City's Vulnerability Assessment. This work is essential in preserving the valuable coastal resources and community that help make Del Mar such an important and vibrant coastal destination. Furthermore, we want to be clear that Commission staff is supportive of the emphasis the City has placed on beach nourishment as an effective and appropriate short-term adaptation strategy, and we understand the reasons the City staff has chosen not to introduce managed retreat as an adaptation strategy at this time. We agree that future assessment of additional adaptation strategies will be warranted when new or amplified coastal hazards are realized. In anticipation of these future changes, we do think the City should be establishing thresholds or triggers for when reassessment will occur.

We look forward to continuing to work together on the amendment drafts. Please consider the following suggestions as you review this draft LCPA for approval and future submittal to the Commission.

1. **Incorporate the City’s Vulnerability Assessment, Adaptation Plan, and Sediment Management Plan by reference.** We recommend the City incorporate the “Coastal Hazards, Vulnerability, and Risk Assessment” (2016), “Sea-Level Rise Adaptation Plan” (2018) and “Sediment Management Plan” (2018) explicitly by reference into the LUP amendment language.
2. **Set clear goals in alignment with the City’s Adaptation Plan to address sea level rise.** The LUP should directly incorporate the goals and principles listed on page ES-2 of the Adaptation Plan into the LUP text. For example, maintaining a public beach that is walkable and capable of providing public access, recreational opportunities, and economic benefits as well as protection from coastal flooding and increased bluff erosion should be an identified goal. We also recommend the LUP include a general goal addressing impacts from sea level rise, including a reference to the LUP’s intention to prepare the Del Mar community for resilience in the face of sea-level rise and minimize property damage resulting from coastal and river flooding, and bluff erosion.
3. **Establish periodic review to identify the best available science and develop long-term adaptation planning triggers.** The LUP should emphasize that the City has identified short-term strategies to deal with SLR (e.g., beach nourishment) but also acknowledge that the Sediment Management Plan and Adaptation Plan identify that this strategy will not be feasible to implement indefinitely:

Nourishing and retaining the sand on the beach below the southern bluffs could provide short-to medium term benefits of maintaining a beach for ecology and recreational use and reducing wave runup onto and erosion of the bluff toe. In the long-term, beach nourishment and retention may become more expensive if sand sources become limited or if the amount of sand required increases with sea-level rise. [Sediment Management Plan, pg. 41]

Beach nourishment [in North Beach] may be effective with up to 2 feet of sea-level rise, and potentially more, depending on variables such as the availability of sand sources and funding, and whether neighboring beaches are also being nourished. [Sediment Management Plan, pg. 47]

While beach nourishment is likely to be feasible for lower amounts of sea-level rise, the feasibility of larger scale beach nourishment with sea-level rise of about 3 to 5 ft at Del Mar is uncertain, primarily due to uncertainties in the regional demand and availability for sand sources (Section 5.2). [Adaptation Plan, pg. 64]

As a result, and to prepare the City for longer-term planning, the LUP should also identify some physical (e.g., at X feet of SLR) or temporal (e.g., by a certain year)

triggers that would require an LUP amendment to evaluate the best available science and develop additional adaptation strategies for the longer-term. Triggers should allow for enough time to develop the LUP amendment and proactively implement relevant adaptation strategies before the foreseeable hazards begin to impact coastal resources and the community. In addition, the policy should require the City to consider LCP amendments to all of their Overlay Zones, and associated policies and standards when amendments are necessary to avoid significant conflicts with an updated Adaptation Plan. We recommend monitoring and evaluation include tracking and keeping records of coastal and San Dieguito River flooding and storm damage events and reviewing the results of readily available information regarding sea level rise trends and projections, beach width profiles, bluff-top erosion rates, San Dieguito River channel deposition rates, and San Dieguito Lagoon wetland habitat acreages.

4. **Modify the “Transitional Subarea” of the Coastal Bluff Overlay Zone to require geotechnical analyses, and identify a clear process for when these properties would be subject to all of the additional requirements contained within the Bluff Overlay Zone.** The September 2018 draft of the LCP Amendment proposes a “Transitional Subarea” to apply to properties fronting the bluff from 7th to 15th Streets as described in Chapter III Section C. Coastal Bluffs and Vulnerable Slopes. The properties in this area are not subject to any special permit or requirements set forth in the draft amendment, including requirements to submit a geotechnical report, or requirements to waive future shoreline protection. Based on the City’s Vulnerability Assessment, these overlay zones are subject to sea level rise hazards by 2100, within the lifetime of new development or redevelopment in these locations. Due to the current alignment of the railroad corridor, the properties in this new proposed zone are not currently subject to coastal erosion; however, they will be especially if the rail corridor moves inland, and thus it is crucial to understand when and what types of hazards may emerge to aid in siting and designing the development in a way that it will avoid hazards over its development life, in addition to providing notice to property owners. We strongly recommend the LUP be amended to require geotechnical analyses in the Transitional Subarea and/or at minimum include a clear policy requiring review and possible boundary amendment of the Coastal Bluff Overlay Zone subareas within five years as described in the introduction to Chapter III, Section C of the LUP.
5. **Require geotechnical or hazards studies for all development subject to current or future coastal hazards.** The current draft Implementing Ordinances require a geotechnical report for coastal development permit applications in the Coastal Bluff Overlay Zone (30.55.060.2) but not in other overlay zones subject to current or future coastal hazards. We recommend the Implementing Ordinances require development in all hazard overlay zones be evaluated by reports that are prepared by a licensed civil engineer with expertise in coastal engineering and geomorphology or other suitably qualified professional. These reports should be based on the best available science, consider the impacts from the high projection of sea level rise for the anticipated duration of the proposed development, demonstrate that the development will avoid or minimize impacts from coastal hazards, and evaluate the foreseeable effects that the development will have on coastal resources over time (including in terms of impacts on public access,

shoreline dynamics, natural landforms, natural shoreline processes, and public views) as project impacts continue and/or change over time, including in response to sea level rise.

6. **Modify the “existing development” definition in both the LUP and Implementing Ordinances so as not to include new development or redevelopment permitted after January 1, 1977.** As described in the Commission’s 2015 Sea Level Rise Policy Guidance and reiterated in the March 2018 Draft Residential Adaptation Policy Guidance, the Commission interprets the term “existing structures” in Section 30235 as meaning structures that were in existence on January 1, 1977—the effective date of the Coastal Act. In other words, the directive to permit shoreline armoring in certain circumstances (Section 30235) applies to development that existed as of January 1, 1977. This interpretation is the most reasonable way to construe and harmonize Sections 30235 and 30253, which together evince a broad legislative intent to allow armoring for development that existed when the Coastal Act was passed, when such development is in danger from erosion, but avoid such armoring for new development now subject to the Act. We acknowledge the controversy surrounding this interpretation. Thus, we recommend the City define it as such, to ensure consistency with the Commission’s approach to define existing development as permitted before January 1, 1977 in its original jurisdiction. The amendment could emphasize that should there be future statutory or regulatory clarification in Coastal Act Section 30235 regarding which “existing structures” are allowed to be protected by new shoreline protection devices, then those clarifications should be used to implement the relevant policies.
7. **Address adaptation strategies for critical infrastructure.** The Vulnerability Assessment identifies a suite of Del Mar’s critical infrastructure vulnerable to sea-level rise hazards. Chapter III.B Policy III-2.f supports “relocation of the railroad and other public infrastructure from vulnerability areas,” and Chapter III.E Policy III-12.d seeks to enhance public safety by “protecting public infrastructure and property from sea level rise and flooding risks.” We recommend the LUP amendment include additional language that clearly requires all threatened critical public infrastructure be managed to be safe from SLR hazards and include adaptation strategies that address vulnerabilities, including: (1) Ensuring functional continuity of the critical services at risk from sea-level rise and extreme storms until such time that the infrastructure can be relocated or redesigned to avoid sea-level rise risks; (2) Developing accommodation strategies to increase the resiliency of critical infrastructure by raising, flood-proofing, or redesigning infrastructure at risk of damage from sea-level rise impacts; (3) Developing protection strategies, such as hard protective devices or sand replenishment, to ensure the continuation of existing needed services until such time that the services can be redesigned or relocated to avoid sea-level rise risks; and (4) Developing strategies for retiring or replacing/removing infrastructure and public facilities at risk of damage from sea-level rise impacts that may occur over the economic life of the structure.
8. **Expand the Implementing Ordinance’s definition for “Substantial Improvement.”** The draft’s current definition of “substantial improvement” is based on whether the repair, reconstruction, or improvement equals or exceeds fifty percent of the market value of the structure. We recommend this definition be expanded to bring it more in line with

the Coastal Commission's approach to defining "redevelopment" so that the City's "substantial improvement" term can be defined not only in terms of market value, but also in terms of the percent change in the structure itself. We recognize developing a new definition for the City may be difficult at this stage in the process, and if so, we are willing to work with the City on whether this is addressed at this time or during the next LCP Update.

9. **Expand the deed recordation policies in the Implementing Ordinances for the overlay zones to clearly disclose hazards and acknowledge assumption of risk.** We recommend the deed restriction policies for the Coastal Bluff Overlay Zone (30.55.060.B.2) and the Floodplain Overlay Zone (30.56.050.E.2) be expanded. First, we recommend the language requiring a deed recordation "Indemnifies and holds harmless the City and the California Coastal Commission against any and all liability, claims, damages, and/or expenses arising from any injury to any person or damage to property due to such hazards" be reinserted and augmented to include the Commission pursuant to the underlined language above. We also recommend the recordation requirements be expanded to require deed restrictions on the property that acknowledge and agree (1) the development is located within the Coastal Bluff (or Floodplain) Overlay Zone and is located in a hazardous area, or an area that may become hazardous in the future; (2) to assume the risks of injury and damage from such hazards in connection with the permitted development; (3) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; (4) that the boundary between public land (tidelands) and private land may shift with rising seas, the structure may eventually be located on public trust lands, and the development approval does not permit encroachment onto public trust land; (5) any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval; and (6) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required.
10. **Include reference to sea level rise as a hazard consistently throughout both the LUP and IP.** We recommend all hazard lists and descriptions explicitly list sea level rise as a known coastal hazard and that references to sea level rise are made consistently throughout both documents as hazards to plan for in both the near-term and the long-term.
11. **Update LUP's reference to the best available science.** The description of Sea Level Rise under section III.A.5 of the LUP should be updated to specify the Ocean Protection Council's *State of California Sea-Level Rise Guidance 2018 Update* as representing the best available science for the State of California.

Thank you again for the opportunity to provide comments to this most recent draft of the City's LCP Amendment. We appreciate and recognize the challenges and sensitivity of this work for

the community, and in particular the shoreline and river valley property owners. We acknowledge that stakeholders want to believe that beach nourishment and/or armoring may always be a satisfactory option but it is simply unrealistic. Therefore, while stakeholders may disagree about the exact timing and nature of the forecasted shoreline and flooding hazards, it is critical for the City to be prepared, and continue work on developing adaptation responses now rather than being caught in a reactive mode when available alternatives or opportunities might have been lost. As a result of this process, Del Mar will have an updated LCP that identifies potential coastal hazards resulting from changes in future sea levels and aligns itself with hazard mitigation requirements at both State and Federal levels. Please do not hesitate to contact me if you have any questions or wish to discuss these comments in further detail.

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. Buhr', with a horizontal line extending to the right.

Gabriel Buhr
Coastal Program Manager

cc (copies sent via e-mail):
Karl Schwing (CCC)
Deborah Lee (CCC)
Madeline Cavelleri (CCC)
Amanda Lee (Del Mar)
Kathy Garcia (Del Mar)