

# **Attachment C**

Coastal Act Section 30610(e) Analysis

## **Public Access**

Another primary goal of the Coastal Act and the certified LCP is to maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

The certified LCP requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and that it be proportional to the impact. With rare exceptions, the individual demolition and/or construction of single-unit and two-unit structures do not involve a change in land use, density or intensity that would result in increased demand on public access and recreation opportunities. Furthermore, the Cat Ex requires compliance with the policies and standards of the certified LCP, which ensure that development is designed and sited so as not to block or impede existing public access opportunities.

Modifying the Cat Ex to include the floor area authorized in the certified LCP will not increase the potential for impacts to public access. Therefore, a modified Cat Ex presents no potential for any significant adverse effect, either individually or cumulatively on public access to, or along the coast.

## **Coastal Resources**

A primary goal of the Coastal Act and the certified LCP is to protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources. The discussion below examines how the various categories of coastal resources will be protected under the terms and conditions of a modified Cat Ex.

### **Scenic and Visual Quality**

Lots along the shoreline have the highest potential to impact the scenic and visual quality of the coastal zone. However, the modified Cat Ex will continue to not include the first row of lots adjacent to the beach, bay, or wetlands, including ocean-facing coastal bluffs. New development on these lots will continue to be reviewed through the CDP process.

The Cat Ex will continue to require projects to conform to the all applicable policies and regulations of the certified LCP, including R-1 and R-2 Coastal Zoning District development regulation of residential density, lot coverage, floor area, and building height limits. These development regulations constitute an acknowledged standard development envelope that is the primary means of protecting the scenic and visual qualities of the coastal zone in these areas.

Adherence to this development envelope has been the basis for the Cat Ex and its predecessor (Categorical Exclusion Order E-77-5) for over 40 years. The higher floor area permitted under a modified Cat Ex will be contained within this development envelope.

Therefore, scenic and visual qualities of the coastal zone will continue to be protected. This is evidenced by the fact that prior to LCP certification, the Coastal Commission routinely authorized CDP waivers for projects that would have been excluded under the predecessor Cat Ex if not for floor area ratios greater than 1.5. Furthermore, following LCP certification, the City has approved 31 CDPs for projects on non-shoreline lots (lots not adjacent to the beach, bay, or wetlands) with floor area ratios greater than 1.5 and no more than 2.0. In each case, CDP review found that the project was designed and sited appropriately and found no significant impacts to the public view opportunities or the overall visual quality of the coastal zone.

There are special considerations for lots that are located along the coastal canyons of Buck Gully and Morning Canyon. To qualify for a categorical exclusion, the Cat Ex development on these lots must conform to the development standards of the certified LCP Canyon (C) Overlay; this includes the development stringline setback, which limits the extent of development on the canyon face. Any additional floor area permitted under a modified Cat Ex will have to be contained within the development envelope established by the development stringline setback and other applicable development regulations of the certified LCP. Therefore, the modification to the Cat Ex will not impact the scenic and visual quality of the coastal canyons.

There are also lots with bluffs facing the Upper Newport Bay in Dover Shores. Development on these lots are regulated by the LCP Bluff (B) Overlay, which establishes a development area for principal structures based on the predominant line of existing development. As with the canyon lots, any additional floor area permitted under a modified Cat Ex will have to be a contained development envelope established by the applicable development regulations of the certified LCP. Therefore, the modification to the Cat Ex will not impact the scenic and visual quality of this area.

### Habitats

The geographic area of the modified Cat Ex consists of established residential subdivisions in a fully developed, urbanized area. However, some lots are within or adjacent to Buck Gully and Morning Canyon, which are designated as Environmental Study Areas (ESAs) in the certified LCP. ESA are relatively large, undeveloped areas that contain natural habitat that may be capable of supporting sensitive biological resources. The certified LCP provides that ESAs are presumed to be Environmentally Sensitive Habitat Areas (ESHAs), unless there is compelling site-specific evidence to the contrary.

Policies and regulations of the certified LCP regarding Environmental Study Areas provide protection of ESHA. Per the Cat Ex, proposed residential development in Morning Canyon and Buck Gully would be required to meet these requirements in order to be granted a categorical exclusion from CDP requirements. If the proposed development is not able to meet the LCP requirements, the proposed development could not be granted a categorical exclusion. A CDP would instead be required to ensure that development in areas adjacent to ESHAs is sited and designed to prevent impacts that would significantly degrade those areas, and is compatible with the continuance of those habitat areas.

### Natural Landforms

As stated earlier there are some properties that contain bluffs and canyon properties. However, the natural landforms in these areas are protected by overlay districts in the certified LCP. Any additional floor area permitted under a modified Cat Ex will have to be contained development envelope established by the applicable development regulations of the certified LCP. Therefore, the modification to the Cat Ex will not impact the natural landforms in these areas.

### Marine Environment/Water Quality

In order to qualify for a categorical exclusion from CDP requirements, development is required to meet the requirements of certified LCP Implementation Plan (IP) Chapter 21.35 (Water Quality Control) requiring both construction phase and post-development plans for water quality protection. These protections would remain in effect under a modified Cat Ex.

### Archeological/Paleontological/Historic Resources

Coastal Commission review and approval of the Cat Ex recognized that all lots subject to the exclusion order had been previously developed and that there was a low likelihood of exposing archeological or paleontological resources in conjunction with redevelopment of these lots. Nonetheless, any development requesting a categorical exclusion from CDP requirements on sites known to contain or are suspected of containing archaeological/paleontological resources must meet the regulations established in certified LCP Implementation Plan (IP) Section 21.30.105 (Cultural Resource Protection). These regulations provide for the determination of the nature and extent of on-site archaeological/paleontological cultural resources during the early stages of planning for the development of the site, thereby allowing for a full range of mitigation options. Therefore, if the proposed development involves grading or excavation and it is determined that the site has a high potential for the presence of archaeological/paleontological cultural resources, then a CDP would be required to ensure the protection of those cultural resources.

Only one of the historical sites identified in the certified LCP is located within the geographic of the Cat Ex: the Lovell Beach House, which is listed on the National Register of Historic Places. IP Section 21.30.105 would require a CDP for any new development on this site in order to ensure the protection of the historic resource. Likewise, a CDP would be required if new development is proposed on any previously unidentified historic site if there is a potential for a substantial adverse impact as defined by the California Environmental Quality Act (CEQA) on the historical resource.

The modification to the Cat Ex will not change these cultural resource protections.

## Priority Land Uses

A primary goal of the Coastal Act and the certified LCP is to ensure priority for coastal-dependent, coastal-related and visitor-serving development over other development on the coast. The certified LCP identifies through land use designations and zoning, those areas where coastal-dependent, coastal-related and visitor-serving developments would be appropriate. The Cat Ex is limited to R-1, R-2 and R-BI Coastal Zoning Districts, does not exclude development proposed in non-residential and mixed-use coastal zoning districts. Furthermore, the Cat Ex does not include development along the first row of lots adjacent to the beach, bay and wetlands. The proposed modification to the Cat Ex will not change these terms and conditions. Therefore, a modified Cat Ex will not result in any possible adverse impact to coastal dependent, coastal-related development or visitor-serving facilities.

The intensity and density of the subject land uses are established by the land use classifications of the certified LCP Coastal Land Use Plan. These land uses are further regulated by the coastal zoning and overlay districts of the certified LCP Implementation Plan. Through certification, the Coastal Commission found that the LCP meets the requirements of, and is in conformity with, the policies of the Coastal Act. Therefore, it can be concluded that if development conforms to the policies and regulations of the certified LCP, the approval of the modified Cat Ex will not have a cumulative significant adverse effect impact on coastal resources.