

## **6. PUBLIC ACCESS AND RECREATION**

The Coastal Act requires that maximum public access opportunities be provided, consistent with public safety and the need to protect private property owners' rights and natural resource areas from overuse. Moreover, Section 30211 provides that development shall not interfere with the public's right of access to the sea where acquired through use or legislation. The provision of public access, however, is to take into account whether or not adequate public access exists nearby, or if agriculture would be adversely affected. With regard to Local Coastal Program requirements, the Coastal Act provides that each LCP shall contain a specific public access component. Coastal Act Section 30213 requires the protection and provision of lower-cost visitor-serving and recreational development. It also states that developments providing public recreational opportunities are preferred.

### **A. Maximizing Public Access Through New Development**

#### **1) Summary of Preliminary Periodic Review Findings (Exhibit A, pp. 247-258)**

Public access and recreational resources are key to the County residents' quality of life, as well as to the county tourism industry. Currently, public parks, improved street ends leading to the shoreline, and access easements resulting from Offers to Dedicate Public Access (OTDs) provide the majority of these opportunities within the County.

The LCP requires the protection of existing access and requires that new development provide maximum public access to and along the shoreline, consistent with public safety needs and the rights of private property owners. To carry out this policy, the LCP requires that accessways be established at the time of development where prescriptive rights may exist, and specifies how to acquire, measure, and establish accessways. It requires that support facilities and improvements shall be provided and states that a uniform signing system program should be developed. The LCP also addresses impacts of public access on agriculture and sensitive habitats and states that, in some cases, access may be limited and controlled.

The *Preliminary Report* concluded that the County has made major gains in providing new public access since certification, particularly through acceptance of offers to dedicate public access and new acquisitions. However, there are still areas where access is not available or adequate to meet demand, where existing access may be threatened, and where easements are sited in a way that may not maximize access. The County has accepted numerous outstanding Offers to Dedicate Public Access (OTDs), mostly for lateral access along the shoreline. Since certification, the County has required additional access mitigation — sixty lateral shoreline easements, five vertical shoreline easements and five trail easements — primarily in Cambria, Cayucos, and Los Osos. However, as the *Preliminary Report* noted, these required easements represent only about 37% of the cases where the County has authorized development along the shoreline. In some cases the County actions requiring access OTDs appear to conflict with the intent of the LCP policies by including limitations in the condition language that do not assure

that the access will be provided. In other cases, permit requirements site easements in a way that will not assure maximum public access.

A related concern is assuring adequate distribution of pedestrian access throughout the County. The *Preliminary Report* also found that there are many stretches of coastline in the County lacking adequate vertical access; the two longest areas are each approximately 15 miles long. An important component of assuring this distribution of access is completing the segments of the California Coastal Trail.

Recommendations to address these concerns included:

- Incorporating a Comprehensive Access Component into Each of the Area Plans
- Amending LCP Lateral Access Requirements to Provide for Blufftop Accessways
- Continuing Efforts to Accept and Open Outstanding Access OTDs
- Amending the LCP to Allow Direct Dedications; Evaluating Accessway Performance Standards

## **2) Comments Raised**

### *San Luis Obispo County Response (Exhibit C):*

The County agrees with many of the recommendations, including pursuing comprehensive access planning in Area Plans and continuing to accept and open OTDs. However, the County disagrees with Recommendation 6.2, noting that the provision for blufftop accessways should be made on a case-by-case basis. The County also disagrees with Recommendation 6.4. They note that amending the LCP to include direct access dedications is unnecessary since the LCP does not preclude direct dedications currently. The County suggests that more clarification is needed on the recommendation to evaluate accessway performance standards. Additionally, County staff questions the number of vertical OTDs cited in the report.

### *Public Comments (Exhibit D):*

The Cayucos Advisory Council, along with other members of the public, commented that Recommendation 6.2 requiring blufftop accessways should not be considered for Cayucos because the small lot sizes in this area could not accommodate blufftop accessways. Other comments noted that blufftop accessways may contribute to erosion, may not provide safe access, and could interfere with grazing operations.

Another public comment suggested highlighting the value of the California Coastal Trail in addressing distribution of public access opportunities. Other comments noted concern that public access on the North Coast be addressed in conjunction with any future realignment of Highway One. A question about whether the OTDs that have been accepted are actually open and accessible to the public was also raised.

*Specific Clarifications/Errata:*

The County suggested clarification of the number of vertical access OTDs cited in the report on page 246. To clarify, the report noted 12 verticals; this number includes only those vertical OTDs required as conditions of coastal development permits, either issued by the Coastal Commission or San Luis Obispo County. It is true that a significant number of vertical accessways are provided by improved street ends, most notably in Cayucos; however, these were not included in the count cited above, because the discussion in which the count appeared was focused primarily on OTDs required as mitigation for coastal development permits. The report will clarify this and also note that existing vertical access is provided at other points.

The County also suggested that the discussion on page 253 of the *Preliminary Report* (page 253-254 in *Preliminary Report* as Revised) did not accurately depict the situation and recommends that it be deleted. In this discussion, it was observed that the County's siting of OTDs had, in many cases, not adequately mitigated for impacts to public access. For example, many lateral OTDs had been sited on rocky shores where access is difficult, or on publicly owned land where the public may already have had access. The County states that they are simply following the Coastal Act and the certified LCP in requiring lateral access. The Commission agrees that this discussion should reflect that the County has implemented the access requirements of the LCP and also that many of the laterals in Cambria and other locations where they may not be entirely usable were required by the Coastal Commission prior to LCP certification. However, the discussion will also be modified to note that one benefit of the LCP's periodic review is that it allows for the effectiveness of policies to be evaluated. Should the policy not have the desired effect of maximizing public access, it should be revised to better achieve consistency with the Coastal Act. Additionally, alternative means of mitigation can be suggested.

### **3) Analysis**

#### *Comprehensive Public Access Component*

The Preliminary Report found that in order to address many of the concerns raised regarding the provision of public access, a Comprehensive Public Access Component should be incorporated into each of the Area Plans. As noted in the Preliminary Report, the County has positively responded to the Commission's 1998 North Coast Area Plan findings by drafting a Comprehensive Access Component for the current North Coast Area Plan Update Project Description. The County has also begun work on a similar effort for the Estero Area Plan. In addition, the County has prepared a Request for Proposal, funded by the Resources Agency, for a project whose purpose is to complete a coastal accessway plan for the County's coastal areas, including incorporated coastal cities. This plan will provide extensive information for the Comprehensive Access Components of the LCP's Area Plans.

The Commission finds that in order to maximize public access, the County should continue its efforts to incorporate a Comprehensive Access Component into all of the Area Plans of the LCP. The suggestions here are intended to further guide the development of such access components.

- The Access Component should include the following:
- Strategies for public acquisition of key areas;
- Strategies for identifying funding sources for the opening and ongoing management of easements resulting from OTDs, including signage and upland support;
- Methods to ensure that existing public areas are protected for long-term access and recreation;
- Improved condition compliance procedures to be applied prior to the issuance of building permits;
- A map or set of maps inventorying existing formal and informal accessways, potential accessways, public parklands, and trails; and
- Planning and implementation for the California Coastal Trail (see below for detailed discussion).

The Access Component should identify the following areas, either by mapping or descriptive text:

- Areas lacking sufficient access;
- Upland areas that should be reserved for the support of public access and recreation uses;
- Areas where the requirements for lateral access should be expanded to include provision of blufftop access in locations where blufftop access is superior and/or should be provided through a blufftop trail system;
- Areas where concentration of more intense access and recreation uses is appropriate, such as urban areas; and
- Areas where provision and management of passive recreation is appropriate in order to protect sensitive resources.

In addition, the Access Component should include Recommendations 6.1a, 6.1b, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 and 6.9 as recommended in this report. Recommendation 6.1 remains:

**Recommendation 6.1: Incorporate Comprehensive Access Components into Each Area Plan.**

All of the Area Plans in the LCP should be amended to include a specific access component, consistent with Section 30500 of the Coastal Act. This component should include at a minimum, the following information: (1) Statements of the public access goals, objectives, policies, ordinances, standards, programs, and other management objectives relevant to each planning area; (2) a comprehensive inventory of existing and potential public shoreline access, including a map or maps indicating the specific locations of such access resources.

Other elements of this recommendation also include Recommendations 6.1a and 6.1b discussed below:

Planning for the California Coastal Trail:

The *Preliminary Report* concluded that in order to continue ensuring that the implementation of the LCP was consistent with Coastal Act policies, a Comprehensive Public Access Component should be incorporated into the LCP. The *Preliminary Report* also noted the importance of the California Coastal Trail (CCT) as part of the Access Component. Recommendation 6.1 should be expanded to include direction for planning for the California Coastal Trail.

The CCT gained national significance with its designation as a Millennium Legacy Trail by the White House Millennium Council in 2000. State legislators are also increasingly recognizing its value. Recent legislation introduced (Senate Bill 908 and Assembly Concurrent Resolution 20) would declare the California Coastal Trail an official state trail, and would require the State Coastal Conservancy, in consultation with other state agencies and local governments, to coordinate the planning and implementation of the California Coastal Trail. Additionally, SB 908 would require each agency, board, department, or commission of the state with property interests or regulatory authority in coastal areas, and consistent with their individual mandate, to cooperate with the Conservancy with respect to planning and making lands available for completion of the trail. This pending legislation would, if enacted, provide the overall framework for planning and implementing the CCT.

In addition to government efforts, nonprofit organizations will play a role in the implementation and establishment of the California Coastal Trail. Recently, Coastwalk received a grant from the State Coastal Conservancy for up to \$600,000 for development of a statewide Implementation Study for the CCT, scheduled for completion by the end of 2002. As of this writing Coastwalk, the Coastal Commission, the Department of Parks and Recreation, and the State Coastal Conservancy are in the process of selecting a suitable consultant to initiate and complete the study. Certainly the Implementation Study will provide an important blueprint for the county's CCT planning. Moreover, state funding assistance to local governments will be important to completing and operating the CCT.

Although the level of awareness of the CCT has been raised significantly in the last couple years, the idea of the trail has existed for over 25 years. Despite its recent attention, however, the CCT does not yet have a distinct definition. Generally it is a concept of a trail or system of trails along the entire length of the California coastline. The closest to a definition for the CCT was a reference to a "coastal trails system" in the 1975 California Coastal Plan in which Policy 145 stated, "a hiking, bicycle, and equestrian trails system shall be established along or near the coast, consistent with the protection of agriculture, fragile natural resources, coastal-dependent developments, and land-owners' property rights... ."

In order to bring the concept of the trail to fruition, planning for and implementation of the CCT will require the involvement of many parties, including local, state and national park agencies

and the community. These initial planning efforts will help provide guidance to local governments for implementing key aspects of the CCT. However, while implementation of the CCT will require the joint efforts of many participants, the LCPs can play a critical role in the overall effort. The inclusion of a Comprehensive Access Component in all of the Area Plans of the LCP should help provide a framework for implementing the trail at the local level and for setting out and implementing trail development standards that can be expected to arise from the statewide CCT planning effort.

Recommendation 6.1 in the *Preliminary Report* suggested incorporating a Comprehensive Public Access Component into the LCP. The Commission also recommends that planning for the California Coastal Trail should be incorporated into the Public Access Component, including mechanisms to guide future implementation of the CCT. The Access Component should identify the CCT as a continuous trail the length of the state's coastline. While planning for the implementation of the CCT is a statewide effort, local governments can and should participate in the process through their LCPs, an appropriate vehicle for such a planning endeavor.

In the North Coast Update Project Description<sup>60</sup> the Access Component specifically notes that general goal 15 "envision[s] creation of a coastal trail and regional bike path system enabling residents and visitors to enjoy this segment of the California coastline." Certainly county planning staff also recognizes the importance and value of planning for the California Coastal Trail; by further expanding this section to include the goals, policies, and standards recommended below, the LCP would be more able to provide for the implementation of the CCT.

It was noted in the *Preliminary Report* that as part of the County's Comprehensive Public Access Component, mechanisms for completing the CCT should be identified. As discussed previously, the California Coastal Trail has not been specifically defined; however, the following guidelines have been developed by Coastal Commission staff to assist County staff in providing for the implementation of the CCT. While statewide planning for the CCT will develop specific goals, objectives and standards, in general, the Commission finds that the following objectives should be considered in planning for the CCT:

- Providing a continuous trail as close to the ocean as possible;
- Providing maximum access for a variety of non-motorized uses;
- Maximizing connections to existing and proposed local trail systems;
- Ensuring that all segments of the trail have vertical access connections at appropriate intervals and sufficient parking and trailhead access to maximize use of the trail;
- Maximizing ocean views and scenic coastal vistas in the siting of the trail; and,
- Providing an educational experience where feasible through interpretive facilities.

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<sup>60</sup> San Luis Obispo County Department of Planning and Building, North Coast Area Plan Project Description, January 2000, page 8-1.

A variety of siting and design policies and standards could be considered including, but not be limited to:

- The trail should be sited and designed to be located along the shoreline. It should be designed to allow for shoreline retreat and relocation of the trail if necessary. If it is not feasible to locate the trail on the shoreline due to landforms or legally authorized development that blocks safe passage at all times of the year, the trail may be located at a slightly inland location, or at different seasonal alignments.
- Where gaps are identified in the trail, interim segments should be identified to ensure passage along a continuous coastal trail. These interim segments should be noted as such, with the provision that as opportunities arise, the trail shall be realigned for ideal siting. Interim trail segments should meet as many of the CCT standards as possible.
- In order to minimize impacts to sensitive areas, appropriate uses, location and design of the trail should be determined. In certain areas, pedestrian pass and repass may be all that is appropriate.
- The CCT should be located to incorporate existing oceanfront trails and paths and support facilities of public shoreline parks and beaches to the maximum extent feasible.
- So as to provide a continuously identifiable trail along the Central Coast, the trail should be integrated with the coastal trail in Monterey and Santa Barbara Counties and the coastal cities in San Luis Obispo County.
- The trail should avoid being located on roads with motorized vehicle traffic to the maximum extent feasible. In locations where it is not possible to avoid siting along a roadway, the trail shall be separated from traffic by an appropriate distance if at all feasible. In locations where the trail must cross a roadway, provide trail crossing protection signing.
- In order to maximize access to the trail, the trail should have adequate parking and trailhead access.
- The trail should have adequate locational signage incorporating the CCT logo (yet to be developed), as well as adequate safety signage, including but not limited to, road crossing signs and yield signs on multi-use trail segments.
- New development should avoid impacts to public use of existing public trails comprising the CCT or mitigate impacts through dedication of trail easements, as required by CZLUO 23.04.420.

Acquisition and management policies and standards could be considered including, but not limited to:

- Trail easements should be obtained by encouraging private donation of land, by public purchase, or by the dedication of trail easements, as required by CZLUO 23.04.420.
- The trail plan should identify an appropriate management agency to take responsibility for operation, maintenance and liability for the trail.

Additionally, mapping could be incorporated into the trail planning including a general trail map(s) generally showing a planned location of the CCT. Such a map should include existing trail segments, access connections and planned staging areas, public and private lands, existing easements, deed restrictions and Offers to Dedicate public access.

Recognizing that the CCT is an important tool for distribution of low-cost public access opportunities throughout the coastal zone as required by Sections 30212.5 and 30213 of the Coastal Act, the Commission finds that planning for the California Coastal Trail should be incorporated into the Public Access Component.

**Recommendation 6.1a** (to be incorporated into 6.1): The Access Component should include a Public Trails Plan to ensure future implementation of the California Coastal Trail. Development of the Trails Plan should consider guidance outlined in the Periodic Review for development of:

- Planning objectives;
- Siting and Design policies and standards; and
- Acquisition and management policies and standards.

#### *Future Realignment of Highway One in the North Coast*

The Preliminary Report concluded on page 294 that alternatives to relocate Highway One inland should be planned for as a means to avoid shoreline armoring. Comments noted that in such planning protection of public access should be addressed. The Commission finds that to ensure protection of public access consistent with the Coastal Act, any impacts to public access due to highway realignment should be fully analyzed and mitigated for.

**Recommendation 6.1b:** The Comprehensive Public Access Component should consider realignment alternatives as recommended by Recommendation 7.14 and should include a policy that will ensure that any impacts to access from highway realignment are mitigated such that no public access is lost and new access opportunities are maximized.

#### *Status of Public Access Acquired Through OTDs*

The *Preliminary Report* concluded on page 248 that the County had been successful in accepting OTDs; however, it was noted in public comments that accepting an OTD is just the first step in providing additional access— many times accepted OTDs require improvements before they are accessible to the public. In response to the query about whether accepted Offers to Dedicate translated to open and accessible OTDs, staff investigated most of the OTD sites in the county, both those required as conditions of Commission permits and those required by the County. Of the OTDs that have been *accepted*, 88% of the laterals and 25% of the verticals are open and available to the public. (Note, of course that the majority of these are lateral access on a sandy beach, where there is no action needed to open the accessway.) However, in other locations, such as parts of the Morro Bay shoreline, the lateral accessways are located through brush and

will provide no public access until an actual trail is delineated through the brush. And, as stated in the *Preliminary Report*, some of the laterals traverse over rocky shorelines that are less accessible to the public. In the case of the accepted vertical OTDs, most require path delineation and signage before they will be accessible to the public.

Commission staff documentation of the status of the accessways (in the form of digital photographs and map notes) will be shared with the County for use in development of the Comprehensive Access Components for the North Coast and Estero Planning Areas.

Staff also investigated the 33 OTDs where the *Preliminary Report* noted that recordation may not have occurred. Most appeared to have new structures built which indicate issuance of building permits. The County's Department of General Services was consulted and could not confirm whether the OTDs had in fact been recorded. Further research is being done by staff of that department. While discussion of this issue did not result in a preliminary recommendation, it is recommended that a strategy for improving condition compliance prior to the issuance of building permits be included in the Comprehensive Access Component (as noted in the discussion detailing the elements of the Access Component previously in this section). Moreover, Recommendation 12.12, as discussed in the Implementation Procedures chapter of this report, would improve condition compliance and monitoring to address LCP implementation in a number of areas, including improved tracking of OTDs. No further changes to recommendations are proposed with regard to condition compliance.

#### *Amending Lateral Access Requirements to Provide for Blufftop Accessways*

Recommendation 6.2 of the *Preliminary Report* suggested that the access requirements of the LCP allow for siting of OTDs along the blufftop. As the *Preliminary Report* found, the blufftop may provide superior access. The County's response noted that this access requirement should be made on a case-by-case basis. Also supporting site-specific access requirements, the Cayucos Advisory Council commented that blufftop accessways would not be appropriate in most parts of Cayucos. Most of the Cayucos shoreline, except for lots in the northwestern area of the community, is wide sandy beach, where blufftop accessways are not necessary. Therefore, the Commission finds that blufftop access may not be appropriate in areas such as Cayucos. However, in other parts of the County, where there is no sandy beach available, the current LCP requirement that lateral accessways be delineated from MHTL to the toe of the bluff may preclude the ability of the County to locate access in a way that maximizes the ability of the public to use the shoreline.

Concerns were also raised with the fact that blufftop accessways could interfere with a property owner's private use of property, such as maintaining grazing operations. As noted in the *Preliminary Report*, Agriculture Policy 12 states that improvement and management practices shall include developing access trails with fences or other buffers to protect agricultural lands. Other options to aid in the prevention of conflicts between grazing and other agricultural operations and public access include seasonal use, self-closing gates or gates that allow passage

of hikers while preventing cattle from passing through, and education of the public in appropriate behavior. Several park managers were consulted and noted that conflicts between hikers and cattle-grazing operations were minimal at their sites. Each utilizes one or more of the above measures to minimize conflicts.

It was also noted in a public comment that blufftop accessways may have safety and erosion concerns. This is certainly true of beach accessways where high tide may completely cover the lateral accessway, or the accessway may consist of a rocky shoreline. One method to avoid unusable or unsafe beach accessways is to resite them onto the blufftop. Certainly erosion issues must be evaluated; “rolling” easements, whereby as the bluff edge erodes landward, the access easement also moves landward, are a viable option for many situations.

Where superior access will be provided by blufftop accessways, they should be utilized. Therefore the Commission recommends modifying Recommendation 6.2:

**Recommendation 6.2:** Amend LCP lateral access requirements to provide for blufftop accessways, where superior access will be provided. Where the area between the MHTL and the toe of the bluff is constrained by rocky shoreline, evaluate whether alternative siting of accessways along the blufftop would maximize public access consistent with the Coastal Act.

### *Amending the LCP to Allow Direct Dedications and Evaluating Accessway Performance Standards*

The County states that the LCP does not currently preclude direct dedications. However, the Commission finds that the LCP should be more specific in recognizing the benefits of implementation through direct dedications. In order to minimize the amount of paperwork required for an Offer to Dedicate to be recorded and then some time later accepted, it is preferable in most cases to acquire a direct dedication. Also, it reduces the risk of the OTD expiring or being overlooked as the number of years between recordation and acceptance increases. A key benefit of direct dedications is that the mitigation that the OTD is intended to provide can occur immediately after the impact to public access occurs.

The County requested clarification of the recommendation to evaluate performance standards. The recommendation was intended to convey that at the time of direct dedication of access easements, attention should be paid to accessway performance standards such as siting and design. The joint access program of the Commission and the State Coastal Conservancy has published two reports, subsequently adopted by the Commission, in order to provide guidance to local governments and others about standards of coastal accessway design. They are titled *Coastal Access: Standards and Recommendations*; and *Designing Accessways – Coastal Access Standards Element of the California Recreation Plan*; both are available from either agency. The first report focuses on the physical aspects of coastal access, such as accessways, trails, support facilities, and hostels. It also defines standards for accessway widths, as well as the minimum distance allowed between them. The second report discusses the critical factors in accessway design, such as shoreline erosion and facilities for the disabled, as well as design

guidelines, such as trails, stairways, and boardwalks. At the time of dedication of public access easements, these reports should aid in evaluating accessway performance standards.

Recommendation 6.4 will be modified to clarify the intent of “evaluating accessway performance standards”:

**Preliminary Recommendation 6.4: Amend LCP to ~~Allow~~ Provide for Direct Dedications of Accessways and Evaluate Accessway Performance Standards for these Accessways.**

As discussed in the Commission’s Public Access Action Plan, the County should amend the LCP to allow for direct dedication of public access to the County where appropriate. Performance standards for ~~access OTDs~~ and these dedications and other access OTDs should be evaluated to address such ~~needs~~ issues as coastal erosion and long-term trail maintenance.

#### **4) Conclusion**

The Preliminary Report noted that in order to effectively implement the LCP in conformance with the requirements of Coastal Act Sections 30210, and 30212 to provide public access, the LCP should be updated to include new policies (Exhibit A, findings incorporated herein by reference). After further evaluation and consideration of public comments, the Commission adopts Recommendations 6.1, 6.1a, 6.1b, 6.2, 6.3, and 6.4 as modified as appropriate corrective actions for submission to the County pursuant to Coastal Act Section 30519.5.

### **B. Protecting Existing Public Access**

#### **1) Summary of Preliminary Periodic Review Findings (Exhibit A, pp. 259-263)**

The Preliminary Report noted that street ends leading to the shoreline provide a number of public access opportunities in San Luis Obispo County, some of which may be threatened by quiet title actions on behalf of private property owners. The Preliminary Report also noted that areas of historic public use, where prescriptive rights may exist, also provide informal access opportunities, especially in the North Coast area of the county.

The San Luis Obispo County LCP includes a policy which states that development shall not interfere with the public’s right of access to the sea where acquired through historic use or legislative authorization. The County’s Area Plans specify locations where prescriptive rights may exist; the Estero Area Plan notes that Cuesta Inlet is one of these areas and that new development in this location shall be required to provide public access consistent with existing prescriptive rights. Staff observed in the *Preliminary Report* that there was one permitted development in Cuesta Inlet in which the County’s access findings did not support the protection of prescriptive rights. However, it was also noted that such prescriptive rights studies require significant resources, which both the County and the Coastal Commission frequently lack.

The findings in the *Preliminary Report* stated that while the County's LCP policies strive to protect access and recreational opportunities, the implementation of these policies may not have fully protected some access opportunities. As a result of these findings, staff identified two preliminary recommendations to address the issues of public access opportunities being lost to quiet title actions and protecting potential prescriptive rights areas:

- Developing an LCP Program to Document and Pursue Prescriptive Rights; and
- Developing an LCP Program to Assure Protection of Existing and Potential Public Rights

## **2) Comments Raised and New Information**

### *San Luis Obispo County Response (Exhibit C)*

The County staff disagrees with Recommendation 6.5 regarding the documentation of prescriptive rights, citing a previous decision by the Board of Supervisors. In response to one of the Commission's suggested modifications for the County's draft North Coast Update, the County had previously developed language whose intent was to expand the responsibility for documenting prescriptive rights to other groups in addition to the County. Additionally, County staff inquired as to the status of past prescriptive rights studies completed for areas in the San Luis Obispo County coastal zone.

### *Public Comments (Exhibit D)*

Public comment noted dissatisfaction with the loss of public access due to quiet title actions, and commended the Commission for addressing this issue in the Preliminary Report. Regarding prescriptive rights, some property owners objected to Recommendation 6.5, contending that either prescriptive rights do not exist on their property or constitute trespassing.

### *Specific Clarifications/Errata:*

With regard to County staff's query concerning past prescriptive rights studies within the county, review of Commission's public access files revealed that Sweet Springs Marsh was the subject of an Attorney General's Implied Dedication Report in July and August of 1978. The report documented extensive and continuous use since 1950. The property is now part of Sweet Springs Marsh Natural Preserve, owned by the Audubon Society. For Cuesta Inlet a study was initiated; however it has not yet been completed.

## **3) Analysis**

The County notes that it is pursuing alternative policies to address prescriptive rights in response to the Commission's suggested modifications for the draft North Coast Update. The modification suggested by the Commission and the County's adaptation are as follows:<sup>61</sup>

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<sup>61</sup> While the Commission's proposed modification and the County's adaptation presented here for discussion purposes pertain only to the North Coast Planning Area, Recommendation 6.5 and relevant discussion pertain to all of the Planning Areas in the LCP.

Coastal Commission alternative:

“Add the following program.... :

The County shall systematically document all areas of historic public use in the North Coast Area for incorporation into the NCAP access component. Such documentation shall be used to protect evidence of prescriptive rights in future County planning and development reviews.”

County/committee alternative:

“Add the following program.... :

The County, agencies, and interested groups ~~should~~ ~~shall systematically~~ document all areas of historic public use in the North Coast Area for incorporation into the NCAP access component. Such documentation should ~~shall~~ be used to protect evidence of prescriptive rights in future County planning and development reviews.”

While the County’s version suggests sharing the responsibility for documenting prescriptive rights with other agencies and interested groups, the Commission finds that it is the primary responsibility of the County and the Commission to document and protect such rights, as noted in Recommendation 6.5. Certainly, however, other agencies and interested individuals may participate in the process. Additionally, the Commission finds that the County’s suggested language changes serve to weaken the requirement to document and utilize evidence for the protection of prescriptive rights. Thus, the Commission finds that the original modification language suggested by the Commission for the draft North Coast Update more appropriately meets the intent of Coastal Act Section 30211, which requires that the public’s right of access to the sea, where acquired through historic use or legislative authorization be protected. Accordingly, a program incorporated into the LCP requiring the County to document and protect prescriptive rights is necessary to meet this intent.

Also with regard to prescriptive rights, some property owners commented that these rights constitute trespassing. This, however, is a misunderstanding of authentic prescriptive rights. The Coastal Act (under Section 30211) and the LCP (in Access Policy 1), as well as the California Constitution, provide that when prescriptive rights exist, they should be protected. Thus, the Coastal Commission and the County are required by law to protect these rights.

Regarding potential prescriptive rights on the Hearst property in the North Coast, the Hearst Corporation submitted a letter denying the existence of such rights on their property and objecting to public funding of prescriptive rights studies. In response, it is noted that the intent of prescriptive rights studies is to determine whether or not prescriptive rights actually exist in a certain location; if prescriptive rights in fact do not exist on the Hearst property, the study would bear this out. Additionally, since the ultimate beneficiary of prescriptive rights dedications is the public, it makes sense to finance such studies with public funds.

Thus, in order for the LCP to meet the intent of Coastal Act Section 30211, Recommendation 6.5 remains unchanged except for reflecting the County’s obligation to protect prescriptive rights and noting the other partners that might be involved, as requested by the County:

**Recommendation 6.5: Develop an LCP Program to Document and Pursue Prescriptive Rights as part of the Access Component.**

As part of protecting historic use areas, the County ~~should~~ shall develop a program to document informal use and potential prescriptive rights as part of the Access Component. Information developed under this documentation effort shall be used to protect prescriptive rights in future County planning and development reviews. Such a program could be coordinated with the efforts of the Commission's Public Access Program to document prescriptive rights, and could include the participation of other agencies and interested groups.

#### **4) Conclusion**

The Preliminary Report noted that in order to effectively implement the LCP in conformance with the requirements of Coastal Act Section 30211 to protect existing public access, the LCP should be updated to include new policies (Exhibit A, findings incorporated herein by reference). After further evaluation and consideration of public comments, the Commission adopts Recommendations 6.5 and 6.6 as appropriate corrective actions for submission to the County pursuant to Coastal Act Section 30519.5.

### **C. Providing Low-Cost Visitor-Serving Access and Recreation**

#### **1) Summary of Preliminary Periodic Review Findings (Exhibit A, pp. 264-266)**

The Preliminary Report noted that public demand for lower-cost visitor uses has increased since certification, and more attention is needed on protection and provision of such uses in San Luis Obispo County. The report also observed the continuing unmet demand for campgrounds, both tent and RV, since prior to LCP certification. At the same time, it was also reported that since LCP certification, the County had approved the construction of over 700 overnight accommodation rooms (in hotels, motels, and bed and breakfast establishments), a notable increase in visitor-serving development. Also included in the discussion was the current status of overnight accommodations in the County, including occupancy rates and recent trends in the number of overnight rooms available in the coastal zone. The Preliminary Report concluded that current occupancy rates did not support additional hotel development at this time.

The Preliminary Report suggested that comprehensive recreation planning be incorporated as part of the Comprehensive Public Access Component, in order to evaluate long-term supply and demand and opportunities, particularly for low-cost visitor-serving recreation.

#### **2) Comments Raised**

*San Luis Obispo County Response (Exhibit C):*

The County agrees with Recommendation 6.7 to undertake comprehensive recreation planning through the Area Plan updates.

**Public Comments (Exhibit D):**

Commenters raised concerns regarding Hearst Castle State Park's goals for increased numbers of visitors and the impact that might have on water supply and road capacity. Comments included concerns with overnight accommodation occupancy rates quoted in the report, the numbers of rooms cited for the North Coast, and the tourism industry in general. Additional concerns were raised about a topic not mentioned in the report, the issue of the proliferation of short-term vacation rentals in Cambria and Cayucos.

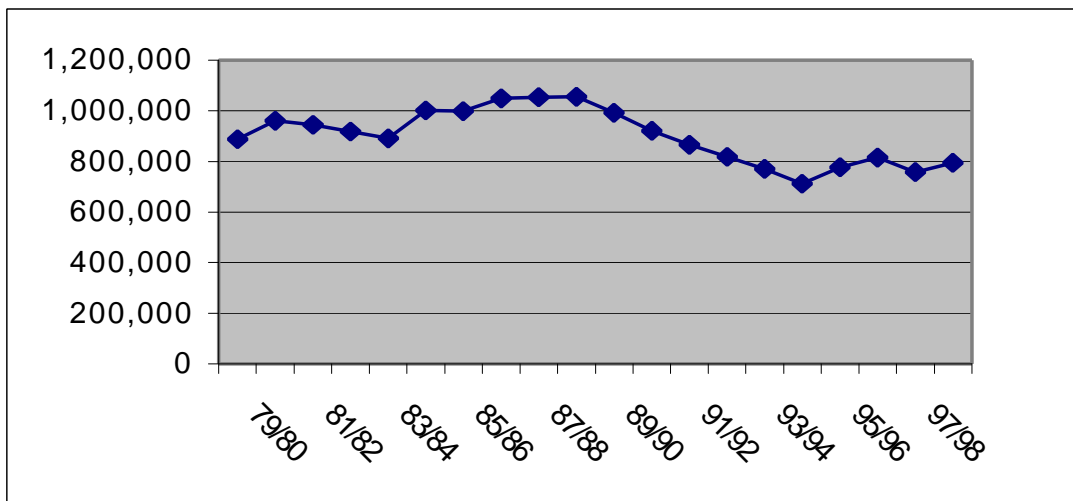
### **3) Analysis**

#### **Increased Visitation at Hearst Castle**

The San Simeon District of the California Department of Parks and Recreation (DPR) is attempting to increase visitation to Hearst Castle and this has raised concerns in the North Coast community regarding water supply and traffic capacity on Highway One. According to staff at DPR, levels of park visitation have dropped since the late 1980's. DPR's goal is to increase visitation during the slower off-season months, in order to return to 1980's levels. Figure 6-1 depicts the trends in ticket sales since 1978-79. Figure 6-2 shows the monthly ticket sales breakdown for the highest and lowest years on record.

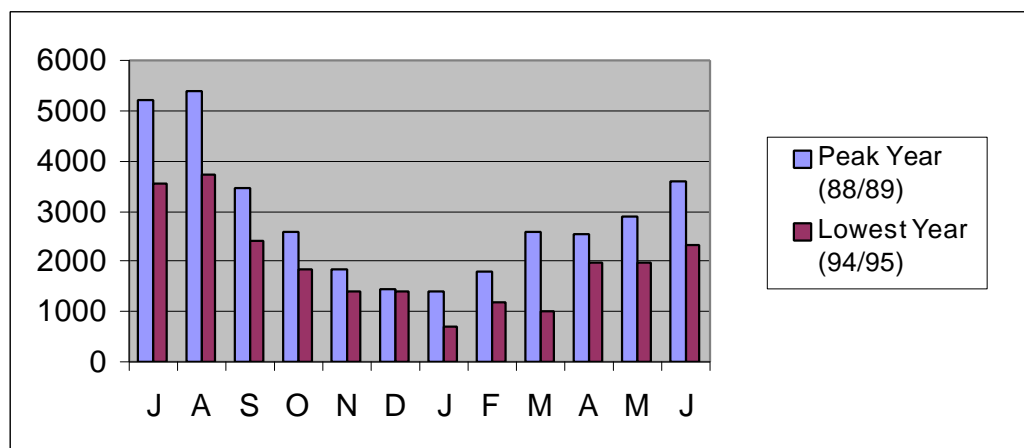
**Figure 6-1: Hearst Castle Ticket Sales, 1979-1999**

Source: Department of Parks and Recreation, San Simeon District, 2001.



**Figure 6-2: Comparison of Highest and Lowest Years for Hearst Castle Visitation**

Source: Department of Parks and Recreation, San Simeon District, 2001.



*Number of Visitors:* According to State Park staff, the maximum number of tour tickets that can be sold in one day is 5300, due to the physical limitations of the visitor center, number of buses on the road between the visitor center and the castle, and other factors. This maximum is already being achieved during the summer months, when water supply is at its lowest and Highway One is at Level of Service (LOS) D. It should be noted that DPR does not track numbers of actual people coming to Hearst Castle; rather they count number of tour tickets sold. Because many visitors to the Castle participate in multiple tours (between 1 and 4), the actual number of people visiting the Castle during a peak summer day may be less than 5300 (however, some visitors merely go to the visitor's center and do not tour the castle at all; thus, they would not be accounted for in ticket sales).

*Water Supply:* The current goal of the Park District is to increase visitation during the slower off-season months. According to Park District staff at Hearst Castle, the District has several permits from the State Water Resources Control Board (SWRCB), either as the primary applicant or as a co-applicant with Hearst Corporation. The permits allow for a total allocation of 60 acre feet/year (afy) from three springs on Pine Mountain for the park district. In recent years, the district's actual usage rate has been only about half of the allotment; therefore they maintain they have more than sufficient capacity to serve the expected increase in visitors. Park District staff also notes that in the years of peak visitation, in the mid- to late-80's, before they had implemented any type of water-saving programs, the District did not exceed their water allocation.

Nonetheless, it should be noted that although the Park District may be permitted 60 afy, 60 afy may not always be available. More research concerning available water supplies along the North Coast is needed, particularly concerning the need to assure that new development is environmentally sustainable, and does not harm environmentally sensitive habitats (see

Development and ESHA chapters). Also, many of the increasing numbers of visitors to the Castle would require overnight accommodations in the North Coast area, most likely in Cambria or San Simeon Acres. As noted in the New Development chapter, Cambria, whose water is provided by Santa Rosa and San Simeon creeks, faces severe constraints in terms of water supply. Water for San Simeon Acres is withdrawn from Pico Creek, which is already at or over capacity.

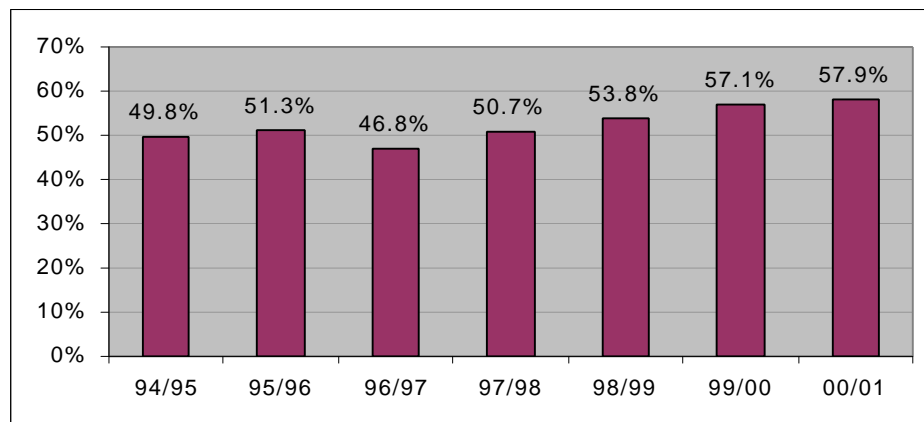
*Traffic:* While summertime LOS on Highway One south of the Hearst Castle entrance is LOS D, the wintertime LOS has not been determined, though staff at Caltrans estimates it typically is at LOS B or C.<sup>62</sup> As discussed in the Development chapter, traffic counts for peak periods at the Castle have shown a steady increase since 1976. Since the average number of off-season ticket sales for Hearst Castle is 1650, it is likely the Castle could accommodate a threefold increase in the number of visitors in the off-season. It is unlikely that this will occur, due to the nature of the tourist industry in general. Typically summer is high tourist season because children are out of school and families are able to travel together; additionally the weather is more conducive to travel. Nonetheless, more research will be needed to ascertain more precise trends in traffic during off-peak times. It may be that future increases in off-peak visitation at Hearst Castle will raise concerns both with highway capacity, and other limited resources such as water supply.

*Comments Raised by the San Luis Obispo Visitors and Conference Bureau Regarding the Feasibility of Tourism Development*

*Occupancy Rates:* It was suggested by the San Luis Obispo Visitors and Conference Bureau that the occupancy rates for the City of Morro Bay were actually higher than what was quoted in the Preliminary Report, which noted an occupancy rate of 54% in 1998. However, further research indicates that occupancy rates cited in the report are accurate. The chart below illustrates occupancy rate data for a 7-year period.

**Figure 6-3: Occupancy Rates, City of Morro Bay**

Source: City of Morro Bay Finance Department, 2001



<sup>62</sup> Ron West, Caltrans, District 5.

The San Luis Obispo County Visitors and Conference Bureau provided occupancy data from a private firm<sup>63</sup>, which shows county-wide occupancy rates to be in the 60-70% range. It is unclear why occupancy rates for the county as a whole would be so much higher than a typical coastal community, which would have more of a tourist draw. Occupancy rates with separate coastal zone breakdowns were unavailable. This lack of clarity in data supports the need for more comprehensive recreational and visitor-serving planning as called for in Recommendation 6.7.

An additional comment raised by the San Luis Obispo County Visitors and Conference Bureau was that the *Preliminary Report* failed to recognize that “this county needs a balance of all types of accommodations to successfully weather any storm... .” The Conference Bureau also states that “occupancy statistics are often used when determining the feasibility of tourism development, but it is by no means the only factor.” They state that other considerations include average daily rates, and whether or not there is a void in the local market of the type of product offered. While the *Preliminary Report* observed that “a hotel market is considered ready for new development when overall occupancy rates reach 65 to 70%,”<sup>64</sup> and concluded that there is an apparent lack of need for additional hotel development, it was also noted that in the years since LCP certification, over 700 additional hotel, motel and bed and breakfast units had been approved for development in the coastal zone (page 265). Nonetheless, it is also important to note that analysis of economic need is not the only relevant component of planning for additional hotel development, but also scrutiny of the suitability of the proposed site, including capacity of existing infrastructure and impacts to community character and sensitive resources.

*Count of Overnight Rooms in the North Coast:* The San Luis Obispo County Visitors and Conference Bureau also voiced concern about the number of rooms specified in the Preliminary Report. The original report cited “a 110% increase in the number of visitor serving accommodations between 1982 and 1997” in the North Coast, a value quoted directly from the County’s proposed North Coast Area Plan update, which noted 676 rooms in 1982 and 1418 in 1997. These numbers include rooms in Cambria and San Simeon, as well as the rural area of the North Coast Planning Area. Currently the Cambria Chamber of Commerce counts 1378 overnight units in just Cambria and San Simeon, as of April 2001. However, the San Luis Obispo County Visitors and Conference Bureau notes that according the UCSB Economic Forecast Project, the count of rooms in the North Coast area was 1710 in 1992. As shown, the data varies, but it does support the fact that between 1982 and 2001 the number of overnight rooms in the North Coast increased significantly.

While it appears that the county is meeting the intent of Section 30213 of the Coastal Act through the implementation of the LCP, it is not apparent whether there is sufficient water or road capacity to support this existing permitted visitor-serving development, much less provide

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<sup>63</sup> Smith Travel Research, 1994-2000.

<sup>64</sup> *Evaluation of Development Potential for Visitor-Serving Uses, Caratan/Colmer Site, Morro Bay*, prepared for City of Morro Bay by Bay Area Economics, December 1999.

for future developments. In particular, as discussed in the New Development chapter, Cambria has severe water limitations and while a significant portion of existing water use goes toward visitor-serving development, it is not clear that enough water is reserved for approvals of other new development. Thus, comprehensive recreation and visitor-serving planning is necessary to ensure that existing needs are met prior to planning for new recreation and visitor-serving development (see also, discussion of planning constraints for the Hearst Ranch in the Development chapter).

*Short-term Vacation Rentals:* Comments were also voiced regarding use of single-family homes as short-term vacation rentals in Cambria and Cayucos. Residents in these communities are concerned about the number of single family residences in residentially-zoned areas that are being rented out as vacation rentals, potentially leading to the deterioration of the neighborhood. Concerns involve noise, trash and community character. County staff has been aware of the issue for some time and in the past year has developed an ordinance for vacation rentals within the Coastal Zone.<sup>65</sup> It will come before the Coastal Commission for final review as an LCP amendment in the near future. Thus the Coastal Commission will soon review this issue as a separate LCP amendment proposal.

Clearly the above-mentioned discrepancies in occupancy data and overnight room counts, as well as concerns with the types of accommodations being provided, point to the need for comprehensive visitor-serving and recreation planning, which should provide consistent and up-to-date supply and demand information. As this is the major thrust of Recommendation 6.7, it remains unchanged.

**Recommendation 6.7: Comprehensive Public Recreation Planning**

Through a comprehensive Public Access planning process, long-term supply and demand and opportunities for low-cost visitor-serving recreation should be analyzed. The LCP should be evaluated for potential amendments to provide for such uses. In addition, the LCP should be further evaluated to ensure that an adequate level of limited public services is being reserved for priority visitor-serving uses, including that which may be needed in the future.

#### **4) Conclusion**

The *Preliminary Report* noted that in order to effectively implement the LCP in conformance with the requirements of Coastal Act Sections 30210, 30213, 30250, 30252, and 30254 to protect low-cost visitor-serving and recreational uses within the Coastal Zone, the LCP should be updated to provide for comprehensive recreation planning (Exhibit A, findings incorporated herein by reference). After further evaluation and consideration of public comments, the Commission adopts Recommendation 6.7 as an appropriate corrective action for submission to the County pursuant to Coastal Act Section 30519.5.

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<sup>65</sup> Available at <http://www.slonet.org/vv/ipcoplmg/newvacnotice.pdf>

## **D. Balancing Access and Recreation with Protection of Sensitive Habitats**

### **1) Summary of Preliminary Periodic Report Findings (Exhibit A, pp. 266-269)**

As noted in the *Preliminary Report*, San Luis Obispo County encompasses a great deal of environmentally sensitive area. New conditions and changed circumstances with regard to sensitive habitats were also noted, including the establishment of the elephant seal colony at Piedras Blancas and the listing of the snowy plover as a threatened species. The *Preliminary Report* concluded that to date, the County had generally been successful in balancing the provision of public access with the protection of sensitive resources in their regulatory program. On the other hand, it was also found that continuing development pressures within the County and the emergence of new information and changed circumstances (particularly the increasing number of threatened and endangered species) suggested a need to strengthen LCP policies regarding the balance between sensitive resource protection and the provision of public access. The *Preliminary Report* identified the following recommendations:

- Review New Access Developments for Appropriate Management Measures; and
- Incorporate Public Access Management and Enhancement as a Component of All Habitat Conservation Plans and Natural Community Conservation Plans.

### **2) Comments Raised**

*San Luis Obispo County Response (Exhibit C):*

The County concurs with Recommendation 6.8, noting that new access developments require discretionary review and that appropriate habitat management measures are already assessed through CEQA review. The County disagrees with Recommendation 6.9. The County contends that since Habitat Conservation Plans are not within County control, they cannot implement this recommendation.

*Public Comments (Exhibit D):*

Additional comments from the public expressed ongoing concern with the status of protecting snowy plovers at Oceano Dunes State Vehicular Recreation Area.

*Specific Clarifications/Errata*

The report will be modified to include Natural Community Conservation Plans (NCCPs) in the discussion of public access protection in the development of Habitat Conservation Plans (HCPs).

### **3) Analysis**

#### *Reviewing new access developments for appropriate habitat management measures*

The County has stated that they do not object to the recommendation regarding reviewing new access developments for appropriate habitat management measures, because they already do so. The Commission concurs, noting the findings in the Preliminary Report which observed that “the County has been successful in balancing the provision of public access with the protection of

sensitive resources in their regulatory program.” (page 267). It was also observed that the LCP contains policies and ordinances which do provide for the protection of sensitive habitats with regard to the provision of public access. These include Access Policy 2, ESHA Policies 29 and 38, and Ordinance 23.04.420 c1 which states that “access is required except where inconsistent with the protection of fragile coastal resources.” Thus, this recommendation provides no additional protection to sensitive resources with regard to the provision of public access, and is therefore deleted.

**Preliminary Recommendation 6-8: ~~Review New Access Developments for Appropriate Habitat Management Measures~~**

*Public Access Considerations in Federal and State Conservation Plan Reviews*

In their assertion that they have no jurisdiction over federal Habitat Conservation Plans and State Natural Community Conservation Plans, the County is correct, *only if it is not designated with a primary responsibility for implementing the plan*. However, the County could participate or take the lead, in developing and implementing any such conservation plans (for example, in the proposed Los Osos HCP). Regardless, the County has a responsibility to pursue conformance with all LCP policies, including those concerning the provision of appropriate public access, in conservation planning processes being considered in the San Luis Obispo coastal zone. In order to ensure that conservation plans in the County do indeed comply with the LCP’s public access policies, it is important that this recommendation, as modified, remain:

**Recommendation 6-9: Habitat Conservation Plan Access Review**

~~Include~~ Ensure that public access management and enhancement consistent with LCP policies is considered as a component of all habitat management planning and natural community conservation plans within the coastal zone.

*Oceano Dunes State Vehicular Recreation Area*

As stated in the *Preliminary Report*, issues concerning visitor use and the protection of sensitive resources at the ODSVRA were addressed in a separate staff recommendation regarding an amendment (4-82-30-A5) to the Recreation Area’s original 1982 permit. With the Commission’s approval, the ODSVRA is now instituting interim vehicle use limits at the ODSVRA and establishing an interagency Technical Review Team to act as an advisory body to the Superintendent of the ODSVRA. A scientific subcommittee is also established to advise the Technical Review Team on such issues as habitat protection and access management. The Commission will be reviewing the permit annually in order to evaluate the overall effectiveness of the Technical Review Team in managing vehicle impacts at the ODSVRA. Since public comments concerning the ODSVRA were not directed at a specific recommendation put forth in the *Preliminary Report*, none of the recommendations are affected.

**4) Conclusion**

The Preliminary Report noted that in order to effectively implement the LCP in conformance with the requirements of Coastal Act Sections 30210, 30212, 30214, and 30230 to balance the

*Adopted Report  
San Luis Obispo County LCP Periodic Review  
July 12, 2001  
As revised August 24, 2001 to incorporate changes from  
the addendum and hearing of July 12, 2001*

conflicts between providing public access and protecting sensitive habitat, the LCP should be updated to include a new policy (Exhibit A, findings incorporated herein by reference). After further evaluation and consideration of public comments, the Commission adopts Recommendation 6.9 as modified as an appropriate corrective action for submission to the County pursuant to Coastal Act Section 30519.5.

## **7. COASTAL HAZARDS**

The Coastal Act Section 30253 requires in part that new development minimize risks and neither create nor contribute to erosion or require construction of protective devices. Section 30235 allows construction of shoreline protective devices when existing development is threatened by erosion and when designed to mitigate impacts.

### **A. Implementing Setback Standards**

#### **1) Summary of *Preliminary Periodic Review Findings* (Exhibit A, pp. 271-284)**

The *Preliminary Report* found that while the County was generally requiring setbacks for new development, implementation of its LCP setback policies was not avoiding or minimizing the construction of shoreline protective devices. Ancillary structures were authorized in setback areas that can increase the exposure of structures to hazards and result in additional demand for shoreline armoring. Variances were granted which resulted in development within setback areas and development of shoreline protective devices. The *Preliminary Report* (page 279) determined that the setback standard itself, the method for determining the setback, and the restrictions on what is allowed in the setback all need to be strengthened to assure that new development will not result in future armoring of the shoreline. The *Preliminary Report* recommended measures to increase the setback based on an increase of the expected life of the structure from 75 years to 100 years, and recommended incorporation of a safety factor in determining the adequacy of the setback. It recommended further limitations on exemptions to the setbacks to minimize encroachment of primary and permanent structures in the setback.

In implementing the LCP through its issuance of permits, the County has authorized shoreline protective devices to protect new development. The *Preliminary Report* recommended that new development authorizations on vacant parcels require a deed restriction that ensures waiver of any potential rights for shoreline protective devices in the future.

#### **2) Comments Raised**

##### *SLO County Response* (Exhibit C)

For many of the proposed suggested revisions to setback standards in the LCP, the County suggested modifications or identified a need for more information. The County agreed to further define what constitutes existing development (7.1). While agreeing to eliminate the stringline method of determining setbacks, the County identified a need for more information on determining an expanded setback and proposed safety factor (PR 7.2 and 7.3). The County disagreed with PR 7.4 that would specify that structures within setbacks be designed to be relocated or removed if threatened. The County suggests that the same objective can be achieved by clarifying what is allowed within the setback and how the setback is measured. The County