



February 14, 2014

Hilary Papendick & Lesley Ewing
California Coastal Commission
c/o Sea-level Rise Work Group
45 Fremont, Suite 2000
San Francisco, CA 94105
Email: SLRGuidanceDocument@coastal.ca.gov

Re: Draft Sea-level Rise Policy Document

Dear Ms. Papendick and Ms. Ewing:

This letter is submitting on behalf of the Environmental Defense Center (EDC). The EDC is a non-profit public interest law firm which protects and enhances the environment through education, advocacy and legal action. We reviewed the Draft Sea-level Rise Policy Guidance Document, and in general support the draft document's recommendations which are important to ensure local agencies and applicants protect coastal resources in light of sea-level rise. EDC offers the following comments focused on limiting project life and requiring removal of development before it becomes threatened by sea-level rise or coastal erosion.

A. Consider a shorter development life for constrained lots

The Document suggests limiting the lives of projects lives in order to facilitate removal of the projects prior to impacts from sea-level rise. (Page 51)

Comment – We generally support this recommendation in concept, if coupled with a requirement to remove development at the end of the project lifespan. While we like this recommendation, without a requirement to remove the development at the end of its life, this approach may result in future landowners requesting coastal armoring to protect poorly sited development approved with shortened lifespans, either before or after the project life ends. *This approach will only work if the Coastal Zoning Ordinance and conditions on the Coastal Development Permit (CDP) prohibit armoring and require removal of the development by a specific date*; otherwise the development will not be removed, and will live beyond the shortened lifespan, creating a perceived need for construction of coastal armoring. Instead, Local Coastal Plans (LCPs) should encourage public purchase and conservation easements to avoid the impacts of sea-level rise on coastal resources.

B. Limit or prohibit the use of bluff retention or shoreline protection for new development; Ensure current and future risks are assumed by the property owner

The Document recommends LCP policies and conditioning new development such that the development is protected from SLR without coastal armoring or bluff retention. (Page 51)

Comment – In order to protect coastal resources such as sand supply, beaches, bluffs and near-shore habitats, the policies and permit conditions should prohibit use of seawalls, armoring and bluff retention for the life of the project, as accomplished by the City of Solano Beach LCP Policy 4.19.¹ In addition, absent policies and conditions requiring the owner to remove the development at the end of the project life, the development may be left in place, and be subject to erosion and collapse into the ocean. Therefore, this recommendation should be coupled with a suggested requirement that owners remove their developments at the end of the project life, similar to Solano Beach LCP Policy 4.21.² While the City of Solano Beach LCP only requires removal of threatened accessory structures, the larger threat to coastal resources comes from principal structures which become threatened with coastal erosion. Therefore the Guidance Document should direct cities and counties to adopt policies which require removal of all coastal development at the end of the project life when the development becomes threatened by sea-level rise. In addition to ensuring protection of coastal resources from development in the face of sea-level rise, this approach may incentivize conservation of constrained coastal parcels.

C. Increase setback requirements

The Document recommends that new development be “required to be set back a sufficient distance landward to minimize risks, to the maximum extent feasible, over the life of the structure.” (Page 53)

Comment – This statement would more effectively avert the risks and the impacts of sea-level rise on coastal resources if it required the setback distance to be sufficient for the *maximum* life of the structure or development. For instance, a new structure with an estimated life of 80 to 100 years should be required to be setback an adequate distance to avoid erosion-related impacts for 100 years. Removal of the structure should be required at the end of the life or when the structure becomes threatened with erosion, whichever first occurs.

¹ **Policy 4.19:** New shoreline or bluff protective devices that alter natural landforms along the bluffs or shoreline processes shall not be permitted to protect new development. A condition of the permit for all new development and blufftop redevelopment on bluff property shall require the property owner record a deed restriction against the property that expressly waives any future right that may exist pursuant to Section 30235 of the Coastal Act to new or additional bluff retention devices.

² **Policy 4.21:** New accessory structures on bluff properties shall be constructed in a manner that allows easy relocation landward or removal should they become threatened by coastal erosion or bluff failure. The City shall also condition CDPs authorizing accessory structures with a requirement that the permittee (and all successors in interest) shall apply for a CDP to remove the accessory structure(s) if it is determined by a licensed Geotechnical Engineer that the accessory structure is in danger from erosion landslide or other form of bluff collapse.

The Document recommends that “the permit for new development should require it to be removed or relocated if it becomes threatened in the future.” (Page 53)

Comment - We support this recommendation.

D. Consider a shorter development life for constrained lots; Ensure current and future risks are assumed by property owner

The document recommends that on smaller lots with less potential for setting development back from bluffs, the project life be shortened so that some development can be safely allowed in the interim without relying on coastal armoring. It also recommends ensuring that the consequences or costs of new development in hazardous areas not be borne by the public and/or coastal resources. (Page 53)

Comment – As noted above, this approach *will only be effective at protecting coastal resources if coupled with the requirement that owners remove/relocate their developments at the end of the permitted life, or when such developments become threatened.* Otherwise, the owners may likely seek future decision-makers’ support to overturn the “no armoring conditions,” may armor with or without permits to protect their investment, or may allow the development to wash into the public’s ocean.

E. Add conditions to shoreline protective devices that limit authorization of the device to the life of the existing development being protected

The document notes that LCPs can establish policies stating that permits for shoreline protective devices should be limited to the life of the project.

Comment – In addition to limiting the life of the shoreline armoring device to match the project life, the Document should recommend that LCPs and CDPs require removal of shoreline armoring after the term of the permit / life of the project. At the end of the time period, there should be no reconsideration of whether the armoring structure should be retained because by that time the life of the project has ended and the development should have been removed to avoid the future perceived need for armoring. Removal is necessary to avoid the impacts to coastal resources that accompany armoring.

Thank you for your attention to these comments.

Sincerely,



Brian Trautwein,
Environmental Analyst / Watershed Program Coordinator