

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
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December 13, 2012

Stacey LoMedico  
City of San Diego, Park and Recreation Department  
202 C Street, MS 35  
San Diego, CA 92101

Re: Children's Pool Beach Local Coastal Program Amendment

Dear Ms. LoMedico:

First, we would like to again acknowledge your continuing efforts to coordinate review of the difficult management issues at the Children's Pool. We appreciate the challenges that your department is responding to and the following recommendations are offered to provide direction and support for ensuring marine mammal protection while preserving public access in an appropriate manner.

At our November 1, 2012 meeting, we discussed the City of San Diego's proposal to prohibit public access to the Children's Pool during pupping season and the methods by which this may be accomplished. As authorized in Resolution No. 305837, the City Council has directed City staff to amend the Municipal Code, as well as the La Jolla Community Plan and Local Coastal Program Land Use Plan, to prohibit the public from entering the sandy beach at Children's Pool during harbor seal pupping season, from December 15<sup>th</sup> through May 15<sup>th</sup>. The purpose of this seasonal closure would be to augment the City's joint use management policy by providing the harbor seal rookery an added level of protection from human disturbance and harassment during their most vulnerable period – the pupping season – when seals haul out and remain on the beach for longer periods of time in order to prepare for birth, go through the birthing process, and nurse the seal pups once they are born.

As discussed, several other jurisdictions within California have provided for the protection of marine mammal haul-out areas and/or rookeries by designating them as Environmentally Sensitive Habitat Areas (ESHA) within their Local Coastal Programs (LCP) and permitting seasonal access restrictions during the pupping season. Using these jurisdictions as models, it is the City's intention to amend the LCP to establish a seasonal ESHA and buffer for the Children's Pool Beach marine mammal haul out area in accordance with Section 30107.5 of the Coastal Act. However, these other jurisdictions do not share the same site-specific conditions present at the Children's Pool – mainly, its close proximity to an urban setting and the City's joint use management strategy that has allowed people and seals to share the beach. Unlike many other marine mammal haul-out areas and rookeries, the Children's Pool is easily accessible to the public and has a dedicated user group (e.g., divers, swimmers, and beachgoers).

We would like to reiterate that we advise the City not to invoke an ESHA or seasonal ESHA designation at Children's Pool as part of the LCP amendment. Instead of

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designating the beach as a seasonal ESHA, we recommend that seasonal restrictions be considered based on the broader protection of sensitive resources and/or marine mammals pursuant to Section 30230 of the Coastal Act. Again, we will continue to work with your office on suggested policy language for an LCP amendment as it progresses through your local amendment process.

After further internal discussion, Commission staff would be supportive of the City's proposal to impose seasonal restrictions, including full beach closure to the public, at Children's Pool in order to protect the seal rookery during pupping season. The City, the National Marine Fisheries Service, and the Department of Fish and Game all have limited resources to protect the seal rookery and enforce the Marine Mammal Protection Act at the Children's Pool; therefore, seasonal restrictions on public access appears warranted to adequately protect harbor seals during pupping season when they are most vulnerable.

The City also requested our review of the "Harris Plan," an alternative that would involve: 1) placement of "moveable boulders" at Children's Pool in an alignment that would partition off approximately 75% of the sandy beach during pupping season and 25% of the sandy beach during non-pupping season for use by the seals, 2) adjustment of boulders twice a year to accommodate the 75% and 25% configurations, 3) removal of top layer of polluted sand twice a year to coincide with boulder adjustment, and 4) disposal of polluted sand into the ocean, seaward of the seawall. We are not in support of this alternative, as the placement of boulders on the beach would create a physical and visual barrier that would adversely impact public access. Additionally, it is unclear how this would mitigate the existing issues as the seals would still be free to occupy all beach areas and any effort to corral them in certain areas would be inconsistent with marine mammal protection measures. Further, this alternative would face similar enforcement issues associated with the currently permitted guideline rope.

Finally, the City requested our input as to whether the removal of natural wrack, or marine vegetation (i.e., dried seaweed and kelp), is permitted at La Jolla beaches as part of organized clean-ups. The removal of wrack has significant impacts on the natural ecology of sandy beaches, including on invertebrates and foraging seabirds. Given the importance of wrack in beach habitats, it should not be removed from beaches during clean-up activities by private citizens, with the exception that debris that is entangled in the wrack, and which poses a clear threat to public safety, may be removed by hand as needed. The removal of wrack is only permitted by City personnel as part of historical beach maintenance activities.

If you have any questions or concerns, please do not hesitate to contact me. Thank you for your attention to these matters and I look forward to working closely with you and your staff.

Sincerely,



Kanani Brown  
Coastal Program Analyst

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Cc: Sherilyn Sarb, Deputy Director, California Coastal Commission  
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