

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.:	5-18-1082
Applicant:	City of Los Angeles, Department of Recreation and Parks
Location:	1800 Ocean Front Walk, Venice Pier, Los Angeles, Los Angeles County (APN: 103-5A145-82, 422-5012-900)
Project Description:	Rehabilitation of the Venice Pier including replacement of the 157 ft. long pier approach structure, structural repairs to 39 concrete piles and 155 cap beams, deck surface and soffit repairs, and removal and replacement of existing utilities.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The primary issues raised by this project relate to the protection of public access and water quality. The City has proposed to fully or partially close the public pier during certain phases of the pier rehabilitation in order to maintain emergency access to any portions of the pier that remain open during construction and to allow for a safe work area and a safe access route between the work area and the material storage area at the terminus of the pier. The proposed partial and full closure of the pier would result in a major public access impact to this important coastal recreation destination. In addition, the rehabilitation of the pier may result in potential adverse effects to surrounding water quality due to disturbance from construction equipment, materials, and/or debris and temporary impacts to native marine communities that have formed around the existing piles.

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To address these potential adverse impacts, Special Condition 2 requires that the City undertake construction consistent with the project's Public Access Plan. In addition, Special Condition 1 requires that, unless the Executive Director determines that no amendment is legally required, the City must return to the Commission for an amendment to this permit if work is not completed prior to Memorial Day weekend in 2020 (May 24, 2020) so that development activity will not impede coastal access during peak season. Furthermore, Special Condition 3 requires construction activities to adhere to best management practices (BMPs) to protect water quality and the marine environment. Special Condition 4 also requires that native marine animals found in the proposed disturbance area be relocated during site preparation and prior to any demolition. Special Condition 5 requires the applicant to comply with requirements imposed by other agencies. Special Condition 6 states that any future improvements would require a permit amendment or a new coastal development permit to allow for careful review of development at this site. In addition, Special Condition 7 is imposed, which requires the applicant to assume the risks of injury and damage from coastal hazards. Special Condition 8 requires the applicant to conduct eelgrass surveys of the project area prior to the start of construction consistent with the California Eelgrass Mitigation Policy.

Therefore, as conditioned, the project will be consistent with the public access and visual resource protection policies of Chapter 3 of the Coastal Act and the certified Venice LUP, and no impacts to coastal resources are anticipated.

Commission staff recommends approval of coastal development permit application no. 5-18-1082 as conditioned.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

[Exhibit No. 1 – Project Location](#)

[Exhibit No. 2 – Site Plan](#)

[Exhibit No. 3 – Pile Repair Plan](#)

[Exhibit No. 4 – Cap Beam Repair Plan](#)

[Exhibit No. 5 – Public Access Plan](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-18-1082 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Scope and Term of Permit Approval.** No development authorized by this coastal development permit shall be carried out after Memorial Day weekend 2020 (May 24, 2020). If development authorized by this coastal development permit is not completed prior to Memorial Day weekend 2020 (May 24, 2020), the applicant shall apply for an amendment to this coastal development permit, unless the Executive Director determines that no additional amendment is legally required.
2. **Public Access Plan.** By acceptance of this permit, the applicant agrees to minimize adverse impacts to public use of the pier, adjacent beaches, and public parking lots resulting from construction activities. Public access to the pier shall be provided consistent with the Public Access Plan submitted to the Commission on March 22, 2019 ([Exhibit 5](#)).

The permittee shall undertake the development in accordance with the approved Public Access Plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the plan shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Water Quality - Construction Responsibilities and Debris Removal

- a. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
- b. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
- c. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- d. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
- e. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;
- f. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;

- g. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
 - h. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
 - i. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - j. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
 - k. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
 - l. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
 - m. The discharge of any hazardous materials into any receiving waters shall be prohibited;
 - n. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
 - o. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
 - p. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- 4. Protection of Marine Resources.** In order to minimize adverse environmental impacts and the unpermitted deposition, spill or discharge of any liquid or solid into the ocean, the permittee shall implement the following demolition, staging, and construction best management practices:
- a. No pile driving equipment (e.g., impact hammers, vibratory hammers or any other pile driving hammers) shall be utilized.

- b. Where permitted, disturbance to the ocean bottom and intertidal areas shall be minimized.
- c. Prior to demolition, and during site preparation mollusks (clams, snails, etc.), echinoderms (sea stars, urchins, sea cucumbers), arthropods (crabs, etc.) and other native marine animals found at the project site shall be relocated to another part of the nearshore area when possible.
- d. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- e. Netting, sandbags, tarps and/or other forms of barriers shall be installed between the water and work areas and equipment storage areas to prevent any unpermitted material from entering the sea.
- f. Staging and storage of construction machinery and storage of debris shall not take place on any beach.
- g. The storage or stockpiling of soil, silt, other organic or earthen materials, or any materials and chemicals related to the construction shall not occur where such materials/chemicals could pass into the ocean. Stockpiled fill shall be stabilized with geofabric covers or other appropriate cover.
- h. Spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible. Disposal within the coastal zone shall require a coastal development permit.
- i. Construction vehicles operating at the project site shall be inspected daily to ensure there are no leaking fluids. If there are leaking fluids, the construction vehicles shall be serviced immediately. Equipment and machinery shall be serviced, maintained and washed only in confined areas specifically designed to control runoff and prevent discharges into the ocean. Thinners, oils or solvents shall not be discharged into sanitary or storm sewer systems.
- j. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than fifty feet away from all storm drains, open ditches and surface waters.
- k. In the event that lead-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.
- l. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to navigation.

The permittee shall include the requirements of this condition on all plans and contracts issued for the project. The permittee shall implement and carry out the project staging and construction plan during all demolition, staging, and construction activities.

- 5. Conformance with the Requirements of Resource Agencies.** The City agrees, through the acceptance of this permit, to comply with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment.
- 6. Future Uses and Improvements.** This approval is limited to the uses and development specifically described in the project description, exhibits, and related findings contained in Coastal Development Permit 5-18-1082. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by Coastal Development Permit 5-18-1082. Accordingly, any future improvements to the structure authorized by this permit (including a change of use or intensification of use) shall require an amendment to Coastal Development Permit 5-18-1082 from the Commission or shall require an additional coastal development permit from the Commission.
- 7. Assumption of Risk, Waiver of Liability and Indemnity.** BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant acknowledges and agrees: (i) that the site may be subject to hazards, including but not limited to storms, flooding, landslide, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- 8. Eelgrass Survey(s).**

 - a) Pre-Construction Eelgrass Survey. Pre-Construction Eelgrass Survey. A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed within 60 days before the start of construction. The survey shall be prepared in full compliance with the "California Eelgrass Mitigation Policy" dated October 2014 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the

development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

- b) Post-Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within 30 days of completion of construction if completion of construction occurs within the active growth period, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth period, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy” dated October 2014 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted by project construction, the applicant shall replace the impacted eelgrass at a minimum 1.38:1 ratio on-site, or at another appropriate location subject to the approval of the Executive Director, in accordance with the California Eelgrass Mitigation Policy. Any exceptions to the required 1.38:1 mitigation ratio found within CEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is legally required.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION AND LOCATION

The applicant, the City of Los Angeles Department of Recreation and Parks, is requesting approval for rehabilitation of the Venice Beach public pier, located at the seaward terminus of Washington Boulevard on Venice Beach ([Exhibit 1](#)). The proposed work is needed to address structural and seismic stability issues. The proposed project includes replacement of the 157 ft. long pier approach structure, structural repairs to 39 concrete piles and 155 cap beams, deck surface and soffit repairs, and removal and replacement of existing utilities. No new lighting on the pier is proposed with this application ([Exhibits 2 - 4](#)). A 2017 pier safety report commission by the City found that the portions of the pier piles located underwater were in satisfactory condition (Ref: Pier Assessment Report). Therefore, all work will be limited to the portions of the pier located above the water level.

The project application describes the proposed repairs as follows:

“The damaged concrete piles will be repaired by encasing them in fiberglass jackets filled with epoxy or in simple covers. Before encasement, unsound concrete and non-concrete materials will be removed, the piles will be cleaned and, if necessary, reinforced with new steel rods.”

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Cap beams repair would involve the removal and replacement of damaged concrete, the replacement of damaged and corroded steel rods, as well as filling existing cracks with epoxy.

Deck and soffit repairs would involve removal and replacement of damaged concrete.

Construction of a temporary metal and wood scaffolding beneath the pier will prevent debris from falling into the water during the repair.

...repair of the structure damaged by the recent fire includes removal and replacement in kind of the approach structure. Stringers and decking damaged by the fire will be removed and replaced, as well as the concrete slab. The guardrail installed after the fire will be temporarily removed and reinstalled.”

The Pier is 1,310 ft. long and 16 ft. wide, supported by 157 vertical and battered 24 in. diameter hollow concrete piles, ranging in length of approximately 35-80 ft. Twelve platforms are located on the pier (six on each side). Platform 1 is used as a Life Guard Station, manned by personnel from the Los Angeles County Department of Beaches and Harbors. Platforms 2 through 12 are individual fishing stations that jut out on alternating sides of the pier. At the end of the pier is a 120 ft. diameter round platform. The outer end of the pier is 27 ft. above mean lower low water (MLLW) in ocean depth up to 23 ft. MLLW.

The pier is currently closed to the public daily from 2 AM to 5 AM. The City’s practice to close the pier between 2 AM and 5 AM daily was instituted after the adoption of the Coastal Act, has not been approved by the Commission, and therefore constitutes unpermitted development, as described in more detail below. The daily pier closure and curfew enacted on this and other Los Angeles City beaches represent a change in the intensity of use of the public areas and change of access to the coast and therefore require that the City issue its own coastal development permit (CDP) and that the City apply for a CDP from the Commission. Commission staff notified the City that a beach curfew is development that requires a coastal development permit and expressed our concerns with such curfews, including that such curfews limit recreational activities that are much needed in this densely populated area. Staff has worked extensively with the City to bring its beach operation policies into compliance with the Coastal Act, namely through ensuring that maximum public access to the coast is available. Parallel to these efforts, private individuals initiated litigation to address the City’s beach curfew. In 2018, as an outcome of the litigation, which requires that the curfew be evaluated through the coastal development permit process, the City approved a CDP for the beach curfew which was appealed to the Commission (Ref: Appeal No. A-5-CLA-18-0011). However, the Commission has not yet acted on the appeal, as the City has not yet submitted a dual permit application for the Commission CDP. It is staff’s understanding that the City intends to submit the dual permit application and has requested that the Commission act on the pending appeal concurrently with the dual permit application at a future date.

Venice Pier History

The pier was constructed in 1963 under an agreement between the City of Los Angeles and the California Department of Fish and Game. In 1986, the pier was closed to the public because of deterioration and unsafe conditions. In 1996, the Commission approved a CDP for substantial

restoration of the pier and to upgrade the public restrooms on the pier to meet Americans with Disabilities Act standards (CDP No. 5-95-292). A Special Condition of CDP No. 5-95-292 mandated that free unobstructed public access and recreational fishing access to and upon the Venice Pier be provided and maintained by the City, with only temporary limitations necessitated by unsafe conditions resulting from waves, weather, or required maintenance activities. The Venice Pier re-opened in 1996 at the end of construction activities. On December 21, 2005, a platform for bathrooms near the end of the pier collapsed into the ocean during high surf. This platform was supported by 9 vertical pre-stressed concrete piles with 2 ft. diameters and separated from the rest of pier by an expansion joint. The failed piles and bathroom platform was never replaced. In June 2018, the approach structure of the Pier caught on fire. The fire burned about 12 ft. of the underlying timber structure, the side guardrails and the electrical conduits. The Commission subsequently approved temporary repairs to address the fire damage so that the pier could remain open (Emergency Waiver No. G-5-18-0003-W).

Jurisdiction

The area affected by the proposed project is located in both the dual permit jurisdiction and original jurisdiction areas of the coastal zone. The Commission's original jurisdiction is any area located seaward of the MHTL and the portion of the pier located landward of the MHTL is in the dual jurisdiction. The City of Los Angeles Bureau of Engineering approved Local CDP No. 17-05 for both the proposed pier repairs, which was not appealed during the 20-day Commission appeal period. The standard of review for this permit is the Chapter 3 policies of the Coastal Act, with the certified Venice LUP used as guidance. This CDP, as conditioned, approves all of the proposed improvements in both the dual jurisdiction and original jurisdiction areas of the coastal zone.

B. PUBLIC ACCESS AND RECREATION

Coastal Act section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use of legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Coastal Act section 30252 states, in part:

The location and amount of new development should maintain and enhance public access to the coast by... (4)providing adequate parking facilities or providing substitute means of serving the development with public transportation...

The certified LUP sets forth the following policies for the public beach area and public pier where the proposed project is located.

POLICY GROUP III. Recreation & Visitor-Serving Facilities...

Recreational Opportunities

Policy III. A. 1. General. *New recreational opportunities should be provided, and existing recreational areas, shown on Exhibits 19a through 21b, shall be protected, maintained and enhanced for a variety of recreational opportunities for both residents and visitors, including passive recreational and educational activities, as well as active recreational uses.*

a. Recreation and visitor-serving facilities shall be encouraged, provided they retain the existing character and housing opportunities of the area, and provided there is sufficient infrastructure capacity to service such facilities.

b. Acquisition, expansion and improvement of parks and facilities throughout the Venice Coastal Zone shall be encouraged and accelerated, subject to the availability of funds.

c. Where feasible and compatible with the surrounding neighborhood, recreational uses shall be located in conjunction with other new public facilities, such as public parking lots.

d. Recreation facilities shall be refurbished and constructed to maximize recreational opportunities.

e. Beach Hours: Public access and recreational opportunities on the sandy beach shall be protected and encouraged. Any limitations to public access, including changes to the hours of operation, shall be subject to a coastal development permit.

Policy III. B. 2. Venice Pier. The Venice Pier has been restored and open since November 1997. The pier shall remain open to the public. Free unobstructed public access and recreational fishing access shall be provided and maintained to and upon the Venice Pier, subject only to temporary limitations for public safety necessitated by unsafe conditions (See Coastal Commission Coastal Development Permit 5-95-293).

Policy III. D. 4. Boating and Recreational Use of Pacific Ocean and Adjacent Beaches.

The Pacific Ocean and adjacent beaches may be used for boating; however, no boat launching will be permitted from sandy beaches. Swimming, surfing, water sports, picnicking and sunbathing are encouraged on the beaches. Fishing from the piers and jetty shall be allowed.

The proposed project is located over the ocean and on Venice Beach between the water, Ocean Front Walk, a public boardwalk, and Speedway, the first public road approximately one block inland of Ocean front Walk ([Exhibit 1](#)). One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The proposed project must conform to the public access and recreation policies contained in Chapter 3 of the Coastal Act. The certified Venice LUP Public Access Policy III. B. 2 also requires, in part, that “*Free unobstructed public access and recreational fishing access shall be provided and maintained to and upon the Venice Pier, subject only to temporary limitations for public safety necessitated by unsafe conditions...*”

The proposed development will temporarily impact public access to the coast and nearby recreational facilities through the use of a 16 ft. x 60 ft. staging area in the parking lot near the pier approach structure. The staging area will displace approximately 10 public parking spaces ([Exhibit 5](#)). In addition, due to concerns identified by the City related to maintaining emergency access, ADA access, and access to conduct regular pier maintenance activities; rehabilitation of the pier will also require full or partial closure of the pier during construction.

In order to ensure that public access is maximized to the greatest extent feasible during the construction work, the City has developed a public access plan ([Exhibit 5](#)). The access plan identifies that a public access route under the pier will be maintained throughout construction. The access plan also describes that implementation of the proposed repairs will be done in phases over time. During the first phase of construction, which is expected to occur after Labor Day 2019 and to last approximately 1-2 months, the entire pier will be closed to the public in order to replace the pier approach structure. Following completion of the approach structure, the majority of the pier will be reopened to the public and the seawardmost repair work will be undertaken. The contractor will undertake repairs incrementally landward back to the approach structure over the next seven months. As each phase of repair work is completed, a greater portion of the pier will be closed to the public until the final phase where the entirety of the pier will again be completely closed to public access for 1-2 additional months. Thus, the pier will be completely closed for a total of 2-4 months of the anticipated 9 month construction period. As identified by the City, the partial and complete closure of the pier is necessary in order to allow storage of equipment and materials at the terminus of the pier and to allow for a safe work area and a safe access route between the work area and the material storage area. Following completion of the final phase, the entire pier will re-open to the public. The access plan also includes signage on the underside of the pier to direct the public to the access route under the pier and signage at the entrance of the pier to notify the public of the portions of the pier currently open to public access. Special Condition 2 has been included to require that the City undertake construction consistent with the applicant’s Public Access Plan. In addition, Special Condition 1 requires that, unless the Executive Director determines that no amendment is legally required, the City return to the Commission for an amendment to this permit if work is not completed prior to Memorial Day weekend in 2020 (May 24, 2020) so that development activity will not impede coastal access during peak season.

The completion of the proposed project would allow for continued public access and increased safety of the pier. Thus, the public access benefits of the project mitigate the temporary adverse impacts to public access. In addition, consistent with the Venice LUP, the restrictions to public access are temporary and the minimum necessary to ensure public safety. As conditioned, the proposed development conforms to the public access and recreation policies of the Coastal Act and the certified Venice LUP.

C. MARINE RESOURCES AND WATER QUALITY

Coastal Act Section 30230 states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act Section 30233 states, in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: ...

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. In addition, Section 30231 requires that the biological productivity and quality of coastal waters be maintained. The proposed project includes repair

and replacing various segments of the pier over both sandy beach and open water, with work occurring both above and under the water.

The proposed project may result in potential adverse effects to surrounding water quality due to disturbance from construction equipment, materials, and/or debris. Construction activities associated with the proposed project could result in the generation of debris and/or presence of equipment, materials, and hazardous substances such as lubricants or oil that could be subject to run-off and wind dispersion into the marine environment. The presence of construction equipment, building materials, and debris on the subject site could pose water impacts through introduction of particulates and pollutants if construction site materials were discharged into the marine environment or left inappropriately on the project site. In addition, such potential discharges and disturbances to the marine environment could result in adverse effects to offshore habitat from increased turbidity of coastal waters.

The Commission's staff water quality specialist reviewed the construction information regarding the proposed work and has suggested various BMPs be employed to minimize impacts to water quality. To protect marine resources and coastal water quality and to ensure that construction related adverse effects to the marine environment are minimized, Special Condition 3 requires the applicant to incorporate and comply with a multi-faceted pollution prevention plan for the duration of the proposed work to ensure that impacts to the beach's water quality are minimized. Required measures to protect water quality include, but are not limited to, prohibition on storage of equipment or materials where it would be subject to wave action, prompt removal of all debris, and implementation of BMPs to capture and filter any runoff.

No eelgrass was observed in the vicinity as documented during a low tide biological survey conducted in November 2018. However, the eelgrass survey was not completed during the active growth phase of eelgrass (typically March through October). Furthermore surveys are only valid for 60-days with the exception of surveys completed in August-October. A survey completed in August - October shall be valid until the resumption of active growth (i.e., March 1). The project is agendaized for the April 2019 Coastal Commission Hearing and the eelgrass survey took place in November 2018, so the eelgrass survey is no longer valid. Therefore, a subsequent eelgrass survey will be required prior to beginning any construction. A pre-construction *Caulerpa taxifolia* survey was completed in November 2018 and no *Caulerpa taxifolia* was discovered in the project area. *Caulerpa taxifolia* surveys are valid for 90 days. The project is agendaized for the April 2019 Coastal Commission Hearing and by this time the *Caulerpa taxifolia* survey would not continue to be valid since 90 days have passed since the survey was completed. Thus, an up-to-date *Caulerpa taxifolia* survey must be conducted prior to commencement of the project. Therefore, the Commission imposes Special Condition 8, which identifies the procedures necessary to be completed prior to beginning any construction.

Temporary impacts to native marine communities that have formed around the existing piles, including crabs, mussels, sea stars, and snails, may occur as a result of the proposed project. Thus, Special Condition 4 requires that native marine animals found in the proposed disturbance area be relocated during site preparation and prior to removal of the piles to minimize these impacts. Special Condition 5 requires the applicant to comply with requirements imposed by other agencies including RWQCB and California Fish & Wildlife. Furthermore, Special Condition 6 states that any future improvements or change in use would require a permit

amendment or a new coastal development permit to allow for careful review of proposed development at this site.

In addition, the ‘jackets’ used to wrap the piles will increase the diameter of the existing piles by approximately one inch. Although, the increased pile diameter will technically result in additional fill, the increase is negligible. Under Section 30233(a)(3) of the Coastal Act, fill is permitted for public recreational piers if the least environmentally damaging feasible alternative is selected. Public recreation is the primary purpose of the Venice Pier and the proposed repairs are the least environmentally damaging alternative in order to address the existing structural and seismic stability issues.

In conclusion, the proposed development raises concerns regarding water quality impacts associated with construction activities. As conditioned, these potential impacts have been minimized and, therefore, the project be found consistent with Sections 30230 and 30231 of the Coastal Act.

D. COASTAL HAZARDS

Section 30253 of the Coastal Act states, in part, that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 30253 of the Coastal Act mandates, that new development provide for geologic stability and integrity and minimize risks to life and property. The purpose of the proposed project is to rehabilitate the pier to ensure its safety and structural integrity, consistent with section 30253. The Venice Pier, like all piers along the California coast, is subject to a variety of hazardous conditions, including high waves. In addition, sea level change associated with global warming has become one of the foremost concerns for coastal structures. The City completed a hazards assessment for the proposed project to determine possible risks to the pier related to sea level rise (SLR) over the predicted life of the project (50 years) (Ref: SLR Report dated August 30, 2018). The assessment found that with an estimated SLR of 75 cm (2.5 ft.), which is consistent with the Commission’s current SLR guidance for the Los Angeles region, the point at which the water level would intersect the beach would be at a point where the pier is approximately four-feet, six-inches above the sand. The assessment found that impacts to the Venice Pier Access Ramp, which is located directly on the beach, would only occur with SLR of 200 cm. (6.5 ft.) and a 100-year flood event. Thus, the assessment concluded that no site inundation is forecasted to occur over the 50-year life of the Project. The City has also identified the following future SLR adaptation strategies for pier:

- *Reassess the site, as necessary, to determine impacts from coastal hazards and SLR, as prediction models improve.*
- *At the same time, reassess improved and new adaptation strategies, as necessary, to determine applicability to the site.*
- *Should the site ever become inundated or be threatened by inundation and other adaptation is not feasible, consider a plan to relocate the Project to another location that is not be threatened by SLR.*

The proposed project involves repairs to portions of the pier that are subject to wave uprush. Development at such a location in and near the ocean is inherently risky. To assure that the applicant is aware of the hazards and restrictions on the subject property and assumes the risks of developing in this inherently hazardous area, the Commission imposes Special Condition 7. Through Special Condition 7, the applicant is notified that the project site is in an area that is potentially subject to wave action and flooding which could damage the pier. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development.

Therefore, as conditioned, the Commission finds the proposed project consistent with Section 30253 of the Coastal Act.

E. Unpermitted Development

Unpermitted development has occurred at the site including, but not necessarily limited to, closure of public access to the pier from 2 AM to 5 AM. For said development, the City did not obtain the necessary authorization from the Coastal Commission. Any non-exempt development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

In this case, the unpermitted development at issue is also inconsistent with CDP No. 5-95-293 (“Permit”), which was approved by the Commission in February 1996 to authorize repair of the pier. In relevant part, Special Condition 3 of the Permit states:

Public Access to the Pier

Subsequent to restoration, free unobstructed public access to and upon the Venice public fishing pier shall be provided and maintained by the City, subject to only those temporary safety limitations necessitated by unsafe conditions resulting from waves, weather or required maintenance activities.

Furthermore, Policy III. B. 2. of the Commission-certified City of Los Angeles Land Use Plan for Venice mirrors and references CDP No. 5-95-293:

The Venice Pier has been restored and open since November 1997. The pier shall remain open to the public. Free unobstructed public access and recreational fishing access shall be provided and maintained to and upon the Venice Pier, subject only to temporary

limitations for public safety necessitated by unsafe conditions (See Coastal Commission Coastal Development Permit 5-95-293).

The City is not seeking after-the-fact authorization of this closure through this application. Commission enforcement staff will therefore consider available options to address this matter. A resolution may involve bringing the City's beach operation policies into compliance with the Coastal Act through the coastal development permit process. As noted above, in 2018, the City approved a CDP for the beach curfew, which was appealed to the Commission (Ref: Appeal No. A-5-CLA-18-0011). However, the Commission has not yet acted on the appeal, as the City has not yet submitted a dual permit application for the Commission CDP. It is staff's understanding that the City intends to submit the dual permit application and has requested that the Commission act on the pending appeal concurrently with the dual permit application at a future date.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal permit.

F. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a CDP only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

(a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified Venice LUP is advisory in nature and may provide guidance. As conditioned, the proposed development is consistent with the certified Land Use Plan and with the Chapter 3 policies of the Coastal Act. As a result of the proposed development's consistency with the Coastal Act, approval of the development will not prejudice ability of the City of Los Angeles' to prepare an LCP that is consistent with Chapter 3 of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of CDP application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Los Angeles is the lead agency for the purposes of CEQA review. On July 3, 2018, the City of Los Angeles issued a CEQA Categorical Exemption for project titled Venice Beach Pier Refurbishment. The City found the project exempt pursuant to Article XIX, Section 15301(c) of the California CEQA Guidelines. Furthermore, the proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Substantive File Documents:

- City of Los Angeles Bureau of Engineering Local Coastal Development Permit No. 17-05
- Project Plans titled Venice Fishing Pier Restoration, by AECOM, dated February 17, 2017
- Venice Land Use Plan (Commission Certified November 14, 2001)
- Coastal Development Permit No. 5-95-292/Venice Pier
- [SLR Report] Sea Level Rise Report – Local Coastal Development Permit 17-05 (Venice Pier Refurbishment Project and Venice Pier Emergency Repair Project), by City of Los Angeles Bureau of Engineering, dated August 30, 2018
- Appeal No. A-5-CLA-18-0011
- CDP No. 5-95-292
- Emergency Waiver No. G-5-18-0003-W
- [Pier Assessment Report] Venice Fishing Pier Assessment Project W.O. #E1907957, GEO FILE #15-133, by AECOM, dated February 17, 2017