

**Coastal Development Permit 6-22-0113  
Preliminary Long-Term Management Plan  
for Seasonal Closure of Point La Jolla Bluffs**

**City of San Diego  
Parks and Recreation Department  
San Diego, CA 92101**

**November 1, 2022**

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## **Executive Summary**

The City of San Diego Parks and Recreation Department has commissioned the development of this preliminary long-term management plan for the annual closure at Point La Jolla bluffs. This closure (May 1 through October 31) was authorized to protect California Sea lions, their pups, and the public in compliance with the Coastal Development Permit 6-22-0113 issued on behalf of the California Coastal Commission. The plan complies with Special Condition 4 Long-Term Management Plan and is a living document for amendment as conditions change. The City recognizes that the federal government's final management authority for marine mammals is vested, specifically with NOAA/National Marine Fisheries. In developing this plan, we seek to work with NMFS and other agencies that share management interests for this site (*e.g.*, California Department of Fish and Wildlife, California Coastal Commission).

Herein, the City describes the shoreline habitat, the California sea lion population status, interactions between them and the public, goals and objectives, and proposed management specifics for the annual closure at the Point La Jolla bluffs. We present preliminary management options to the California Coastal Commission executive director for approval that the City of San Diego will implement or maintain in the Point La Jolla bluffs management area.

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## Introduction

Managing the La Jolla coastline and nearby areas have been challenging but fragmented. Currently, two site-specific management plans exist along the La Jolla area: 1) within California's designated Marine Protected Areas, the year-round Matlahuayl State Marine Reserve (SMR), and 2) a city-implemented annual closure at Children's Pool during harbor seal pupping season. In addition, the City of San Diego (SD) realizes a need to formulate a coherent, ecosystem-based management plan focusing on California sea lions (CSL). SD is working with and understands that the overarching management authority for CSL rests with the Department of Commerce/National Marine Fisheries Service (NMFS). This SD plan cooperates with federal and state agencies where authority overlaps. It provides for resource protection, ensures conservation efforts, maintains the coastal access and public use of this unique area, conforms to the California Coastal Commission (CCC) Coastal Development Permit (CDP), and enhances SD resource management.

### 1.0 Purpose and Need for Action

A significant consideration in developing this plan is the recognition of growing public and CSL interactions that occur and require more intensive management to protect people and animals. Inherent to these interactions is CSL population growth, which has been growing since at least the 1920s and 1940s when the California legislature passed laws protecting marine mammals, and especially since 1972 when the United States Congress passed the Marine Mammal Protection Act. Likely the CSL population expansion reflected the ocean environment's health, including available food resources (fish and squid), open beach spaces, lack of predators, and the absence of significant CSL pandemic episodes. CSL population growth rates were estimated in the four to seven percent range during this time frame (Carretta et al. 2015), meaning that CSL populations nearly doubled every ten years. Consequently, CSL expanded to occupy additional beach locations to accommodate the increasing number of animals coming ashore, as exemplified in the La Jolla area.

According to recent research (Laake *et al.*, 2018), CSL reached a population above the maximum net productivity level (MNPL) and within the Optimum Sustainable Population (OSP) level by 2008. Thus, the CSL population was likely still increasing in 2008 as it approached carrying capacity of the environment (K, the maximum population size that the ecosystem can support). Research also shows that the periodic ocean warming event, El Niño Southern Oscillation (ENSO), is the primary environmental factor causing fluctuations in CSL pup production and total CSL population (McClatchie *et al.*, 2016).

This long-term plan aims to manage better CSL beach use and human interactions in and around the Point La Jolla bluffs, as specified in the CCC CDP Seasonal Closure of Point

La Jolla\_SIGNED\_05-09-2022.<sup>1</sup> Finally, this plan is a living document that can and should be modified as conditions change.

## **2.0 Environmental Setting**

The project area for this plan is the La Jolla coastline at Point La Jolla bluffs. Public activities at this site have included a city park, swimming, sunbathing, SCUBA diving, snorkeling, shore/surf fishing, teaching, tide pool exploring, kayaking, surfing, boogie boarding, seal, bird and nature watching, scientific studying, and professional photography. Power and sailboat enthusiasts and recreational and commercial fishermen also use the waters just offshore of this area.

## **3.0 Problem Statement**

There has been a succession of factors that kept CSL populations at equilibrium. Historically, there were native Americans who utilized pinnipeds (seal and sea lions) for food and personal use materials. Additionally, many different animal predators, including sharks, killer whales, cougars, bears, coyotes, wolves, and eagles, ensured a sustainable CSL population. With settlement along the North American west coast by the Spanish and then the European/colonial decedents in the early 1850s, settlers hunted marine mammals for meat, hides, oil, and other uses. The CSL and other marine mammal populations decreased to low levels, near extinction for elephant seals and sea otters on the US west coast mainland and offshore islands. In the 1920-40s, the State of California passed laws to protect pinnipeds; in 1972, the US Congress passed the Marine Mammal Protection Act, and marine mammals, including pinniped populations, increased to current levels.

Before 1972, management authority for wildlife resources was initially vested with local agencies: states, counties, and cities. Gradually the federal government has assumed much of those powers. However, because of few federal agents, first responders for

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<sup>1</sup> CDP Special Condition 4: Prior to November 1, 2022, the applicant shall submit to the Executive Director for review and written approval a Preliminary Long-Term Management Plan for managing public access and marine mammal interaction at the project site. Prior to April 1, 2023, the applicant shall submit to the Executive Director for review and written approval a Final Long-Term Management Plan. The Long-Term Management Plan shall be prepared in consultation with a qualified biologist or marine mammal expert, as well as appropriate state and federal agencies (i.e., NOAA). The plan shall include measures for the long-term management of Point La Jolla, including outside of the seasonal closure time period, outside of the rangers' working hours (i.e., at night) and shall consider strategies to improve the enforcement capabilities of City Park Rangers, such as through citations and penalties, and engineering solutions, such as installing a fence/railing along the project area or a camera.

wildlife and wildlife problems often fall to states, counties, and cities as they await federal agencies. Along the coast of La Jolla, the general public rarely saw pinnipeds until the 1960s because these animals' total populations were relatively low, and they mainly occupied areas on offshore islands.

As amended, the MMPA explicitly limits human interactions with marine mammals. There can be no harassment, or injury, defined as 'take' except for permitted research, for permitted commercial fishing to protect gear and catch (non-lethal since 1994), for individuals to protect property (non-lethal), and for states, counties, or cities to protect people or the animals themselves.

As pinniped populations expanded over the past four decades, they have increasingly occupied areas used frequently by people, specifically near La Jolla. This area first emerged as a marine mammal haulout about 10 -15 years ago; Pacific harbor seals had been hauling on Seal Rock just northeast of Children's Pool. SD, with CCC approval, established that rock and nearby areas as a seal reserve. The La Jolla coastline is the first on the Southern California mainland, where CSL have hauled out in significant numbers and demonstrated viable birthing and successful nursing of pups.

The main issue is human interactions with CSL at La Jolla cove and bluffs. CSL have occupied areas of Point La Jolla since at least 2012 (Mackin-Solomon, A., Chronology of La Jolla Cove and sea lions: A look at the past ten years of people and pinnipeds. (*La Jolla Light*. July 24, 2022. <https://www.lajollalight.com/news/story/2022-07-24/chronology-of-la-jolla-cove-and-sea-lions-a-look-at-the-past-10-years-of-people-and-pinnipeds>; Hanan, 2016). A generally shared beach and bluff concept was employed, but there have been conflicts with people approaching the sea lions to pet or take photos close to the animals and even abusing them. CSL have bitten a few people, and there have been instances of sea lions aggressively keeping swimmers and beachgoers from using access stairs or entering and leaving the water at La Jolla Cove. Another critical issue is that sea lions relieve themselves wherever and whenever they are, so there are urine, stomach, and fecal deposits on the beach, rock substrates, bluffs, and sidewalks where the public visits.

### 3.1 CSL Utilization of the LJ Area

The life history of CSL includes hauling out from the Pacific Ocean to spend a portion of their time on the shoreline resting, sleeping, mating (in season), and giving birth. As the populations have expanded, CSL have occupied more and more shoreline areas, likely because of crowding in established haulout sites. The choice of haulout sites is probably related to ease of ocean access, proximity to food resources, protection from waves, and protection from predators. CSL occupy natural settings: sandy beaches, rocky beaches, boulder beaches, rocks and pinnacles, mud flats, reefs, fallen trees, and rock shelves, as well as human-made objects such as piers, docks, floats, and boats.

### 3.2 California Sea Lion, *Zalophus californianus*, Life History

### 3.2.1 Distribution, Stock Structure, and Migration

CSL occupy nearshore areas from southern Mexico (including the Gulf of California) to Alaska and feed up to 300 miles offshore. They breed and birth their pups in spring and summer in western Baja, California, the Gulf of California, and the offshore southern California islands. Adult (up to 800 pounds) and subadult males migrate as far northward as Alaska after breeding season (May-July), while females (up to 250 pounds) and pups tend to stay near the rookeries or the nearshore central and southern mainland. CSL feed on squid and small schooling fish, including mackerel, anchovy, and sardine. They feed on larger fish when CSL deplete catch from sport and commercial fisheries and feed naturally on salmon adults and salmon smolt in riverine habitats.

In the La Jolla area, CSLs occupy the bluffs and sand beaches adjacent to La Jolla Cove. CSL rest in these areas as they travel along their migration routes. La Jolla Cove mainland hauling sites are the first in recent history to be documented in San Diego County or along the southern California mainland. CSL mainly occupy hauling sites at all the offshore islands of the southern California bight (SCB) (San Clemente, San Nicolas, Santa Barbara, Santa Catalina, Anacapa, Santa Cruz, Santa Rosa, and San Miguel), as well as many rocks and pinnacles both offshore and along the mainland. They haul out in San Diego Bay and Mission Bay on bait receivers, buoys, docks, and boats. In 2016, SD documented the first viable CSL births, with three pups being born and cared for in early and mid-June (Hanan, 2016).

### 3.2.2 Reproduction, Fecundity, and Seasonality

CSL are polygynous, with large socially dominant bulls holding harems of up to 30 females. Females and males become sexually mature at 3 and 7, respectively. However, sexually mature males may not be socially mature (able to fight off other bulls and maintain a harem) until about ten. Males arrive at the breeding beaches in late May or June, about two weeks before the females, which give birth in May or June to a single pup within days of arrival. Pups are 20 pounds or less at birth but gain weight rapidly with the fat-rich milk. They nurse for four months to a year.

### 3.2.3 Mortality

Large sharks and killer whales are their primary predators, although some mortality results from interactions with sport and commercial fishing. During El Niño events, mortality increases conspicuously, resulting in the only detectable checks in population growth (Lowry, 1991). This mortality is a consequence of the scarcity of prey items (small schooling fish) during these warm water events. California sea lions can live for about 30 years.

### 3.2.4 Disease

CSL are subject to many parasites and viral epizootic events (e.g., San Miguel sea lion virus; (Earle et al. 2011; Gage et al. 1990). Recently, neural

toxins (e.g., domoic acid), concentrated occasionally by sardines and anchovy consuming toxic algae, caused brain damage and death in portions of the CSL population (Cook et al. 2015).

### 3.2.5 Competition

CSL compete for space on shore with harbor seals and elephant seals, with the latter winning the area in most cases. All three populations are expanding, and they prefer the same beaches.

### 3.2.6 Status of the Stocks

CSL are not "depleted" under the MMPA nor "threatened/endangered" under the Endangered Species Act (Carretta *et al.*, 2021). In 2014, NMFS estimated the U.S. west coast population at 257,606 sea lions with an annual growth rate of 7.0% and a corresponding pup count of 47,691 pups (Carretta *et al.*, 2021). NMFS also estimated Potential Biological Removal (PBR) at 14,011 sea lions per year from the U.S. stock without impacting the sustainability of the stock. This number far exceeds the total CSL utilizing the La Jolla area and further emphasizes the fact that the existence of this small colony does not impact the west coast CSL population/resource. The MMPA defines PBR as the number of CSL that could be removed annually from a population, not including natural mortalities, while allowing that stock to reach or maintain its optimum sustainable population (OSP). This stock's annual human-caused mortality and serious injury are  $\geq 321$  animals (Carretta *et al.*, 2021). Laake *et al.* (2018) found CSL above the maximum net productivity level (MNPL) and within OSP in 2008. This stock status means the CSL population was likely still increasing in 2008 as it approached carrying capacity of the environment (K, the maximum population size an ecosystem can support). It is also likely that ENSO will cause fluctuations in pup production and total population for the foreseeable future (McClatchie *et al.*, 2016).

## 4.0 History of Coastal Use

The Matlahuayl State Marine Reserve (SMR) lies north and east of the La Jolla bluffs area, just outside the scope of consideration for this plan. This SMR is included under the umbrella of the Marine Life Protection Act program enacted by the State Legislature, signed by the Governor, and adopted by the California Fish and Game Commission, which has set forth the following conservation goals:

### 4.1 Marine Life Protection Act Goals of the Marine Life Protection Act

- 1) Protect the natural diversity and abundance of marine life and the structure, function, and integrity of marine ecosystems.
- 2) Help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those depleted.



- 3) Improve recreational, educational, and study opportunities provided by marine ecosystems subject to minimal human disturbance and manage these uses in a manner consistent with protecting biodiversity.
- 4) Protect marine natural heritage, including protecting representative and unique marine life habitats in California waters for their intrinsic value.
- 5) Ensure that California's Marine Protected Areas (MPA) have clearly defined objectives, effective management measures, adequate enforcement, and management based on sound scientific guidelines.
- 6) Ensure that the state's MPAs are designed and managed as a network to the extent possible.

## 4.2 User Groups and Resource Use

The coastal areas of La Jolla (LJ) are very high-use areas for residential and community housing; Scripps Institution of Oceanography; commercial businesses, including restaurants, hotels, small businesses; beach use (sunbathing, swimming, surfing), fishing (sport and commercial), kayaking, boating, diving, and many other types of beach and ocean enjoyment. Because weather is generally conducive to outdoor activities throughout the year, these activities are prominent year-round, peaking in late summer. The City of San Diego is a destination location for tourists from all over the world, and LJ is a famous attraction within SD, with beach visitors numbering in the millions each year.

### 4.2.1 Regulatory History and Management Authority

Marine mammal management was first vested with the State of California, implemented by the Fish and Game Commission, managed by the Department of Fish and Game (recently renamed Department of Fish and Wildlife), and enforced by Fish and Wildlife wardens. In 1972, Congress enacted the Marine Mammal Protection Act, which superseded state marine mammal management. However, there is a provision in the Act for the return of management to a state that requests and meets specific provisions to maintain the animals at sustainable population levels. The Act placed management authority for marine mammals under the United States Department of Commerce, with management authority for most marine mammals assigned to the National Oceanographic and Atmospheric Administration, National Marine Fisheries Service. States and municipalities were given power under section 109 of the MMPA to "take" marine mammals for the protection of the animal, the public, or property:

*16 U.S.C. 1372 MMPA*

**Sec. 109.** (h) [TAKING OF MARINE MAMMALS AS PART OF OFFICIAL DUTIES.] —

Nothing in this title or title IV shall prevent a Federal, State, or local government official or employee or a person designated under section 112(c) from taking, in the course of their duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for—  
the protection or welfare of the mammal,  
the protection of the public health and welfare, or  
the nonlethal removal of nuisance animals.

#### 4.2.2 Non-Regulatory Conservation of Stocks

Previously, pinniped stocks were at much lower levels than current abundance, and sea lions were infrequent visitors to the shoreline. However, as their numbers increased along the North American west coast, so did their occurrence in San Diego and especially the LJ area

In 2015, SD commissioned a study of the California sea lions utilizing shore locations in and around the La Jolla coastline (Hanan 2016). That study investigated sea lion abundance by season, sex, age class; interactions with the public; and the degree of smell associated with the sea lions. It concluded that sea lion abundance increased and reflected the west-coast CSL population increase. The report recommended research on CSL feeding habits and behavior. It further presented recommendations for SD in dealing with the sea lions and accompanying public interactions.

## **5.0 Current Issues to be addressed by this Long-Term Management Plan**

SD has experienced increasing interactions between CSL and the public. As a stipulation in the Coastal Commission CDP to seasonally close the Point La Jolla area, SD has prepared this management plan, which addresses the following:

1. Public interference with normal CSL behavior (sleeping, resting, birthing), which includes close approaches to the animals, touching/petting, making loud, disturbing noises, or taking pictures next to the animals.
2. CSL sometimes preclude public access and create public safety issues such as biting or depositing waste, thus exposing the public to various fungi, bacteria, and parasites.
3. CSL becoming nuisance animals in parks, streets, and private property.

### 5.1 Goals and Objectives

1. Establish consistent and coherent procedures and management techniques for Point La Jolla Bluffs during the closure period.
2. Continue to monitor coastal marine animal populations and behavior.
3. Develop a seven-year review and amendment process.
4. Ensure coordination and work cooperatively with other managing authorities
5. Educate the public on living with and enjoying our wild resources

## 5.2 Authority and Responsibility

Most management plans are developed at the state or federal levels because those agencies have direct authority over the well-being of the associated land and animals. However, because marine mammals have increased interactions with the public, federal and state officials are generally less accessible; local agencies such as lifeguards, city officials, and port authorities are usually the first to be contacted regarding those interactions. As sea lion populations have increased, municipalities along the west coast have had to deal with interactions, including CSL hauling out on beaches, piers, landings, floats, and boats. CSL can and have been aggressive towards the public as they don't leave these locations when people try to occupy the same space. The counterpart to this situation is that the public often harasses the sea lions by unknowingly trying to get close for pictures or petting them, putting themselves or others too close to wild animals and in harm's way.

### 5.2.1 Marine Mammal Protection Act of 1972 (MMPA)

Currently, mammal management authority remains with NMFS. Because the MMPA does not allow for unauthorized harassment of marine mammals, there has been frustration among some groups impacted by expanding CSL populations (*e.g.*, commercial and recreational fishermen losing catch and gear to sea lions; beach users losing beach and coastal access; marina and boat landing customers losing access or use). The City of Newport Beach, California, consulted with NMFS and decided to use a preventive strategy prohibiting the feeding of pinnipeds and requiring fencing to keep sea lions off boats, landings, buoys, and other potential hauling areas. The County of Santa Cruz even passed a resolution seeking the removal of seals and sea lions from the MMPA. Pacific Grove, California, tried to be proactive by harassing harbor seals off Lover's Point Beach to prevent seal colonization of the beach by passing a city resolution and then an ordinance to secure this beach for human use.

### 5.2.2 San Diego Management

Because areas are different, management has evolved to suit the specific needs of citizens and marine resources. Point La Jolla marks the southern boundary of the Matlahuayl State Marine Reserve, and the SMR specifically manages from the sea up to the high tide line. The public used La Jolla bluffs for coastal access and a variety of recreational activities. Various wildlife management actions in this area have been fragmented and inconsistent, including multiple efforts to mitigate the smell from wildlife species waste through a cleaning/enzyme spraying program.

To moderate close interactions with the public and the sea lions, the City of San Diego issued a temporary seasonal closure of Point La Jolla through an

Emergency Coastal Development Permit Number 2572053 from August 10, 2021 through September 15, 2021.

In 2022, SD applied and received a Coastal Development Permit (CDP Number 6-22-0113) from the California Coastal Commission to implement an annual seasonal closure of Point La Jolla and Boomer Beach (see APPENDIX I).

### 5.3 Examples of sea lion interactions and subsequent municipality actions

CSL populations have increased from low abundance and infrequently encountered to often experienced, even considered nuisance animals. Research documents show that encounters with recreational and commercial fisheries (Hanan et al. 1989) result in lost caught fish and CSL entanglement in fishing gear during depredation activities. CSL recently occupied docks, boats, floats, buoys, and public beaches. Because they can be aggressive and the public gets too close to them, these encounters can become problems. Additionally, CSL deposit their waste products on these man-made structures creating biological hazards and offensive smell. In La Jolla, we experience a relatively new issue as the sea lions occupy areas used extensively by the public or are very near businesses, which are affected negatively by the noise and smell. Here SD presents four examples of CSL encroaching in other areas of California and how the associated municipalities have managed the circumstance.

#### 5.3.1 San Francisco CA Pier 39

Following the Loma Prieta earthquake in 1989, sea lions started hauling out on K-Dock at Pier 39. The numbers hauling out continued to increase, reaching over 300, and in 2009 grew to approximately 1,700 animals. They precluded the use of walkways and landing sites for boats. Owners moved boats to other landing sites allowing sea lions to occupy all available space, San Francisco added additional floats, and CSL are now a tourist attraction.



### 5.3.2 Newport Beach Harbor CA

Sea lions became nuisance animals by hauling out on docks and vessels. The problems created were the public's access to their boats and other landing-related items, broken parts and attachments on the boats, and fouling vessel surfaces and interiors with sea lion waste products. There was much press and appeals to NMFS for help. Newport Beach



developed a website regarding CSL and passed ordinances requiring boat owners to put up barriers to keep them off their boats and prohibited feeding CSL.

Excerpt from OCRegister.com

Newport Beach City announcement:

<http://www.newportbeachca.gov/government/departments/public-works/harbor-resources/sea-lions>

#### Sea Lions

It is the season for the return of the sea lions. They may be aggressive to humans at certain times and have charged kayaks with adults and children on board.

Their primary focus has been vessels that have easy access or vessels that have no deterrents.

Call Harbor Resources (949-644-3041) or Harbor Patrol (949-723-1002) if you observe any sea lions on board a vessel, with the location or mooring number. All mooring and dock owners must check frequently to make sure their deterrent measures are in place, are effective and kept in order at all times (see deterrent measures).

- You can find the complete NOAA ruling [here](#).
- You can find a complete list of the deterrents approved in 2008 [here](#).

#### Information:

- [Sea Lion Description](#)
- [Deterrent Measures](#)
- [Municipal Code](#)
- [Other Deterrent Measures](#)

#### Contractors for Hire for Sea Lion Abatement:

- Seal Stop (949)607-7050 sealstop.com
- South Mooring (949)645-0334



### 5.3.3 Crescent City CA, Harbor Mole near Chart Room Restaurant

CSL had hauled out on a nearby rocky substrate outside the harbor and made occasional forages into the harbor until a charter vessel owner leased a landing and walkway. The vessel operator began to clean fish and dump fish carcasses into the harbor at this location, which attracted sea lions to feed on the carcasses and crabs, which were feeding on the

carcasses. CSL started hauling out on the landing, the walkway to the earth and rock mole, and then on the mole and spilled over onto the parking lot above. CSL crushed the boat walkway and kept the landing underwater. The harbor master eventually moved the vessel to a different landing; the vessel owner stopped dropping fish carcasses into the harbor, and CSL stopped hauling out on the dock and the mole.



#### 5.3.4 San Diego Bay, Bait Receiver

This facility is the largest live bait provider in the US and probably the world. There are over 200 10' by 10' bait wells to keep sardines and anchovies. Sea lions are attracted to them as a haulout site and food source. There is spillage of bait when loaded into the boxes and a little spillage when sold to fishermen. The sea lions have also learned to break into the boxes. Because of the loss of fish and damage to the boxes, owner/operators have tried many methods to drive the animals away, but they always come back and are still hauling out on and breaking into the boxes.



## 6.0 Management Actions

### 6.1 Items included in the long-term plan as required by the CDP Special Conditions:

#### 6.1.1 "CDP final site plans for the proposed development."

- (a) The seasonal closure shall extend from May 1 through October 31.
- (b) Fireworks shall be prohibited within Ellen Browning Scripps Park during the seasonal closure from May 1 through October 31.
- (c) The seasonal closure area is expanded to include all areas authorized to be closed by SD Emergency CDP#695848.
- (d) The seasonal closure area boundaries shall be revised to allow ocean access only to the remainder of Boomer Beach, southwest of the expanded seasonal closure area.

#### 6.1.2 "Monitoring Plan (APPENDIX III) shall include:"

- (i) A physical description and exhibit delineating the precise location of the public access restrictions and associated signage at Point La Jolla;
- (ii) A discussion of the goals and objectives of the plan, which shall include the method by which the applicant will assess the level of use (frequency and spatial extent) by sea lions of the haul out site at Point La Jolla and Boomer Beach throughout the year and the method of determining the effectiveness of the seasonal beach closure at minimizing harassment of hauled out sea lions with both methods employing, at a minimum, the procedures described in section 3 and 4, below, of this special condition;
- (iii) Upon implementation of the seasonal closure, a qualified biologist, environmental resources specialist, park ranger, lifeguard, and/or City-trained volunteer shall record the number of sea lions hauled out at Point La Jolla within the closure area, the number of sea lions hauled out within the "ocean recreation accessway" and Boomer Beach, the number of people present on the bluffs, the number of people present on the concrete walkway at the top of the bluffs, the number of people transiting the "ocean recreation accessway," the number of harassment instances, the number of citations and warnings issued, the outcomes of issued citations and warnings if available, the tide, the weather (including water and air temperature), and the date, at least 16 days per month and specifically including at least two Saturdays and two



Sundays each month, and Memorial Day, July 4th, and Labor Day. Monitoring shall be conducted a minimum of 16 days per month and measurements shall be recorded a minimum of 3 times per day, to include 10 AM, 1 PM, and 4 PM.

- (iv) Provisions for taking measurements of the number of harassment instances, including what activities would qualify as harassment consistent with relevant regulatory definitions of harassment (e.g., sea lions flushing into water) under the Marine Mammal Protection Act (16 U.S.C. 1362(18)(A); 50C.F.R., § 18.3).
- (v) A City Park Ranger shall be present at the site year-round, 7 days per week, and from 10 a.m. to 6 p.m. or 11 a.m. to 7 p.m., depending on the season.

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**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO COAST DISTRICT OFFICE  
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April 18, 2022

Permit Application Number: **6-22-0113**

**COASTAL DEVELOPMENT PERMIT**

On April 08, 2022, the California Coastal Commission granted to **City of San Diego, Parks & Recreation Department** this permit subject to the attached Standard and Special conditions, for development consisting of **Seasonal closure of Point La Jolla bluffs during California sea lion pupping season from May 25 to September 15, including installation of a K-rail barrier to create an ocean access path to Boomer Beach, signage, and a chain at the top of access stairway, and after-the-fact authorization for the wooden public access stairway** more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at **Point La Jolla Bluffs, La Jolla, San Diego, San Diego County (APN 350-010-0100)**.

Issued on behalf of the California Coastal Commission by

Sincerely,

John Ainsworth  
Executive Director

Kaitlin Carney  
Coastal Program Analyst

cc: Commissioners/File

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part of that: "A Public entity is not liable for injury caused by the issuance... of any permit..." applies to the issuance of this permit.

**Coastal Development Permit**  
6-22-0113

**IMPORTANT:** THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date: 5/9/2022

Signature 

**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.

**SPECIAL CONDITIONS:**

**1. Revised Final Plans.**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, final site plans for the proposed development. Said plans shall be in substantial conformance with the plans submitted by the City of San Diego on March 18, 2022, except that they shall be revised to reflect the following:

- (a) The seasonal closure shall extend from May 1 through October 31 of each year.

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- (b) Fireworks shall be prohibited within Ellen Browning Scripps Park during the seasonal closure from May 1 through October 31 of each year.
- (c) The seasonal closure area shall be expanded to include all of the area that was authorized to be closed by the City of San Diego Emergency CDP#695848.
- (d) The seasonal closure area boundaries shall be revised to allow ocean access only to the remainder of Boomer Beach, southwest of the expanded seasonal closure area.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

**2. Permit Term.**

- (a) This coastal development permit authorizes development on a temporary basis only. The development is authorized for a period of seven (7) years, commencing upon the date of Commission approval of Coastal Development Permit No. 6-21-0113, after which time the authorization for continuation or retention of any development approved as part of this permit shall cease. After the authorization for the development expires, the retention of seasonal closure and associated development at Point La Jolla will require the issuance of a new coastal development permit or an amendment to this coastal development permit.
- (b) If the permittee wishes to retain the project beyond the seven-year term for which this permit provides authority and to maintain the seasonal closure, then no later than six months prior to the end of that seven-year term, the permittee shall submit a complete coastal development permit amendment application for the reauthorization of the seasonal closure. The amendment application shall, at a minimum, include the results of the required monitoring reports in order to evaluate the effectiveness and impacts of the project; address changed circumstances and unanticipated impacts; consider modifications to the boundaries and timing of the closure; and consider measures necessary to minimize any adverse impacts to coastal resources or public access resulting from the continuation of the seasonal closure. Failure to either (1) obtain a permit amendment authorizing the permittee to retain the development for an additional term or (2) remove the project shall constitute a violation of the terms and conditions of this Coastal Development Permit. The Executive Director may grant the permittee additional time to file the application for good cause. If the permittee does not obtain a coastal development permit or amendment from the California Coastal Commission to continue implementation of seasonal closure and installation of associated development at Point La Jolla prior to the date that

## Coastal Development Permit 6-22-0113

authorization for the development expires, the City shall cease implementation of the seasonal closure.

- (c) All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions, unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

### 3. Monitoring Plan.

- (a) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a Monitoring Plan for the management and monitoring of the seasonal closure at Point La Jolla. The plan shall include, but not be limited to, the following criteria:
  - (i) A physical description and exhibit delineating the precise location of the public access restrictions and associated signage at Point La Jolla;
  - (ii) A discussion of the goals and objectives of the plan, which shall include the method by which the applicant will assess the level of use (frequency and spatial extent) by sea lions of the haul out site at Point La Jolla and Boomer Beach throughout the year and the method of determining the effectiveness of the seasonal beach closure at minimizing harassment of hauled out sea lions with both methods employing, at a minimum, the procedures described in section 3 and 4, below, of this special condition;
  - (iii) Upon implementation of the seasonal closure, a qualified biologist, environmental resources specialist, park ranger, lifeguard, and/or City-trained volunteer shall record the number of sea lions hauled out at Point La Jolla within the closure area, the number of sea lions hauled out within the "ocean recreation accessway" and Boomer Beach, the number of people present on the bluffs, the number of people present on the concrete walkway at the top of the bluffs, the number of people transiting the "ocean recreation accessway," the number of harassment instances, the number of citations and warnings issued, the outcomes of issued citations and warnings if available, the tide, the weather (including water and air temperature), and the date, at least 16 days per month and specifically including at least two Saturdays and two Sundays each month, and Memorial Day, July 4th, and Labor Day. Monitoring shall be conducted a minimum of 16 days per month and measurements shall be recorded a minimum of 3 times per day, to include 10 AM, 1 PM, and 4 PM;

**Coastal Development Permit**  
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- (iv) Provisions for taking measurements of the number of harassment instances, including what activities would qualify as harassment consistent with relevant regulatory definitions of harassment (e.g. sea lions flushing into water) under the Marine Mammal Protection Act (16 U.S.C. 1362(18)(A); 50 C.F.R., § 18.3).
- (v) A City Park Ranger shall be present at the site year-round, 7 days per week, and from 10 a.m. to 6 p.m. or 11 a.m. to 7 p.m., depending on the season.
- (b) The City shall submit, for the review and written approval of the Executive Director, on an annual basis and by March 1 of each year, a written monitoring report from a qualified biologist or other qualified experts, as necessary to comply with the requirements of the monitoring report. Each monitoring report shall contain the following:
- (i) All records of measurements, analyses and conclusions created in conformance with the approved Monitoring Plan;
  - (ii) Recommendations for repair, maintenance, modifications, or other work to the development; and
  - (iii) Photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the condition, performance, and effectiveness of the seasonal beach closure and associated signage.
- If a monitoring report contains recommendations for repair, maintenance, modifications, or other work, the permittee shall contact the San Diego Coastal Commission Office to determine whether such work requires an amendment or new coastal development permit.
- (c) Prior to submitting the formal report required per subsection (b) above, the City shall submit, for review and written approval of the Executive Director, on an annual basis and by January 1 of each year, all raw monitoring data collected during the seasonal closure per subsection (a)(iii) above.
- (d) The City shall provide an annual report to the Commission on the status of harassment reduction efforts during and outside of the closure period for the length of the permit term.
- (e) The City shall submit, for the review and written approval of the Executive Director, by August 1, 2022, an interim update that includes all raw monitoring data collected thus far during the seasonal closure per subsection (a)(iii) above.



## Coastal Development Permit 6-22-0113

- (f) If, based on the required monitoring report and/or first-year interim data update, the Executive Director determines that the seasonal closure is not significantly reducing conflicts between humans and sea lions and harassment incidents continue, such as due to the ocean recreation accessway to Boomer Beach, the Permittee shall apply for a coastal development permit or amendment within three months of the Executive Director's determination to evaluate and remedy any impacts.
- (g) The permittee shall undertake development in accordance with the approved final Monitoring Plan. No changes to the approved final Monitoring Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required for any proposed minor deviations.

#### **4. Long-Term Management Plan.**

Prior to November 1, 2022, the applicant shall submit to the Executive Director for review and written approval a Preliminary Long-Term Management Plan for managing public access and marine mammal interaction at the project site. Prior to April 1, 2023, the applicant shall submit to the Executive Director for review and written approval a Final Long-Term Management Plan. The Long-Term Management Plan shall be prepared in consultation with a qualified biologist or marine mammal expert, as well as appropriate state and federal agencies (i.e., NOAA). The plan shall include measures for the long-term management of Point La Jolla, including outside of the seasonal closure time period, outside of the rangers' working hours (i.e., at night) and shall consider strategies to improve the enforcement capabilities of City Park Rangers, such as through citations and penalties, and engineering solutions, such as installing a fence/railing along the project area or a camera.

#### **5. Revised Sign Program.**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final comprehensive sign program in substantial conformance with the plans submitted by the applicant with on March 18, 2022 and as shown in Exhibit 7 except that the program shall be revised to reflect the following:

- (a) The "Area Closed" signs to be installed during the seasonal closure shall be revised to state: "No Access Allowed During CA Sea Lion Pupping Season May 1<sup>st</sup> to October 31<sup>st</sup>".
- (b) The signs shall include a Spanish language translation.

## **Coastal Development Permit**

6-22-0113

The applicant shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required for any proposed minor deviations.

### **6. Liability for Costs and Attorney Fees.**

By acceptance of this coastal development permit, the applicants agree to reimburse the Coastal Commission in full for all Coastal Commission costs and attorney's fees including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorney's fees that the Coastal Commission may be required by a court to pay that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

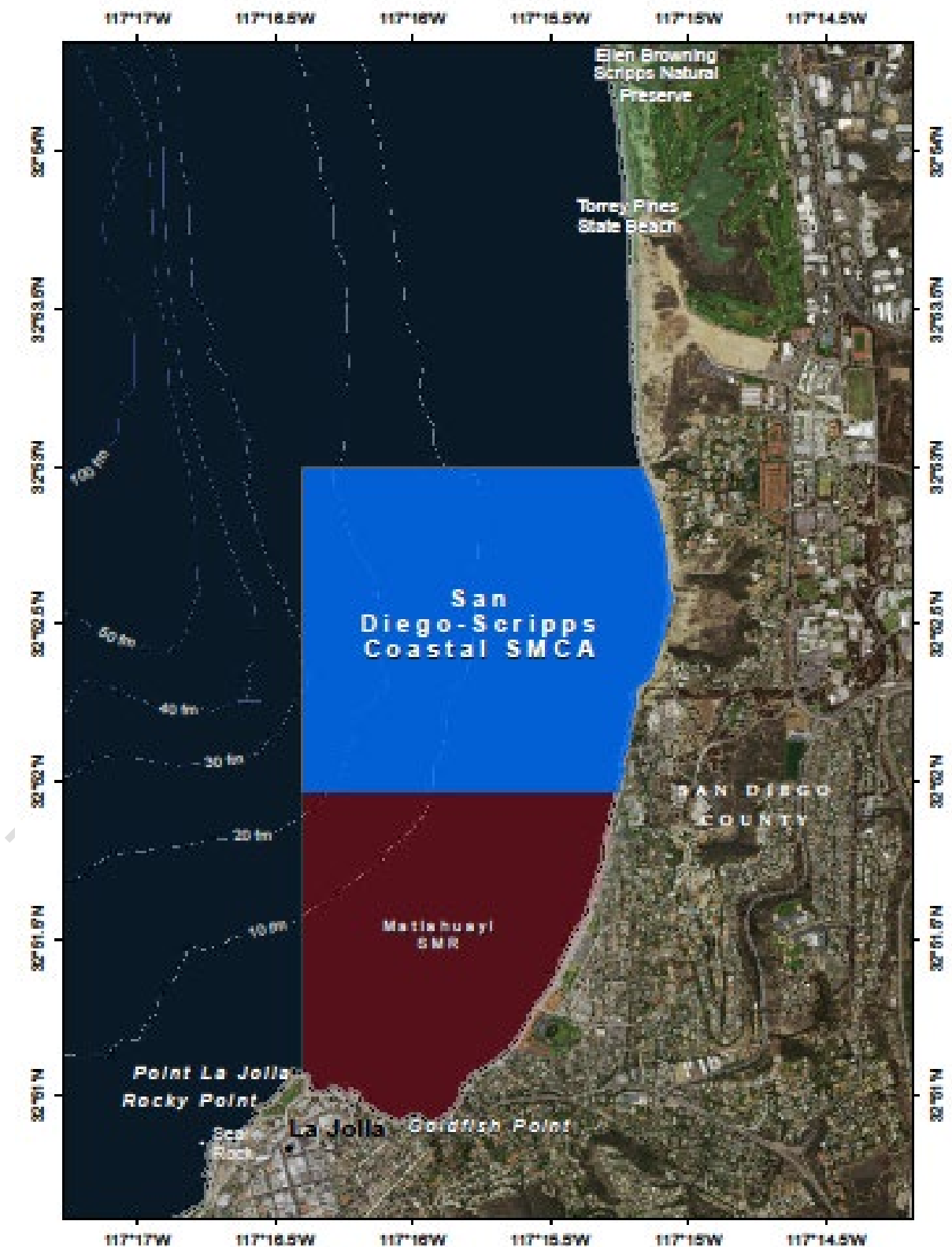
### **7. Assumption of Risk, Waiver of Liability and Indemnity.**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, bluff retreat, and erosion, 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. As-Built Plans.**

WITHIN 90 DAYS OF COMMISSION APPROVAL, the applicant shall submit as-built plans for review and written approval of the Executive Director for the wooden public access stairway located on the eastern portion of the site.

**APPENDIX II. Matlahuayl State Marine Reserve (SMR)**  
(<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=117323&inline>)



## APPENDIX III. Monitoring Plan for the Point La Jolla Seasonal Closure 05042022

### Monitoring Plan

For the Point La Jolla Seasonal Closure

The California Coastal Commission has approved the issuance of a Coastal Development Permit for a seasonal, pupping season (May 1 through October 31) closure of the Pt. La Jolla sea lion rookery in La Jolla for seven years commencing upon the date of Commission approval of Coastal Development Permit No. 6-22-0113. Area Closed signs will be hung from a chain at the top of the wooden steps leading down to the bluff and on an orange plastic K-rail marking the western boundary of the closed area during the closure period will alert visitors of the haul out site and the bluff closure.

**Requirement 1:** Special Condition #3(a)(i) requires a physical description and exhibit delineating the precise location of the public access restrictions and associated signage at Pt. La Jolla. The precise location of the access restrictions associated with this permit are described in

the City's draft ordinance to be adopted for this project at Section 63.0102(f)(2): **\*\*\*** *It is unlawful for any person to be upon or to cause any person to be upon the closure area of Point La Jolla and a portion of Boomer Beach, as described in San Diego Municipal Code section 63.0102(f)(4), from May 1 through Oct 31.*

*(3) It is lawful for persons to traverse a portion of the closure area, as described in San Diego Municipal Code section 63.0102(f)(4), designated as the "Ocean Access Corridor" from May 1 through October 31. The Ocean Access Corridor begins at the stepping stone twenty feet northeast of the first metal fence post directly to the west of the La Jolla Bridge Club located at 1160 Coast Boulevard, La Jolla CA 92037 and ends at the last gazebo 560 feet to the northeast along the fence and wall that separates the bluffs from the sidewalk adjacent to Ellen Browning Scripps Park located at 1100 Coast Boulevard, La Jolla, CA 92037 and extends perpendicular to the water. Any other use of the Ocean Access Corridor is unlawful.*

*(4) Closure area means the area with the following borders: from the Conrad F. Limbaugh and Harold F. Riley commemorative plaque northwest of La Jolla Cove to the last gazebo on Boomer Beach, 560 feet to the northeast along the fence and wall that separates the bluffs from the sidewalk adjacent to Ellen Browning Scripps Park and the La Jolla Bridge Club; and from the water up to the ocean side of the fence and seawall that separates the bluffs from the sidewalk adjacent to the Ellen Browning Scripps Park and the La Jolla Bridge Club.*

**\*\*\*REQUIREMENT 1 - Subject to revisions until adopted by City Council. \*\*\***

**Requirement 2:** Special Condition #3.(a)(ii) of the Permit requires the development and implementation of a monitoring plan that will aid in evaluating the effectiveness of the approved seasonal closure at reducing sea lion harassment, and submission to the Executive Director of an annual written monitoring report.

**Description:** The approved project includes an ordinance prohibiting the public from being seaward of the top of the lower staircase, an "Area Closed" sign attached to a chain hanging

across the top wooden step leading down to the bluff, and an “Area Closed” sign attached to an orange plastic K-rail marking the western extent of the closure area.

**Objective:** The objective of the project is to protect the seal colony from harassment during pupping season and to reduce the inappropriate human-human interactions that have been occurring during that time.

**Purpose:** The goal of this monitoring plan is to collect data that will be used to assess the level of use (frequency and spatial extent) by sea lions of the haul out site at Point La Jolla and Boomer Beach throughout the year and to determine the effectiveness of the seasonal beach closure at minimizing harassment of hauled out sea lions. The collected data will be analyzed with results and conclusions submitted as part of the required annual report.

**Data to be Collected:** Special Condition #3(a)(iii) requires the recording of data upon implementation of the seasonal closure. The assigned park ranger, lifeguard, or City-trained volunteer shall, at a minimum, collect the following data year-round:

1. The number of marine mammals hauled out within the closure area
2. The number of marine mammals hauled out within the ocean access corridor which is the extent of Boomer Beach not within the closure area
3. The number of people present on the concrete walkway at the top of the bluffs
4. The number of people present on the bluffs when open
5. The number of people transiting the ocean access corridor
6. The state of the tide
7. The weather conditions
8. The water temperature
9. The air temperature
10. The date and time
11. Any relevant or descriptive comments or observations including location of people on the beach.

Harassment data (number of incidents, number of citations and warnings, and outcome of citations and warnings issued) will be collected as described below. Observations 1-11 shall be recorded at least 16 days per month (to include all weekends and holidays) and measurements shall be recorded a minimum of 3 times per day, to include 10 AM, 1 PM, and 4 PM.

**Data Collection Method:** The required data may be collected either by direct visual observation or by review of time and date stamped video or photographs of the bluff and beach area taken overlooking Pt. La Jolla. All data shall be recorded on the data collection form (Attachments 1 or 2) and then entered into the computer spread sheet.

**Harassment Observations:** Special Condition #3(a)(iv) requires taking measurements of the number of harassment instances. The United States Marine Mammal Protection Act of 1972 states:

**16 U.S.C. 1372**

**Sec. 102.** (a) [TAKING. ] — Except as provided in sections 101, 103, 104, 109, 111, 113, 114, and 118 of this title and title IV, it is unlawful—

(1) for any person subject to the jurisdiction of the United States or any vessel or other conveyance subject to the jurisdiction of the United States to **take** any marine mammal on the high seas;

(2) except as expressly provided for by an international treaty, convention, or agreement to which the United States is a party and which was entered into before the effective date of this title or by any statute implementing any such treaty, convention, or agreement—

(A) for any person or vessel or other conveyance to **take** any marine mammal in waters or on lands under the jurisdiction of the United States

The Marine Mammal Protection Act defines **take** as: (13) The term “**take**” means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

The Act defines harassment as:

(18)

(A) The term “harassment” means any act of pursuit, torment, or annoyance which—

(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or

(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

To fulfill the “taking of measurements of the number of harassment instances” requirement a harassment incident shall be defined as each separate action by a human while on the Pt. La Jolla bluff or Boomer Beach, that causes at least one marine mammal to flush into the water in response to that action. If there is doubt about the cause of a flushing it will be assumed that if a human is present within the areas defined above when the flushing occurred that a harassment incident did occur.

To be counted as harassment the incident must be observed by any of the authorized data collectors either directly or have been recorded by video or photograph by observers and shown to the authorized collectors. Instances of harassment shall be documented on the Harassment Incidents form (Attachment 2) recording the date and time, the activity and location codes, a brief description of the incident, and the disposition code.

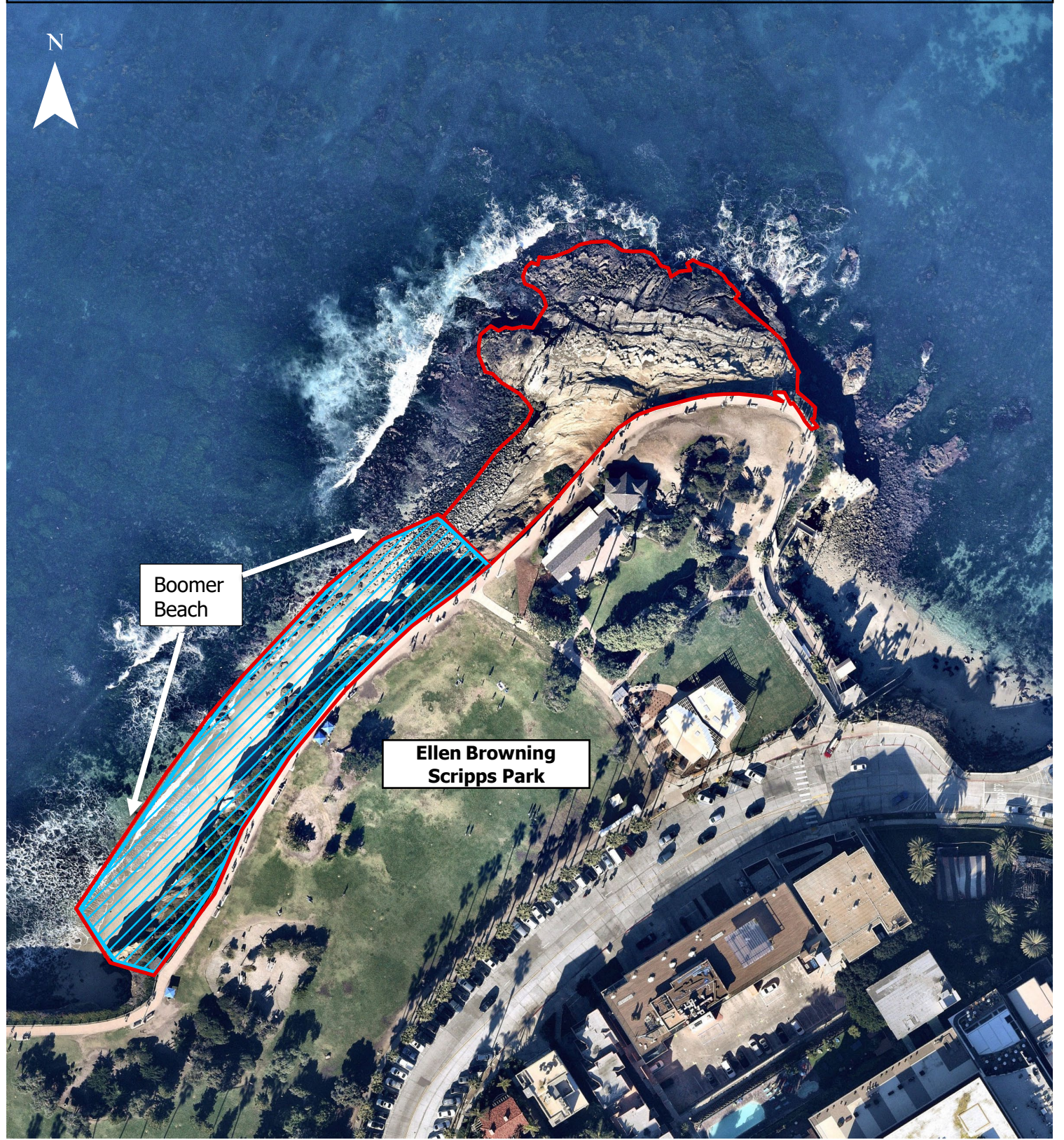
Each harassment incident will be recorded on the Harassment Incidents Form. The action taken will be recorded in the Disposition column. During preparation of the Annual Report, the total number of citations and warnings will be tallied from the form. Additional research (e.g., contacting the City Attorney’s office) may be required in order determine the outcome of citations written.

**Responsibilities:** Park Rangers assigned to Shoreline Parks, under the supervision of the Shoreline Parks Senior Park Ranger and District Manager, shall be responsible for acquiring and recording the data required by the Monitoring Plan.



**Training Program:** The Shoreline Parks Senior Park Ranger shall be responsible for training any volunteers who the Senior Ranger believes may helpful in assisting in the data collection process. Training will include, but not be limited to, potential incidents of harassment, evaluation of environmental conditions including weather and surf, general beach conditions, and familiarization with various features of the area that will aid in monitoring and documentation of incidents occurring.

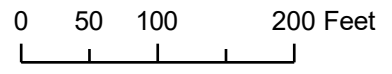
**Annual Written Monitoring Report:** Special Condition 3.(b) requires the City to submit, for the review and written approval of the Executive Director, on an annual basis and by January 1 of each year, a written monitoring report from a qualified biologist or other qualified experts, as necessary to comply with the requirements of the monitoring report. Each monitoring report shall contain the following:

1. All records of measurements, analyses, and conclusions created in conformance with the approved Monitoring Plan,
2. Recommendations for repair, maintenance, modifications, or other work to the development.
3. Photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the condition, performance, and effectiveness of the seasonal beach closure and associated signage



Legend

-  Ocean Access
-  Seasonal Closure Boundary

















# Comprehensive Signage Program

## Legend

-  Seasonal Closure Boundary
-  Ocean Access
-  One Area Closed sign (24-inches by 18-inches) on a chain to cordon off the beach access stairs at the border of Point La Jolla and La Jolla Cove
-  Two Area Closed sign (24-inches by 18-inches) on telespar posts
-  One Area Closed sign (24-inches by 18-inches) posted on K-rail barrier
-  Two Ocean access with swimmer symbol sign (24-inches by 18-inches) on telespar posts
-  Two No Dogs Allowed sign (12-inches by 18-inches)
-  One NOAA No Selfies sign (18-inches by 24-inches)



## Signage Plan

Area Closed signs (size 24-inches by 18-inches) in English and Spanish for Seasonal Closure located at the top of the access stairs and on K-rail barrier.

