City of Encinitas

Office of
The Mayor

May 24, 2017

The Honorable Mark Stone
California State Assembly
State Capitol, Room 3146
Sacramento, CA 95814

Catherine S. Blakespear
Mayor

Tony Kranz
Deputy Mayor

Tasha Boerner Horvath
Council Member

Mark Muir
Council Member

Joe Mosca
Council Member

Karen P. Brust
City Manager

RE: AB 1129 (Stone) Coastal resources: structures: beach access and protection
OPPOSED UNLESS AMENDED

Dear Assembly Member Stone:

The City of Encinitas is opposed to AB 1129 (Stone), unless amended. One of the important tenants of the Coastal Act of 1976 was to facilitate public access to the beach, but this bill, through adding a definition of "existing structure," undermines this intent for Encinitas.

Most of the six-mile coastline in the City of Encinitas is bluffs, and public access at five points along the bluffs necessitates the use of stairs or traversing trails. Four of the five public access points were built after 1986, when the City incorporated. In addition, a newly built marine safety center will ensure the public safety and access to the beach for over three million visitors at Moonlight Beach alone. A nearby water treatment facility, also build after 1977, treats 85% of water run off directly into the ocean. By definition in your bill, these would not be considered existing structures and the California Coastal Commission (CCC) would not be required to issue a Coastal Development Permit (CDP) in the event we needed to repair or replace these public access points and facilities. Public access, marine safety, and water treatment facilities should be exempt from the "existing structure" requirement your bill is imposing.

Given the impact of the addition of a definition of existing structure to private property values and reduction of local control, the definition of existing structure should be revised, so that existing homes on coastal bluffs are not negatively affected.

In addition, Encinitas has one public beach access point at Beacon's Beach that is being threatened with closure due to beach erosion. The City has worked with CCC staff on a CDP for this project for more than ten years. After the first seven years, we thought we had a plan in place, but then CCC staff informed us the plan was not in conformance with the State Coastal General Plan. We continue to work with CCC to obtain a CDP for this public access point. In the last ten years, needless to say, beach erosion has imperiled this public access point even further. We may need to obtain an emergency permit to stabilize this beach access point at substantial cost. Our concern is that, according to your bill, we will need to then remove the emergency measures, again at great cost, and replace them with approved CDP measures, which we have not been able to obtain in over ten years. This is a very conceivable situation, and this is not a good use of public funds. Again, public access points should be exempt from your bill, but it is not clear if that is the intention.

As written, Section 30624 (e)(1) states "Any development in the coastal zone that is covered under an emergency authorization," but your intent is to address sea walls. The coastal zone covers a large area in Encinitas that is not on the coast, and is not related to sea walls. As written in your bill, any emergency authorization application measure in the entire coastal zone will

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have to be removed upon expiration. If your intent is sea walls, the bill should specify sea walls in this section.

Your bill should also be amended to state that if a CDP is in process, but not yet obtained, then the emergency measure may remain in place. Even if a timely CDP application was filed with CCC, there is no assurance that CCC will have processed the application by the time the emergency permit expired. We have concerns that increasing the authority of the CCC in this regard will slow the CDP process even further, and this is at a time when sea level rise may require local governments to respond to public beach access needs with increasing frequency.

This bill expands the purview of the CCC to impose fines on individuals or municipalities for "unpermitted seawalls" retroactively, which is not acceptable without due process of the courts. Proposed fining authority of the CCC, if necessary, should be amended to be effective as of January 1, 2018.

For the above reasons, the City of Encinitas is opposed to AB 1129 (Stone) unless it is amended.

Sincerely,

Catherine S. Blakespear
Mayor

cc: Senator Patricia Bates
Assembly Member Rocky Chavez
JGC Government Relations
Catherine Hill, League of California Cities
Erin Evans-Fudem, League of California Cities
City Council
Planning and Building Department
Public Works and Engineering Department