

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CALIFORNIA 90802-4416
(562) 590-5071 FAX (562) 590-5084

WWW.COASTAL.CA.GOV

**COMMISSION NOTIFICATION OF APPEAL**

December 14, 2017

To: Gary Lee Moore
City of Los Angeles, Department of Public Works
1149 S. Broadway, Ste. 700
Los Angeles, CA 90015

From: Kate Huckelbridge

Re: **Commission Appeal No. A-5-DRL-17-0071**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to the Public Resources Code Section 30623.

LOCAL PERMIT #: **16-09**

APPLICANT(S): **Tyco Electronics Subsea Communications, LLC, Attn: Christopher Carobene**

DESCRIPTION: **Construction of a landing site with the capacity to install up to four Trans-Pacific fiber optic cable systems**

LOCATION:

LOCAL DECISION: **Approval With Special Conditions**

APPELLANT(S): **Ca. Coastal Commission, Executive Director**

DATE APPEAL FILED: **12/14/2017**

The Commission appeal number assigned to this appeal is A-5-DRL-17-0071. The Commission hearing date has not been scheduled at this time. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the City of Los Angeles's consideration of this coastal development permit must be delivered to the South Coast District Office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

COMMISSION NOTIFICATION OF APPEAL

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Kate Huckelbridge at the San Francisco Office.

cc: Tyco Electronics Subsea Communications, LLC, Attn: Christopher Carobene

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Coastal Commissioner Executive Director
45 Fremont St. Ste 2000
San Francisco, CA 94105 **(415) 904-5200**

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Los Angeles
2. Brief description of development being appealed: Construction of a subsurface landing site at Dockweiler State Beach with the capacity to install up to four Trans-Pacific fiber optic cable systems. Includes installation and operation of a subsea cable that will ultimately terminate in Hong Kong.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
Dockweiler State Beach Parking Lot #3, Playa Del Rey, Los Angeles County, APN# 4129-001-902, 4129-001-901, 4129-001-915.
4. Description of decision being appealed:
 - a. Approval; no special conditions: XX
 - b. Approval with special conditions: _____
 - c. Denial: _____

NOTE: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-DRL-17-0071

DATE FILED: 12/14/17

DISTRICT: South Coast

5. Decision being appealed was made by (check one):
- a. Planning Director/Zoning Administrator: _____
 - b. City Council/Board of Supervisors: _____
 - c. Planning Commission: _____
 - d. Other: XX - City Engineer
6. Date of local government's decision: 11/3/17
7. Local government's file number: CDP 16-09

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties.
(Use additional paper as necessary.)

1. Name and mailing address of permit applicant:
Tyco Electronics Subsea Communications LLC
250 Industrial Way West
Eatontown, NJ 07724
Contact: Christopher Carobene
2. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.
- a. _____

 - b. _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government Coastal Permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page. Please state briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Section 30230 of the Coastal Act 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.

Section 30231 of the Coastal Act 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.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The applicant is proposing to construct a subsurface landing site for up to four subsea fiber optic cable systems in the northwest corner of Parking Lot #3 at Dockweiler State Beach. This involves: (1) installing steel bore pipes below the beach and surf zone using horizontal directional drilling (HDD), (2) constructing two beach manholes approximately 7 feet deep, and (3) installing an ocean ground bed (OGB) between 9.8 and 16.4 feet below ground level. In addition, the applicant will install and operate one subsea fiber optic cable, the Pacific Light Cable Network (PLCN) that extends from the landing site through Santa Monica Bay and eventually terminates in Hong Kong.

The proposed project, including work undertaken within the City of Los Angeles's (City) jurisdiction above the mean high tide line, has the potential to result in adverse impacts to marine resources. The four steel bore pipes will be installed using HDD, a technique that involves excavating a large entry pit, positioning an HDD rig in the pit and drilling a hole under the beach and surf zone and surfacing approximately 4,264 feet offshore of the landing site. Although this

method is generally preferable to trenching because it avoids direct impacts to beach and surf zone areas, there is still a potential for adverse impacts from an inadvertent release of drilling fluids (i.e., frac-out) onto the beach or surf zone above the bore. Although it does not pose an acute toxicity threat, drilling fluid releases can smother benthic organisms and contribute to increases in turbidity. In addition, terrestrial and horizontal directional drilling construction activities at the landing site, installation of the ocean ground beds, and terrestrial cable installation activities have the potential to result in marine water quality impacts due to storm water discharges, accelerated soil erosion, and sedimentation. Finally, inadvertent releases of oil or other hazardous material from construction-related vehicles or equipment has the potential to degrade water quality of nearby ground or surface waters.

The City's staff report, however, fails to address these potential Coastal Act impacts. In Section C.1.a., the staff report states that "The proposed project is not expected to impact any coastal waters, wetlands estuaries or lakes. No marine resources exist within or adjacent to the project site... The activity approved through this CDP will not involve the transport of hazardous substances, and, thus, there will be no spillage of crude oil, gas, petroleum products, or hazardous substances..." The City's staff report does mention the potential for impacts to some marine resources, such as Essential Fish Habitat, marine special-status species and hard-bottom habitat areas, but these impacts are addressed under the Coastal Act policy protecting environmentally sensitive habitat areas (Coastal Act Section 30240), which generally applies to land resources. Marine resources should be addressed under the appropriate Coastal Act Sections listed above.

Furthermore, the City's staff report does not adequately address potential impacts to terrestrial resources and environmentally sensitive habitat areas from HDD and other construction activities. As noted in the staff report, the project has the potential to impact several sensitive terrestrial species. However, the CDP does not include adequate mitigation measures to ensure against the significant disruption of habitat values in habitat areas for these species, especially as it relates to the potential for a frac-out during HDD activities.

In addition, the staff report fails to address the potential for impacts resulting from erosion and un-burial of project components buried under the beach. The staff report states that there is no impact from the proposed project under Coastal Act Section 30253. However, the proposed project involves the long-term burial of several project components under Dockweiler State Beach. The report does not address the potential that these components could become unburied due to erosion and sediment movement associated with the tides, especially under expected sea level rise conditions, nor the potential hazards from exposed infrastructure to beachgoers and wildlife.

Finally, although the City's staff report does address the proposed project's consistency with other Coastal Act policies, including identifying potential impacts to environmentally sensitive habitat areas (Coastal Act Section 30240) and archeological or paleontological resources (Coastal Act Section 30244), and others, the staff report does not explicitly require the necessary special conditions to ensure consistency with these policies. Instead, the staff report relies on mitigation measures required under CEQA to demonstrate consistency with these policies. The staff report states that "Mitigation measures, described in the adopted mitigation monitoring program, have been incorporated into the proposed project." However, by not explicitly requiring that the applicant implement the CEQA mitigation measures as part of the CDP, the

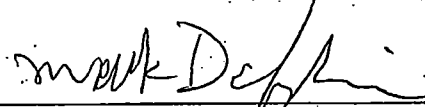
City does not have any ability to enforce these measures to ensure consistency with the Coastal Act.

Therefore, as proposed by the applicant and approved by the City, this project is inconsistent with Coastal Act policies related to protection of marine resources and environmentally sensitive habitat areas. The City's CDP does not require the applicant to maintain the biological productivity and quality of marine resources and coastal waters, protect against the spillage of crude oil, gas, petroleum products, or hazardous substances and does not adequately ensure that environmentally sensitive habitat areas are protected, as required by Coastal Act Sections 30230, 30231, 30232 and 30240. The City's CDP also does not adequately address the potential for impacts related to erosion and hazards as required by Coastal Act Section 30253. Furthermore, the CDP does not explicitly include any mitigation measures to ensure consistency with other Coastal Act policies, including Coastal Act Section 30240 and 30244.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: _____

12/14/17

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____