

## Port Master Plan Conflicted with Coastal Act Goals

A core principle of the California Coastal Act is to maximize public access to the coast, including recreational opportunities in the coastal zone. The Court of Appeal determined that the Coastal Commission acted within its authority in rejecting an amendment to a port master plan as inconsistent with this principle. [San Diego Unified Port Dist. v. California Coastal Commission](#), No. D072954 (4th Dist., Oct. 1, 2018) The Port District applied to the California Coastal Commission for certification of an amendment of the District's port master plan to authorize specified hotel development, including construction of a 175-room hotel. The Commission denied the amendment finding it inconsistent with the public access and recreation policies of the Coastal Act because it did not provide for adequate public access to the beach. The District sought and the trial court issued a writ of mandate invalidating the decision. The trial court found that the Commission, in excess of its jurisdiction, had essentially conditioned its certification on the provision of lower-cost overnight accommodations, which "infring[ed] on the wide discretion afforded the District to determine the contents of land use plans and how to implement those plans."

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Fourth Appellate District reversed the trial court's rulings. The appellate court rejected the District's contention that it fell within a specifically defined category of local government entity over which the Commission's authority was limited. The court declined to "rewrite the law" to extend certain restrictions on the Commission's jurisdiction to port district master plans, which are governed by Chapter 8 of the Coastal Act. The court then addressed (*de novo*) whether the Commission's decision was within its authority under the Coastal Act. The

District argued that "precise policy" originates with a legislative body such as the District, meaning the District is charged with creating policies to implement the Coastal Act whereas the Commission merely verifies a plan's consistency. The court disagreed, acknowledging the breadth of the mandate in reviewing planned development and other uses within the coastal zone. This mandate includes promulgating statewide rules and statewide policies, not merely acting as a "rubber stamp agency" with respect to local planning. The Commission exercises its independent judgment on the issue of a local entity's compliance with coastal policy, and its "broad supervisory role" is particularly important when dealing with a port master plan. The court acknowledged that the Commission may not conditionally approve a master plan under the Coastal Act, i.e., grant certification subject to a specified modification. But this is not what the Commission did in this case – it denied certification on grounds that the proposed amendment did not further the Act's public access policies. While the Commission suggested how the District might meet the Act's policy that "lower cost visitor... facilities shall be... provided," it expressly acknowledged it was not permitted to make such modifications to the plan. The court reaffirmed that the Commission is empowered to exercise independent judgment in determining not only whether a master plan amendment conforms with the Act's policies, but also whether the plan "*carries out* those policies" (emphasis in original). The Commission has a statutory mandate to consider "the manner of public access" on a case-by-case basis and may take into account social and economic needs. The court concluded that the Commission exercised this mandate in deciding that the plan amendment did not adequately protect lower-cost visitor and public recreational opportunities, including overnight accommodations.

## Authors



### [Christian Termyn](#)

Counsel

[CTermyn@perkinscoie.com](mailto:CTermyn@perkinscoie.com)   [415.344.7018](tel:415.344.7018)

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