MEMORANDUM

To: Patrick Alford, City of Newport Beach

From: Tracy Zinn, Principal

Re: BALBOA MARINA WEST IS/MND: RESPONSE TO COMMENT LETTERS

Date: September 23, 2014

As the California Environmental Quality Act (CEQA) Consultant contracted to the City of Newport Beach for the Balboa Marina West project, you asked that I supply responses to the comment letters received by the City of Newport Beach related to the Initial Study/Mitigated Negative Declaration (IS/MND). Responses to the substantive points of each letter are provided below.

NOTE: There is a pagination error in the printed version of the IS/MND. Pages 5-41 to 5-44 repeat, which throws off the numbering sequence (i.e., the second Page 5-41 should be Page 5-45, the second page 5-42 should be 5-46, etc.). This error does not occur in the electronic version of the IS/MND provided on CD and online. For this reason, page numbers for both the printed version and electronic version of the IS/MND are given below for all page number references.

California Cultural Resource Preservation Alliance, Inc. (CCRPA) August 18, 2014

Summary of Comments

This letter discusses concerns related to the potential discovery of significant archaeological resources and potential disturbance to humans remains. With respect to Mitigation Measure CR-1, the CCRPA suggests that ground disturbing activities be monitored by a qualified archaeologist. In addition, the CCRPA suggests that a mitigation measure be added to comply with Section 7050.5 of the California Health and Safety Code, pertaining to the discovery of human remains. The CCRPA also requests that if significant archaeological resources are discovered and archaeological data recovery excavations are implemented, the data recovery plan should include the preparation of a non-technical report and public exhibit. The comment references the goals and policies of the National Park Service Historic Sites Act of 1935 and Section 1 of the National Historic Preservation Act of 1966, concerning historic sites, buildings, and objects of national significance.

Response

In response to this comment, Mitigation Measure MM CR-1 has been revised to require that the construction contractor be trained to identify suspected archaeological resources; or, that a professional archaeological monitor be retained to monitor ground-disturbing activities in previously undisturbed, native soils. Either circumstance would provide the same assurance that suspected resources are identified for evaluation.

The IS/MND acknowledges the remote potential for Native American human remains to be unearthed during construction activity (IS/MND electronic version pp. 5-63, 64 and printed version pp. 5-60). Compliance with

California Health and Safety Code, §7050.5 "Disturbance of Human Remains" is required by state law. The mandatory provisions of state law are not required to be repeated as mitigation measures.

As specified by Mitigation Measure MM CR-1, a data recovery plan is required if a suspected archaeological resource is uncovered and a professional archaeologist determines that the resource is significant or potentially significant. The specifics of the data recovery plan will depend on the nature of the resource. Significant resources are required to be documented and placed in a public or private repository. Recovered resources are not required by state or federal law to be exhibited. The potential that any uncovered resource would rise to a level of national significance and be eligible for recognition under the National Park Service Historic Sites Act of 1935 or the National Historic Preservation Act of 1966 is highly unlikely and not reasonably foreseeable.

The City has revised IS/MND Mitigation Measure MM CR-1. The revised mitigation measure is an amplification of the measure, is not a substantial modification to the IS/MND, and does not require the IS/MND to be recirculated.

Metropolitan Water District of Southern California August 28, 2014

Summary of Comments

This letter states that the Metropolitan Water District of Southern California has no existing facilities or rights of way within the limits of the project site.

Response

This comment letter is acknowledged.

No revisions to the IS/MND are warranted

City of Irvine Community Development August 28, 2014

Summary of Comments

This letter states that the City of Irvine staff have received and reviewed the information provided and have no comments.

Response

This comment letter is acknowledged.

No revisions to the IS/MND are warranted.

Jackson DeMarco Tidus Peckenpaugh September 9, 2014

Summary of Comments

This letter requests a copy of the Project's grading plan cited in the IS/MND as "Stantec, 2014." Additionally, the letter requests reference material for a statement in the IS/MND that the Project is expected to generate a demand for 3,395 gallons per day (gpd) of domestic water.

Response

The City of Newport Beach Community Development Department, Planning Division, provided the grading plan and requested reference material (filed in the Project's administrative record with the City of Newport Beach) to the commenter by e-mail on September 11, 2014. IS/MND, Section 7, "References," has been revised to include a citation for the water demand reference material.

The City has added a reference citation to the IS/MND. The reference material was included in the City's administrative record during public review of the draft IS/MND, is not new information, is not a substantial modification to the IS/MND, and does not require the IS/MND to be recirculated.

California Department of Transportation (Caltrans) District 12 September 12, 2014

Summary of Comments

This letter identifies Caltrans as a commenting and responsible agency on the Project. Caltrans indicates that any work performed within the Caltrans right-of-way (East Coast Highway) will require discretionary review and approval by Caltrans, and an encroachment permit and traffic control plan will be required.

Response

The Project proposes a small amount of physical disturbance in the Caltrans right-of-way at the Balboa Marina entrance driveway as shown on IS/MND Figure 3-11. In response to this comment, IS/MND Table 3-1 has been revised to list Caltrans as a responsible public agency, for issuance of an encroachment permit and approval of a traffic control plan.

The City has revised IS/MND Table 3-1 to identify Caltrans. The addition is not a substantial modification to the IS/MND, and does not require the IS/MND to be recirculated.

State Clearinghouse September 16, 2014

Summary of Comments

This letter acknowledges compliance with the State Clearinghouse review requirements for draft environment documents pursuant to CEQA. This comment is noted.

Response

This comment letter is acknowledged.

No revisions to the IS/MND are warranted.

Still Protecting Our Newport (SPON) September 16, 2014

Summary of Comments

This letter expresses disagreement with the City's determination that a MND adequately addresses the impacts of Project due to proposed heights, visual impacts, parking impacts, ingress and egress from Pacific Coast Highway, and increased intensity of bay use. The letter requests that the City prepare an Environmental Impact Report (EIR).

Response

The comment letter does not provide any detail or evidence to support the commentor's claim that the MND does not adequately address the Project's environmental effects. The IS/MND evaluates the Project and determines that all impacts would be less than significant or reduced to a level of less than significant with mitigation measures applied.

The IS/MND thoroughly evaluates the issue of proposed heights and visual impacts under the topic of "Aesthetics" (IS/MND Section 5.4.1; pp. 5-14 to 5-36). As concluded by IS/MND Section 5.4.1, although the Project would introduce a new marine commercial building up to 40 feet in height that could be perceived as a substantial change to the existing views of the site from off-site locations, implementation of Mitigation Measure MM AE-1 would ensure that the future marine commercial building is designed in a manner that provides architecturally enhanced components while demonstrating compatibility with existing developed elements in the surrounding viewshed. Changes due to the introduction of new boat slips would be less than significant because the new boat slips would appear as an extension of the existing boat slips that occur in Newport Harbor. Additionally, improvements to the parking lot and associated landscaping would not be prominently visible from off-site locations and would not represent a substantial change as compared to the existing condition. Six (6) visual simulations are included in the IS/MND as Figures 5-6 to 5-11 to support this conclusion. Therefore, with implementation of Mitigation Measure MM AE-1, Project-related impacts associated with building height and visual quality would be reduced to below a level of significance.

The IS/MND thoroughly evaluates the topic of parking and ingress and egress from East Coast Highway under the topic of "Transportation/Traffic" (IS/MND Section 5.4.16; electronic version pp. 5-112 to 5-124 and printed version pp. 5-108 to 5-120). The Project would generate approximately 1,506 daily vehicle trips. These trips would increase traffic by less than 1% at intersections that experience congestion (defined as operating at a Level of Service D (LOS D) or worse during the morning/evening peak hours). The Project site's ingress and egress point is a driveway connecting to East Coast Highway and is not congested or projected to become congested. Accordingly, the Project would not conflict with any applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system. Regarding parking, the Project is required to supply an adequate number of parking spaces on the property consistent with the City's Municipal Code parking requirements. Also, the overall layout of the existing parking lot would be reconfigured to improve circulatory access through the site. Parking and ingress and egress impacts will be less than significant and mitigation is not required.

The IS/MND thoroughly evaluates the topic of increased bay use intensity under the topic of "Land Use and Planning" (IS/MND Section 5.4-10; electronic version pp. 5-90 to 5-95 and printed version 5-86 to 5-91). The City of Newport Beach land use plans, policies, and regulations applicable to the proposed Project include the City's General Plan, Coastal Land Use Plan, and Zoning Code/Municipal Code. Based on the information presented in the IS/MND and in its Appendix M1, "General Plan Consistency Analysis" and Appendix M2, "Coastal Land Use Plan Consistency Analysis," the Project would not conflict with any applicable plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental impact. The Project site is designated Recreational and Marine Commercial (CM 0.3 FAR) by the City's General Plan and Zoning Ordinance and is designated Recreational and Marine

Commercial (CM-A 0.00-0.30 FAR) by the Coastal Land Use Plan. The Project is consistent with those designations. Furthermore, Mitigation Measure LU-1 ensures that City review of future applications for a Site Development Review and a Conditional Use Permit will require mandatory compliance with all applicable General Plan and Coastal Land Use Plan policies. Accordingly, impacts will be less than significant with mitigation incorporated.

The IS/MND also evaluates the topic of bay use under the topics of "Aesthetics" (IS/MND Section 5.4-1; pp. 5-14 to 5-36), "Biological Resources (IS/MND Section 5.4.4; electronic version pp. 5-49 to 5-60 and printed version pp. 5-45 to 5-56) "Hydrology and Water Quality" (IS/MND Section 5.4-9; electronic version pp. 5-82 to 5-90 and printed version pp. 5-78 to 5-86), and "Land Use and Planning" (IS/MND Section 5.4-10; electronic version pp. 5-90 to 5-95 and printed version 5-86 to 5-91). Aesthetic changes in the bay due to the introduction of new boat slips would be less than significant because the new boat slips would appear as an extension of the existing boat slips that already occur in Newport Harbor and the new slips would not obstruct a scenic view or substantially degrade the existing visual quality or character of the area. Six (6) visual simulations are included in the IS/MND to support that conclusion. In regards to biological resource impacts, all impacts in the bay would be temporary and occur during the Project's construction period. This conclusion is supported by Technical Appendix B, "Marine Biological Assessment, Technical Appendix C, "Jurisdictional Delineation Report," Technical Appendix D, "Coastal Engineering Study, Technical Appendix E, "Impact Assessment for Proposed Project Alternatives," and Technical Appendix F, "Dredged Material Evaluation Sampling and Analysis Report." Based on the conclusions of these extensive technical analyses, the Project's biological impacts would be limited to temporary impacts during its construction period and impacts to a small area of eelgrass. Mitigation Measures MM BR-1 to MM BR-6 are required to ensure that all biological resource impacts are reduced to below a level of significance. Similarly, temporary water quality impacts identified in the IS/MND associated with turbidity during water-side construction would be reduced to below a level of significance by Mitigation Measure MM HWO-2. Potential operational-related water quality impacts are identified and addressed in Technical Appendix I, "Preliminary Water Quality Management Plan," which potential impacts would be mitigated to a less than significant level by the preparation and implementation of a Marina Management Plan required by Mitigation Measure MM HWQ-1.

In conclusion, based on the IS/MND and all of the information contained in the IS/MND Technical Appendices and Project's administrative record, the City finds no substantial evidence that the Project would have a significant effect on the environment. As such, an EIR is not required.

No revisions to the IS/MND are warranted.

Jackson DeMarco Tidus Peckenpaugh September 17, 2014

Summary of Comment 1

The letter claims that the IS/MND violates CEQA by failing to analyze and mitigate the potential environmental impacts of the Project together with the approved Back Bay landing and pending harbor water bus/taxi projects.

Response

The IS/MND contains an analysis of cumulative effects and considers the Back Bay Landing project. The IS/MND (electronic version pp. 5-131, 132 and printed version pp. 5-127, 128) listed the cumulative projects that were considered in the analyses, but inadvertently only listed the approved projects and not the projects that are under

consideration and not yet approved. Table 7 of the Project's traffic study (IS/MND Technical Appendix K, p. 44) listed those projects as follows:

Project Name				
Koll-Conexant				
Back Bay Landing				
Banning Ranch				
Old City Hall Complex Redevelopment/Lido House Hotel				
Newport Coast - TAZ 1				
Newport Coast - TAZ 2				
Newport Coast - TAZ 3				
Newport Coast - TAZ 4				

Although the list of these projects was inadvertently omitted from the IS/MND (electronic version pp. 5-131, 132 and printed version pp. 5-127, 128), they were considered and evaluated in the IS/MND analyses and in the analyses provided in Technical Appendices A (Air Quality and Greenhouse Gas), J (Noise), and K (Traffic). The IS/MND (electronic version p. 5-132 and printed version p. 128) has been revised accordingly to list the above projects. The "Water Bus/Taxi" project noted in this comment is speculative. Although the City has discussed the possibility of a water bus/taxi, an application has not been filed, its feasibility is uncertain, and a feasibility study is not yet complete. As such, it is not a "project" as defined by CEQA and is certainly not a reasonably foreseeable project that warrants consideration in a cumulative effects analysis. In addition, because of its speculative nature, there are no details to study at this time.

The Back Bay Landing project and the proposed Balboa Marina West project are two distinct projects and are not the same project. The Back Bay Landing project proponent is Bayside Village Marina, LLC, whereas the Balboa Marina West project proponents are Irvine Company and the City of Newport Beach. The Back Bay Landing Draft EIR was completed and circulated for public review in October 2013, whereas the Balboa Marina West project application was not on file with the City of Newport Beach until December 2013. Regarding the cumulative evaluation of aesthetics, the Back Bay Landing project is located on the north side of East Coast Highway whereas the Balboa Marina West project is proposed on the south side of East Coast Highway. The highway provides a clear visual separation. In addition, the Back Bay Landing EIR (SCH No. 2012101003) concluded that the Back Bay Landing project's aesthetic impacts would be less than significant. The one building proposed on the Balboa Marina West property would have a less than significant potential to result in a significant, cumulatively considerable aesthetic impact, especially considering that the two projects are physically separated by a highway.

The City has added the full list of evaluated cumulative projects to the IS/MND. The full list of projects was included in the City's administrative record during public review of the draft IS/MND, is not new information, is not a substantial modification to the IS/MND, and does not require the IS/MND to be recirculated.

Summary of Comment 2

The comment letter suggests that the IS/MND should be revised to include additional information to analyze and mitigate the Project's temporary and permanent noise and vibration effects on residences on Linda Isle.

Linda Isle is a private, gate-guarded community. As stated in the MND and noise study (Technical Appendix J), data gathered during the 2008/9 noise and vibration monitoring conducted by Anchor QEA at Linda Isle during the construction of the original Balboa Marina dock replacement project was used to analyze and access potential noise and vibration impacts associated with the proposed Project. The 2008/9 Balboa Marina dock replacement project involved demolition, seawall repair, pile installation, dredging, and new marina construction and the same contractor, equipment, and construction techniques will be employed by the currently proposed Project. Therefore, additional measurements taken from Linda Isle were unnecessary.

Based on the professional opinion of David Wieland, Principal Consultant of Wieland Acoustics having more than 30 years of experience in acoustical and vibration analyses, the acoustical study prepared by Wieland for the operation of the proposed marine commercial building, including a potential restaurant tenant, presents an adequate and appropriate mitigation measure for protecting the residents of Linda Isle from significant noise level increases associated with the building's operation. As stated in the MND and the noise study (Technical Appendix J), a potentially significant impact is only anticipated if the proposed building has noise-generating activities on an outdoor patio and/or live entertainment. At this early stage of the planning process, it is not known whether the future building will have such noise-generating uses. In addition, the Project is still in its Approval in Concept stage and design characteristics of the building are not yet known, including the location and design of any outdoor dining areas. The need for such measures will be addressed in a subsequent acoustical study that will be prepared once the design of the building and the operational parameters for the building tenants are known as required by Mitigation Measure MM N-1. Mitigation Measure MM N-1 specifies the requirement for the subsequent acoustical study and provides a performance measure (compliance with the requirements identified in Chapters 5.28, 10.26, 10.028.020, and 20.48.909(E) of the City of Newport Beach Municipal Code, which address noise.)

The issue of potential noise impacts from pedestrians walking to and from the parking areas and the proposed marine commercial building is not addressed directly in the Wieland Acoustics study (Technical Appendix J); however, pedestrian activity was included in the analysis. The SoundPLAN model that was used to analyze parking lot noise levels (refer to Section 9.2.3 of Technical Appendix J) included a +3 dB correction to account for the noise of patrons in the parking lot. This model anticipated pedestrians walking throughout the entire parking area, including along the marina frontage. In addition, the issue of noise from activities in the parking lot was addressed in Section 9.2.3 of the Technical Appendix J. As indicated in the Wieland Acoustics study, it is anticipated that activities in the parking lot (vehicle movements, car doors opening and closing, patrons talking, etc.) will generate a noise level that is well below the City's daytime and nighttime noise standards, as established by the City of Newport Beach Municipal Code. Therefore, mitigation is not required or recommended. It should also be noted that there is a large parking lot on the property under existing conditions and the proposed, reconfigured parking lot would not be a new introduced activity.

Regarding the issue of vibration, Technical Appendix J indicates that there is always the potential risk for structural damage, even at relatively low vibration velocities. To address this, there was an extensive monitoring program conducted during the initial reconstruction of Balboa Marina in 2008/9. The monitoring report prepared by Anchor QEA (included as Enclosure 1 of Technical Appendix J) showed that there was no structural damage at any location in the Project's vicinity, including at Linda Isle. Because the waterside improvements associated with the proposed Balboa Marina West project will include fewer piles than with 2008/9 reconstruction, and because most of the piles will be installed farther away from Linda Isle than with the 2008/9 reconstruction, it is the professional opinion of Wieland Acoustics, based on substantial evidence from the 2008/9 monitoring program, that no structural damage will result at Linda Isle from construction of the Balboa Marina West waterside improvements. The methodology that will be used to install the piles for the landside improvements will produce even less vibration than the methodology used to install the waterside improvements. Therefore, the MND appropriately concludes, with sufficient evidence from the extensive

monitoring that occurred in 2008/9, that no structural damage will result at Linda Isle from construction of Balboa Marina West. *Attachment A* to this Response to Comments document is an exhibit that was included in the final noise/vibration report prepared by Anchor QEA. The report documented the results of extensive noise and vibration monitoring during the 2008/9 reconstruction of Balboa Marina. The exhibit shows 16 locations for meter installations. The range of the monitoring activity is depicted by a blue line along the property seawalls extending along the entire frontage of properties facing Balboa Marina. Monitors and meters were re-positioned as required since equipment and construction activity changed location as work progressed.

No revisions to the IS/MND are warranted. The comments do not support a fair argument that the analysis as presented in the IS/MND is insufficient or a fair argument that there will be significant impacts.

Summary of Comment 3

The comment letter requests revisions to the IS/MND to provide additional information and analysis of the Project's water and wastewater demands.

Response

IS/MND Section 3.1.2.B states that based on typical utility usage rates for restaurants and commercial establishments, the proposed marine commercial building is expected to generate a utility demand for 3,395 gallons per day (gpd) of water and 2,755 gpd of wastewater treatment capacity. In response to this comment, Stantec was asked to provide more detail, and supply water and wastewater treatment demand calculations for the entirety of the Project site, without taking any credit for water demand or wastewater generation by existing uses on the property. Stantec's full memorandum, dated September 23, 2014, is attached to this Response to Comments document.

Stantec provided the following table, based on normal year water demand factors provided by Irvine Ranch Water District. The calculation of water demand for landscape areas is based the City's Landscape Ordinance and requirement for drought tolerant plant material pursuant to California Coastal Commission guidelines and the City of Newport Beach's Water Efficient Landscape Ordinance (Municipal Code Chapter 14.17). Dry year water demands are based on emergency drought conditions, where water demand reduction measures are required to be implemented. A normal-year water demand for the Project is calculated by Stantec to be 4,479 gpd. A dry-year 20% reduction in water usage for the Project would result in a usage of 3,583 gpd.

Water Demand Demand Use Area Factor (gpd) 19,000 sf 175 gpd/1,000 sf 3,325 Restaurant & Patio 200 sf 175 gpd/1,000 sf 35 Yacht Brokerage Office 200 sf 175 apd/1,000 sf Marina Restrooms 35 Subtotal Domestic Water Demands 19,400 sf 3,395 36,947 sf 1.0849 Landscape Area Irrigation Demands Total Normal Year Water Demands 4,479

Table 1 - Normal Year Annual Water Demands

Stantec also provided the following table, which verifies that the figure of 2,755 gpd of wastewater treatment capacity demand cited in IS/MND Section 3.1.2.B is accurate.

 $^{^{}m q}$ Landscape area water demand calculated based on the City of Newport Beach Landscape Ordinance for Estimated Annual Water Use (EAWU). Calculations are attached.

Table 2 - Wastewater Generation

Use	Area Water Demand Factor		Demand (gpd)
Restaurant & Patio	19,000 sf	142 gpd/1,000 sf	2,698
Yacht Brokerage Office	200 sf	142 gpd/1,000 sf	28
Marina Restrooms	200 sf	28	
Landscape Area	-		
	2,755		

The conclusion given in the IS/MND that there is a sufficient water supply and sufficient wastewater treatment capacity to service the proposed Project is accurate. As shown above, there is no change to the IS/MND's reported wastewater generation calculation of 2,755 gpd. IS/MND Section 5.4.17 (electronic version p. 5-127 and printed version p. 123), has been updated to indicate a total normal year water demand of 4,479 gpd, including water demand for landscaping taking no credit for water used by existing uses on the property (including landscaping).

Even through the Project's total water demand will be greater than the building-only demand reported in the IS/MND distributed for public review, the total demand would still result in a less than significant impact to the environment. The City's Urban Water Management Plan (UWMP) assumes build-out of the City in accordance with its General Plan, which designates the Project site as Marine Commercial (CM 0.3 FAR). The proposed Project is consistent with the CM 0.3 FAR designation, and thus its water demand is planned for by the UWMP, and the City has entitlements to sufficient water supplies to serve its existing and projected demand.

Dry year water demands are based on emergency drought conditions, where water use reduction measures are required to be implemented. This year, the Governor of California issued Proclamation No. 1-17-2014, to campaign the requirement to reduce water demands by 20%. The proposed Project, like all development in the City, would be required to implement the necessary measures as would be required by the City of Newport Beach, Ordinance No. 2009-24. A 20% reduction in water usage for the Project would result in a daily usage of 3,583 gpd. This would be achievable through conservation efforts by the marine commercial building tenant, with the most savings due to restrictions on landscape watering days and durations imposed by the City. Accordingly, the Project would not result in the need to expand water entitlements. A less-than-significant impact would occur and mitigation is not required.

The City has revised IS/MND to identify the water demand for the entire Project site. The revision is not a substantial modification to the IS/MND, and does not require the IS/MND to be recirculated.

Summary of Comment 4

The comment letter requests additional information and analysis of the Project's aesthetic impacts, particularly related to light, glare, and building height.

Response

The IS/MND contains an extensive evaluation of potential aesthetic impacts, including the effects of light, glare, and scenic view obstruction associated with building height. The existing Balboa Marina parking lot is tiered under existing conditions. Some portions of the parking lot are proposed to be raised in grade, and other portions are proposed to be lowered in grade. The parking spaces in the southern portion of the Project site would be lowered, not raised. Also, a portion of the raised area would be located immediately north of the proposed building and the building would block vehicle headlights from view of Linda Isle. In addition, a number of the proposed parking spaces will occur under the

proposed marine commercial building, which also will effectively block light from vehicles parked in those spaces from view of Linda Isle. The portion of the parking lot that is proposed to be raised and within view of Linda Isle is designed to be positioned behind a landscape zone densely planted with trees. Refer to IS/MND Figure 3-9, Conceptual Landscape Plan. As shown, a double row of trees is proposed in this landscape island. This landscaped island is a Project design feature, not a mitigation measure. Therefore, there is no potential for vehicle headlights in the reconfigured parking lot to result in a new source of substantial light or glare. It should also be noted that there is a large parking lot on the property under existing conditions and the proposed, reconfigured parking lot and light from vehicle headlights would not be a new introduced activity.

Regarding the conceptual design of the proposed building, the Project is still in its Approval in Concept stage and design characteristics of the building are not yet known. Regardless, the IS/MND presents an extensive evaluation of the maximum permitted bulk and scale of the building, to a maximum height of 40 feet. Six (6) visual simulations were prepared, presented in the IS/MND, and analyzed for the building's potential to substantially block public views or result in a substantial degradation of the existing visual character or quality of the site and its surroundings. The IS/MND concluded that the maximum building height of 40 feet would not substantially block public views or degrade visual character or quality of the site and its surroundings. However, because the specific architectural details of the building are not known at this time, Mitigation Measures MM AE-1 and AE-2 are imposed to ensure that when the future building design is reviewed by the City, it meets all of the applicable policies of the City's General Plan and Coastal Land Use Plan. Because impacts would be less than significant, there is no need to impose a height restriction on the structure beyond the height restriction already imposed by the City's Coastal Land Use Plan.

No revisions to the IS/MND are warranted. The comments do not support a fair argument that the analysis as presented in the IS/MND is insufficient or a fair argument that there will be significant light, glare, or aesthetic impacts.

Summary of Comment 5

The letter suggests that the MND should be revised to provide additional information and clarify the project's grading impacts.

Response

The earthwork quantities presented in the IS/MND are accurate. A preliminary calculation conducted by Stantec and attached to the Project's grading plan estimates 3,653 cubic yards (cy) of cut and 7,860 cy of fill. The difference of 2,843 cy (needed fill) would be accomplished by approximately 1,300 cy of upland soils removed as part of the waterside development (IS/MND Subsection 3.2, p. 3-6) and remainder by import. The import quantity using Stantec's calculations would be approximately 1,543 cy whereas the MND identifies 1,364 cy of import. The difference of 179 cy equates to approximately only nine dump truck trips, as one dump truck carries 20 cy. The Project proponent (Irvine Company) owns many properties within one-mile of the Project site, from which the earth material would be hauled. The haul distance of one mile is therefore established, and accurate for analysis. Based on the construction characteristics of the Project disclosed in IS/MND Section 3.0, Project Description, the number of construction-related trips would be far less than the operational-related trips fully analyzed for the Project. Reference citations to the Stantec grading plans have been corrected in the IS/MND.

No revisions to the IS/MND are warranted. The comments do not support a fair argument that the analysis as presented in the IS/MND is insufficient or a fair argument that there will be significant impacts resulting from the hauling of earth material.

Summary of Comment 6

The comment letter suggests that the MND must be revised and recirculated.

Response

CEQA Guidelines Section 15073.5 describes the conditions under which a MND that was circulated for public review is required to be re-circulated for additional public review and comment. CEQA Guidelines Section 15073.5 states a lead agency is required to recirculate a MND when the document is substantially revised. A "substantial revision" is defined as a circumstance under which:

- a. A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance; or,
- b. The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measure or revisions must be required.

As summarized above and listed below in the "Errata Table of Corrections and Revisions," there were no public comments or changes to the text or analysis of the Balboa Marina West IS/MND that resulted in the identification of any new significant environmental effect requiring mitigation. In addition, based on comments received on the Balboa Marina West IS/MND, only minor, non-substantive revisions that merely clarify or amplify information presented in the IS/MND were required (as described below in the Errata Table of Corrections and Additions). Additionally, the IS/MND circulated for public review was fundamentally and basically adequate, and all conclusions presented in the IS/MND were supported by evidence provided within the MND or the administrative record for the proposed Project. Based on the foregoing, recirculation of the IS/MND is not warranted according to the guidance set forth in Section 15073.5 of the State CEQA Guidelines.

The IS/MND does not need to be recirculated based on Section 15073.5 of the State CEQA Guidelines.

Orange County Sanitation District (OCSD) September 17, 2014

Summary of Comments

This letter advises the City that OCSD will be studying realignment options for force mains and relocation options for sewer pump stations that may impact the Project site. The letter requests that the City of Newport Beach provide connection points and confirm that capacity is available in the local sewer collection system for the project. In addition, the letter notes that any construction dewatering operations must be permitted by OCSD before discharges begin.

Response

The OCSD's pending sewer force main and pump station study is acknowledged. The Project would not preclude OCSD from conducting its study or identifying the Project site as a potential location for relocated facilities. The City will work with OCSD as requested in a cooperative manner. The IS/MND discloses that the Project would generate approximately 2,755 gallons per day of wastewater (electronic version p. 5-125 and printed version p. 5-121). Connection points to OCSD collection lines would be installed on-site by the Project with adequate conveyance capacity. OCSD review and approval of the water quality of any discharges and related measures is acknowledged.

No revisions to the IS/MND are warranted.

Department of Fish and Wildlife (CDFW) September 19, 2014

Summary of Comments

This letter acknowledges that the CDFW does not object to the Project's eelgrass mitigation proposal and identifies current eelgrass transplantation requirements, which requires two authorizations instead of one.

Response

This comment letter is acknowledged. IS/MND Table 3-1 lists the CDFW and cites the requirement for a Letter of Authorization. The additional authorization for a Scientific Collecting Permit to remove eelgrass has been added to Table 3-1.

The City has revised IS/MND Table 3-1 to identify CDFW's requirement for a Scientific Collecting Permit. The addition is not a substantial modification to the IS/MND, and does not require the IS/MND to be recirculated.

Orange County Parks September 22, 2014 and September 17, 2014

Summary of Comments

This correspondence requests that Table 3-1 be revised to reflect the approval/permit action of securing a lease from the County to cover the area within County Tidelands and, in the case of private boat slips, pay fair market rent.

Response

IS/MND Table 3-1 lists the County of Orange and cites the requirements for an encroachment permit and State Lands Commission coordination. The additional requirement for a lease for the portion of the Project in County Tidelands has been added to Table 3-1.

The City has revised IS/MND Table 3-1 to identify the County of Orange's requirement for a lease. The addition is not a substantial modification to the IS/MND, and does not require the IS/MND to be recirculated.

Errata Table of IS/MND Corrections and Revisions

NOTE: There is a pagination error in the printed version of the IS/MND. Pages 5-41 to 5-44 repeat, which throws off the numbering sequence (i.e., the second Page 5-41 should be Page 5-45, the second page 5-42 should be 5-46, etc.). This error does not occur in the electronic version of the IS/MND provided on CD and online. For this reason, page numbers for both the printed version and electronic version of the IS/MND are given in the table below for all page number references.

Global	References to "Project Applicant" has been changed to "Irvine Company" throughout the Mitigation Monitoring and Reporting Program.
Section 2.5	The IS/MND indicates that the General Plan and Coastal Land Use Plan designations
Figure 2-5	for the property located north of the Project site, north of the East Coast Highway
Figure 2-6	bridge, are Marine Commercial (CM). The City of Newport Beach acted on a General
	Plan Amendment and Coastal Land Use Plan Amendment (Back Bay Landing project)

BALBOA MARINA WEST IS/MND: RESPONSE TO COMMENT LETTERS

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	on February 11, 2014, to change the designations for that property to Mixed Use Horizontal (MU-H1 and MUH, respectively). The land use change will not become effective until such time as the California Coastal Commission approves the Coastal Land Use Plan Amendment.
Table 3-1	Additional responsible public agencies and approvals have been added to Table 3-1:
	<u>California Department of Transportation – Encroachment Permit and Traffic Control</u> <u>Plan</u>
	County of Orange – <u>Lease in County Tidelands</u>
	California Department of Fish and Wildlife – <u>Scientific Collecting Permit to remove eelgrass</u> . Letter of Authorization-for harvesting and to transplanting to place eelgrass back into the environment.
MM AE-1	The following revision has been made to Mitigation Measure MM AE-1:
	Prior to approval of a Site Development Review by the Planning Commission, the City Planning Division shall review the proposed architectural design of the marine commercial building to ensure that the design complies with applicable policies of the City's General Plan and Coastal Land Use Plan related to architectural character and aesthetics.
MM AE-2	The following revision has been made to Mitigation Measure MM AE-E:
	Prior to approval of a Site Development Review by the Planning Commission, the City Planning Division shall review the architectural design of the proposed marine commercial building to ensure that non-reflective materials and colors that are complimentary to the surrounding area are used.
MM CR-1	The following revision has been made to Mitigation Measure MM CR-1:
	Prior to the issuance of grading permits, the City of Newport Beach shall be provided evidence that the construction contractor is trained to identify suspected archaeological resources; or, a professional archaeological monitor shall be retained to monitor ground-disturbing construction activities in previously undisturbed native soils. Prior to the issuance of grading permits, the City shall verify that the following note is included on the grading plan(s):
MM LU-1	The following revision has been made to Mitigation Measure MM LU-1:
	The City of Newport Beach Planning Division shall review the Project's applications for a Site Development Review and Conditional Use Permit to ensure compliance with all applicable General Plan and Coastal Land Use Plan policies that relate to environmental resource protection. and ensure compliance.
Section 5.4.17(d)	The following revision has been made:
	The marine commercial building proposed for the land-side portion of the Project site is expected to generate a demand for 3,395 gallons per day (gpd) of domestic water,

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BALBOA MARINA WEST IS/MND: RESPONSE TO COMMENT LETTERS

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Electronic Version Page 5-132	assuming a 19,000 s.f. restaurant, 200 s.f. yacht brokerage office, and 200 s.f. marina restrooms(Stantec 2014a). Landscape irrigation demands are calculated to be 1,084 gpd, for a total Project water demand of 4,479 gpd in a normal year. In a dry year, water use reductions would be required pursuant to City Ordinance No. 2009-24. A 20% water use reduction in a dry year would total 3,583 gpd. (Stantec 2014b) Page 5-132 has been revised to be consistent with the complete list of cumulative projects that were evaluated for cumulative impacts (Table 7 of Technical Appendix K) and should have been included in the list published in the IS/MND:				
Printed Version Page 5-128	Project Name Koll-Conexant Back Bay Landing Banning Ranch Old City Hall Complex Redevelopment/Lido House Hotel Newport Coast - TAZ 1 Newport Coast - TAZ 2 Newport Coast - TAZ 3 Newport Coast - TAZ 4				
Section 7.0	Reference citations have been added. Stantec 2014a – Stantec, 2014a, Balboa Marina West – Water & Wastewater Generation Estimate. May 13,2014. Stantec 2014b – Stantec, 2014b, Balboa Marina West – Draft Initial Study/MND – Response to Comments – Project Water and Wastewater Demands. September 23, 2014.				

Attachments

- 1. Stantec Memo: Balboa Marina West Draft Initial Study/MND Response to Comments Project Water and Wastewater Demands
- 2. Wieland Associates Letter: Response to Comment Regarding Acoustical Study for the Balboa Marina West Expansion in Newport Beach
- 3. Anchor QEA: Monitoring Locations





To: Pat Osborne From: Jeff Dunn

Irvine CA Office Irvine, CA Office

File: 2042 Date: September 23, 2014

Reference: Balboa Marina West - Draft Initial Study/MND - Response to Comments - Project

Water and Wastewater Demands

The purpose of this Technical Memorandum is to address the Draft Initial Study/MND review comments regarding the water and wastewater demands estimated for the proposed project.

Normal Year Water Demands

The Project water demands are estimated based on the specific land uses proposed for the project, and based on the water demand factors as previously used. The water demand factors provided by Irvine Ranch Water District (IRWD) are to be used to estimate normal year conditions for rainfall and water use conditions. (Table attached) These factors remain applicable in determining normal year water demands for the project. Table 1 below shows the water demands specific for each land use. The project is estimated to use 4,479 gpd based on normal year conditions.

Water Demand Demand Use Area Factor (gpd) 175 gpd/1,000 sf 3,325 Restaurant & Patio 19,000 sf Yacht Brokerage Office 200 sf 175 apd/1,000 sf 35 175 gpd/1,000 sf 35 Marina Restrooms 200 sf Subtotal Domestic Water Demands 3,395 19,400 sf 36,947 sf 1,084a Landscape Area Irrigation Demands **Total Normal Year Water Demands** 4,479

Table 1 - Normal Year Annual Water Demands

The landscape areas are proposed to be drought tolerant in compliance with Coastal Commission guidelines and the City of Newport Beach's Water Efficient Landscape Ordinance (Municipal Code: Chapter 14.17). Demands for the landscape areas in Table 1 are determined based on the City of Newport Beach's Landscape Ordinance. (see attached)

Dry Year Water Demands

Dry year water demands are based on emergency drought conditions, where demand mitigation measures are required to be implemented. This year, the Governor of California issued

^a Landscape area water demand calculated based on the City of Newport Beach Landscape Ordinance for Estimated Annual Water Use (EAWU). Calculations are attached.



September 23, 2014 Pat Osborne Page 2 of 2

Reference: Balboa Marina West - Draft Initial Study/MND - Response to Comments - Project Water and

Wastewater Demands

Proclamation No. 1-17-2014, to campaign the requirement to reduce water demands by 20%. The proposed project to reduce its water usage would be required to implement the necessary mitigation measures as would be required by the City of Newport Beach, Ordinance No. 2009-24.

A 20% reduction in water usage for the project would result in a daily usage of 3,583 gpd for the project. This would primarily be achieved through conservation efforts by the restaurant, with the most savings due to restrictions on landscape watering days and durations by the City.

Wastewater Generation

Wastewater generation is based on the land uses proposed and local interior water use factors provided by IRWD. Table 2 is provided to show the uses proposed and estimated wastewater generated by each use. The total wastewater generated by the project is proposed to be 2,755 gpd.

Table 2 - Wastewater Generation

Use	Area	Water Demand Factor	Demand (gpd)
Restaurant & Patio	19,000 sf	142 gpd/1,000 sf	2,698
Yacht Brokerage Office	200 sf	142 gpd/1,000 sf	28
Marina Restrooms	200 sf	142 gpd/1,000 sf	28
Landscape Area	36,947 sf	-	-
Total Wastewater Generation			

STANTEC CONSULTING SERVICES INC.

Jeff Dunn

Senior Project Manager, Environment

Phone: (949) 923-6974 Fax: (949) 923-6121 jeff.dunn@stantec.com

Attachment: Table 3-1 Land Use and Water Use Factors (September 2012)

Landscape Area Water Demand Calculations

	Table 3-1 Land Use and Water Use Factors (September 2012)							
Code	Land Use Description	Land Average Density		Local - Interior	Local Demands Local - Exterior	Total Local	Irrigation % Irrigated Area	Demands Irrigation Factor
<u>1100</u>	<u>Residential</u>	, and a general genera			Gal/DU/Day		, , , , , , , , , , , , , , , , , , ,	Gal/Acre/Day
1111	Rural Density - Orange	0.3	du/acre	270	185	455	0%	1,000
1112	Rural Density - Irvine	0.3	du/acre	250	750	1,000	5%	2,800
1115	Rural Density - County	0.26	du/acre	265.0	840.0	1,105	5%	2,800
1121	Estate Density	1.2	du/acre	265.0	340.0	605	5%	2,800
1122	Estate Density	0.5	du/acre	225	180	405	5%	2,800
1126 1131	Estate Density Low Density	0.5	du/acre du/acre	265.0 265.0	460.0 340.0	725 605	7% 8%	3,000 2,500
1132	Low Density	3	du/acre	250	200	450	16%	2,800
1133	Low Density	1	du/acre	290	220	510	17%	2,800
1134	Low Density PC	4.5	du/acre	450	800	1,250	17%	2,800
1135	Suburban Density	9.25	du/acre	150	90	240	15%	2,500
1136	Low Density	3	du/acre	225	140	365	20%	2,800
1141	Low-Medium Density	10.5	du/acre	235.0	145.0	380	15%	2,500
1146	Low-Medium Density	11	du/acre	205	150	355	10%	3,000
1153	Medium-Low Density	2.75	du/acre	300.0	240.0	540	10%	2,800
1161 1162	Medium Density Medium Density	19.5 7.5	du/acre du/acre	230	170 100	400 300	15% 15%	2,800 2,800
1163	Medium Density	5	du/acre	250	220	470	20%	2,800
1164	Medium Density PC	11.8	du/acre	170	105	275	15%	2,800
1166	Medium Density	7.5	du/acre	150	70	220	15%	2,800
1172	Medium-High Density	17.5	du/acre	135	40	175	22%	2,800
1175	Urban Density	29	du/acre	130	40	170	20%	2,800
1176	Medium-High Density	17.5	du/acre	145	70	215	17%	2,500
1182	High Density	32.5	du/acre	140	20	160	20%	2,800
1183	High Density	12.25	du/acre	115	10	125	20%	3,200
1184	High Density PC	17.4	du/acre	115	10	125	15%	2,800
1186	High Density	32.5 35	du/acre du/acre	115 135	10	125	20% 20%	2,800
1191 1192	High Rise Density - Orange High Rise Density - Irvine	40	du/acre	65	35 18	170 83	20%	2,800 2,800
	•	40	uu/acie	03		03	2070	
<u>1200</u>	<u>Commercial</u>				Gal/KSF/Day			Gal/Acre/Day
1210	General Office	20	ksf/acre	62	9	71	20%	2,500
1221 1222	Community Commercial Regional Commercial	9	ksf/acre ksf/acre	142 130	33 10	175 140	20%	3,500 3,500
1223	Community Commercial - High Density	21	ksf/acre	0.0	0.0	0	100%	0
1230	Commercial Recreation	8	ksf/acre	41	20	61	30%	3,000
1235	Hotel	45	rooms/acre	110	50	160	30%	2,800
1240	Institutional	8	ksf/acre	30	15	45	30%	2,750
1244	Hospital	9	ksf/acre	165	65	230	30%	2,850
1260	School	10	ksf/acre	20	8.0	28.0	50%	2,500
1261	UCI	10	ksf/acre	215	15	230	40%	3,800
1273	Military Air Field	0	ksf/acre	0	0	0	0%	0
1290	Hotel	45	rooms/acre	110	50	160	30%	2,800
1300 1310	Industrial Industrial - Light	9.091	ksf/acre	600 60	25 10	625 70	20% 20%	2,800 2,800
1310	Industrial - Light	25	ksf/acre	2,000.0	18	2,018	20%	2,800
	Open Space and Other			,		,,,,,		Gal/Acre/Day
1.111		0	ooro/ooro	0	0	0	0%	
1411 1413	Airports Freeways & Major Road	0	acre/acre acre/acre	0	0	0	0%	0
1820	Community Park	1	acre/acre	0	0	0	86%	2,200
1830	Regional Park	1	acre/acre	0	0	0	75%	2,200
1840	Fuel Modification Zone	1	acre/acre	0	0	0	100%	1,000
1850	Wildlife Preserve	0	acre/acre	0	0	0	0%	0
1880	Open Space (Rec)	0	acre/acre	0	0	0	0%	0
1900	Vacant	1	acre/acre	0	0	0	0%	0
4100	Water	0		0	0	0	0%	0
9100	Mixed Use	0		0	0	0	100%	0
9101	Central Park Land Use	0	acre/acre	0	0	0	100%	0
<u>2000</u>	<u>Agriculture</u>		acre/acre					Gal/Acre/Day
2100	Low-Irrigated AG Potable	1	acre/acre	0	0	0	80%	1,800
2110	Low-Irrigated AG Untreated	1	acre/acre	0	0	0	80%	1,800
2120	Low-Irrigated AG Recycled	1	acre/acre	0	0	0	80%	1,800
2200 2210	High-Irrigated AG Potable High-Irrigated AG Untreated	1	acre/acre	0	0	0	80% 80%	3,100 3,100
IU	. iigii iiiigatoa 710 Olittoatea		acre/acre	0	0	0	80%	3,100

Landscape Area Water Demand Calculations

Estimated Annual Water Use (EAWU) is based on the calculation:

EAWU = $(Et_o x K_L x LA * 0.62) / IE$, where:

Et_o = 43.2 inches, Assumed as Laguna Beach Evapotranspiration

K_L = 0.3 Landscape Coefficient for low water use planting

LA = 36947 Land Area, sf

IE = 0.75 Irrigation Efficiency

EAWU 395,835 gallons per year

1,084 gallons per day



WIELAND ACOUSTICS, INC.

3100 Airway Avenue, Suite 102 Costa Mesa, CA 92626 Tel: 949.474.1222

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September 19, 2014 Project File 13.032.00

Ms. Shawna Schaffner CAA Planning, Inc. 65 Enterprise, Suite 130 Aliso Viejo, CA 92656

Subject: Response to Comment Regarding the Acoustical Study for the Balboa Marina West

Expansion in Newport Beach

References: 1. Environmental Noise Study for the Proposed Balboa Marina West in the City of

Newport Beach, CA. Wieland Acoustics, Inc. July 17, 2014.

2. Letter re. Balboa Marina West Draft Initial Study/Mitigated Declaration.

Jackson | DeMarco | Tidus | Peckenpaugh. September 17, 2014.

Dear Ms. Schaffner:

The following are provided in response to some of the comments under Item 2 in the referenced letter from Jackson | DeMarco | Tidus | Peckenpaugh regarding the environmental noise study for the Balboa Marina West project.

- 1. It is our opinion that the recommended acoustical study for the operation of the restaurant is an adequate and appropriate mitigation measure for protecting the residents of Linda Isle. As indicated in the environmental noise study, a potentially significant impact is only anticipated if the restaurant has an outdoor patio and/or live entertainment. At this early stage of the planning process it is not known whether the future restaurant will have either an outdoor patio or live entertainment. Therefore, it is not appropriate to burden the project with specific mitigation measures such as sound attenuating windows and restrictions on activities that may or may not occur. The need for such measures is properly addressed in an acoustical study that will be prepared once the design of the building and the operational parameters for the restaurant are known.
- 2. The issue of potential noise impacts from pedestrians walking to and from the parking areas and the proposed restaurant is not addressed directly in the environmental noise study; however, it was included in the analysis. The SoundPLAN model that was used to analyze parking lot noise levels (refer to Section 9.2.3 of the environmental noise study) included a +3 dB correction to account for the noise of patrons in the parking lot. This model anticipated pedestrians walking throughout the entire parking area, including along the marina frontage.



- 3. The issue of noise from activities in the parking lot was addressed in Section 9.2.3 of the referenced environmental noise study. As indicated in the study, it is anticipated that activities in the parking lot (vehicle movements, car doors opening and closing, patrons talking, etc.) will generate a noise level that is well below the City's daytime and nighttime noise standards. Therefore, mitigation is not required or recommended.
- 4. As indicated in the referenced environmental noise study, in general there is always the potential risk for structural damage, even at relatively low vibration velocities. To address this, there was an extensive monitoring program conducted during the construction of the original Balboa Marina project. The monitoring report prepared by Anchor QEA (included as Enclosure 1 of the referenced environmental study) showed that there was no structural damage at any location in the project's vicinity, including at Linda Isle. Because the waterside improvements associated with the Balboa Marina West project include fewer piles than with the original project, and because most of them will be installed farther away from Linda Isle than with the original project, it is reasonable to conclude that no structural damage will result at Linda Isle from construction of the Balboa Marina West waterside improvements. The methodology that will be used to install the piles for the landside improvements will produce even less vibration than the methodology used to install the waterside improvements. Therefore, it is also reasonable to conclude that no structural damage will result at Linda Isle from construction of the Balboa Marina West landside improvements.

Thank you for this opportunity to provide you with acoustical consulting services. If you have any questions, please do not hesitate to call us at 949.474.1222.

Sincerely,

WIELAND ACOUSTICS, INC.

David L. Wieland
Principal Consultant



SOURCE: Aerial from Google Earth Pro 2007.

Pile Tilt Meter Installation



→ → ■ Vibration Monitor Noise and Range of Deployment



Entry Authorization Received (Home address indicated by Number)

Monitored Homes Include the Following:

- Crack Plate Installations Existing cracks are monitored for movement
- Pile Tile Meters Piles are monitored for movement
- Survey Locations Points along the home, patio, and seawall are surveyed to monitor for movement
 Noise and Vibration Monitoring Noise and vibration monitors are deployed as work progresses. Locations determined according to the location of the ongoing work.
- Interior and Exterior Photo and Video Surveys



