

CHAPTER 10 Response to Comments

10.1 OVERVIEW

The City of Newport Beach General Plan Update EIR was circulated for review and comment by the public and other interested parties, agencies, and organizations for a 45-day public review period that began on April 21, 2006, and concluded on June 5, 2006. The City subsequently extended the public review period to June 13, 2006, the last of the public hearings in the City Council chamber during which the public was given the opportunity to provide comments on the Draft EIR. No new comments were received. During the public review period, 21 written comment letters on the Draft EIR and the proposed project were received by the City. Public hearings on the proposed General Plan Update and Draft EIR were held on April 6th (Planning Commission [PC]), April 11th (City Council [CC]), April 20th (PC), April 25th (CC), May 4th (PC), May 9th (CC), May 18th (PC), May 23rd (CC), June 1st (PC), June 13th (CC). Public hearings on the General Plan Update were held on June 15th (PC), June 22nd (PC), June 27th (CC), July 6th (PC), and July 11th (CC). Public hearings on the General Plan Update and the Final EIR with this response to comments will be held on July 13th (PC), July 20th (PC), and July 25th, 2006 (CC).

During the public review period, copies of the Draft EIR were distributed to public agencies through the State of California, Office of Planning and Research. The City also directly distributed the document to individuals, agencies, and organizations. In addition, the Draft EIR was available for public review during normal business hours at the City of Newport Beach, Planning Department, Newport Beach Public Libraries, and the City of Newport Beach website (<http://www.nbvision2025.com/>).

The complete text of the written comments—and the City’s response to environmental issues raised in those comments—is presented in this chapter, with a copy of each comment letter followed by its response(s).

Table 10-1 provides a summary of Draft EIR comment letters, including: (1) the reference code used to identify the commenter; (2) a comprehensive list of commenters; (3) the date of the comment letter; and (4) the specific comment numbers to which this Final EIR responds.

Table 10-1 Summary of Draft EIR Comment Letters

<i>Reference Code</i>	<i>Commenter Name</i>	<i>Date</i>
US	United States Department of the Interior	June 9, 2006
CT	State of California, Department of Transportation	June 8, 2006
CR	California Regional Water Quality Control Board	June 13, 2006
SC	Southern California Association of Governments	June 5, 2006
M	Mesa Consolidated Water District	May 8, 2006
CM	The City of Costa Mesa	June 8, 2006
IR	City of Irvine	May 4, 2006
B	Barry Eaton, Planning Commission	May 29, 2006
EQ	Environmental Quality Affairs Citizens Advisory Committee—Newport Beach	June 5, 2006
G1	Greenlight	May 30, 2006
G2	Greenlight	June 13, 2006
HO	HOAG Hospital	June 6, 2006
T	The Irvine Company	June 13, 2006
N	Newport Banning Ranch LLC	June 6, 2006
P	Philip Bettencourt	June 8, 2006
SA	Sandra Genis	June 13, 2006
R	R.A. Nichols Engineering	June 7, 2006
L	Larry Porter	June 13, 2006
JA	Jan D. Vandersloot	June 13, 2006
JA2	Jan D. Vandersloot	February 27, 2006 in the NOP response period
PR	Governor's Office of Planning and Research	June 19, 2006

10.2 RESPONSE TO COMMENTS

This section of the Final EIR contains all comments received on the Draft EIR during the public review period, as well as the Lead Agency's responses to these comments. Reasoned, factual responses have been provided to all comments received, with a particular emphasis on significant environmental issues. Detailed responses have been provided where a comment raises a specific issue; however, a general response has been provided where the comment is relatively general. Where a comment does not raise an environmental issue, or expresses the subjective opinion of the commenter, the comment is noted, but no response is provided. Generally, the responses to comments provide explanation or amplification of information contained in the Draft EIR.

10.2.1 Master Responses

Master responses are provided for broad issue areas where there was extensive public comment. Specifically, master responses are provided to address the following issues:

- A: Inclusion of 19th Street Bridge in EIR Analysis
- B: Cumulative Analysis Methodology
- C: Use of 2002 Baseline
- D: Analysis of Impacts Beyond City Boundaries
- E: Level of Environmental Analysis

■ Master Response A: Inclusion of 19th Street Bridge in EIR Analysis

The Orange County Master Plan of Arterial Highways (MPAH), administered by Orange County Transportation Authority (OCTA), is a long range planning tool that ensures the application of consistent standards and coordinated planning of arterial streets in Orange County. The MPAH was initially established in 1956 and is continuously updated to reflect changing development and traffic patterns. The MPAH includes a future bridge crossing of the Santa Ana River channel at Banning Avenue/19th Street to provide an important connection between Costa Mesa and Huntington Beach in this vicinity. This improvement has been included in the MPAH for several decades. The Circulation Elements of the cities within Orange County are required to be consistent with the MPAH. Inconsistencies can lead to the loss of Measure M and Congestion Management Program funding. Therefore, local agencies are discouraged from adopting General Plan Circulation Elements that would preclude the implementation of the MPAH.

The City of Costa Mesa’s General Plan reflects these requirements. Its Circulation Element depicts the crossing. (See Exhibits CIR-3 and CIR-4 of Costa Mesa Circulation Element.) The Circulation Element at page CIR-5 acknowledges that “[a]n implication of having these two additional river crossings in the Master Plan of Highways is that all City planning efforts for future conditions must include these crossings.”

Similarly, the City of Huntington Beach’s General Plan identifies the future crossing of the Santa Ana River at 19th Street, which is designated as Banning Avenue within the City of Huntington Beach. (See Exhibit CE-3 of Huntington Beach Circulation Element.) However, as stated on page III-CE-6, the Huntington Beach General Plan did not assume the existence of the 19th Street bridge within its traffic analysis “because their exclusion reflects Huntington Beach City Council *current* policy decisions and sentiment.” (Emph. Added.) Page III-CE-7 of the Huntington Beach General Plan does acknowledge that future land use planning and transportation planning will need to reflect the potential construction of additional Santa Ana River crossings, such as the 19th Street Bridge.

In January 2006, the OCTA published *New Directions: Charting the Course for Orange County’s Future Transportation System, Orange County Transportation Authority 2006 Long Range Transportation Plan*, which includes a discussion of coordinating to ensure roadways are built according to the MPAH. Four scenarios are evaluated and discussed in the document, two of which include the 19th Street bridge. The four scenarios are documented:

- “The Baseline is our starting point. It is comprised of projects or services that have secured funding and have been assessed for their environmental impacts and approved to be implemented... In essence, the Baseline is a ‘No Project’ alternative, being made up of projects that would occur if no preferred Long-Range Transportation Plan was approved.” Page 51

- “The Constrained Alternative is a set of projects and services that can be carried out within Orange County’s traditional revenue sources for transportation improvements. It assumes that the current Measure M one half-cent sales tax sunsets in 2011.” Page 55
- “The Balanced Plan provides greater improvement to the transportation system. It includes projects and services that can be implemented with a higher level of investment, which is achieved if the traditional funds are supplemented with a voter-approved local one half-cent sales tax beyond 2011.” Page 59
- “The Unconstrained Alternative is the highest level of investment in the transportation system, a look at the optimum combinations of projects and services that could be implemented to meet Orange County’s travel demand, if funds were not an issue.” Page 67

The Balanced Plan (which includes the 19th Street bridge) was selected as the preferred plan as documented on page 73: “The Baseline and Unconstrained Alternatives provide points of reference for analysis... Comparing the projected performance of the remaining alternatives, the Balanced Plan provides the highest level of improvement for Orange County travelers and is the preferred Long-Range Transportation Plan Alternative. It is important to note that this level of improvement is only possible if additional local revenues become available—a reasonable assumption, but critically dependent on voter approval of an extension to the one half-cent sales tax for transportation, Measure M.”

If the bridge were to be deleted from the MPAH, impacts from this change are required to be analyzed in environmental documentation by OCTA, as the lead agency for that effort. In 2001, the OCTA prepared the Santa Ana River Crossings (SARX) Program Environmental Impact Report (Program EIR). The report identified specific impacts associated with implementation or deletion of the Banning Avenue/19th Street bridge, in addition to the Garfield Avenue/Gisler Avenue bridge. The affected cities have not reached agreement on critical issues associated with implementation or deletion of the bridges. As such, the SARX Program EIR is still at Draft stage. OCTA requires that all affected cities agree on a recommendation prior to its consideration by the OCTA Board. OCTA recently initiated a traffic circulation study to address issues associated with the Garfield Avenue/Gisler Avenue Bridge. However, no such study has been proposed for the Banning Avenue/19th Street Bridge.

Construction of the Banning Avenue/19th Street Bridge, while included in the MPAH, is currently not programmed. However, it is identified as a long-range improvement in the area, and it is appropriate to assume this improvement in the General Plan buildout scenario for traffic. Approval of the proposed project would not interfere with the implementation of the Banning Avenue/19th Street bridge, nor would it preclude a later decision by OCTA and the affected cities to amend the MPAH to delete the bridge crossing. Further, consideration of deleting this improvement from the MPAH is not part of the proposed project. Therefore, the EIR was not required to analyze the impacts of its deletion, although as explained below, the Transportation Study did have some discussion of this point. Along the same lines, because no improvements associated with the Banning Avenue/19th Street Bridge are planned as part of the proposed project, this Draft EIR was not required to assess the impacts of constructing the bridge. The construction of the 19th Street bridge would be a separate project that requires a certified CEQA document prior to construction of the improvement.

The proposed General Plan update would not preclude a later decision by OCTA and the affected cities to amend the MPAH to delete the bridge crossing and/or to implement alternative solutions, some of

which were identified in the SARX Program EIR. The City of Newport Beach has a history of supporting the 19th Street Bridge, and Policy CE 3.1.5 in the proposed Circulation Element reflects that history. However, to make it clear that it is not the Newport Beach's intent to preclude alternative solutions, Policy CE 3.1.5, which is also listed on page 4.13-52 of the Draft EIR will be amended, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

Policy CE 3.1.5 Advocate for the implementation of needed regional Master Plan improvements, and be a strong advocate for construction of the 19th Street Bridge across the Santa Ana River, or alternative improvements that achieve the same improvements in regional traffic flow, without disproportionate impacts on Newport Beach.

While the EIR was not required to examine the environmental effects of deleting the 19th Street bridge from the MPAH, the Transportation Study (Appendix D to the DIER) includes a discussion of the City of Newport Beach General Plan Traffic Study Preliminary Alternatives Analysis (Urban Crossroads, Inc., May 3, 2005) which, in turn, outlined the additional roadway improvements that may be necessary if the MPAH was amended to delete the 19th Street bridge. Pages ES-21¹ and 6-1 of the Transportation Study state that without the potential 19th Street bridge over the Santa Ana River, Bluff Road at Coast Highway and Superior Avenue at Coast Highway experience deficient operations requiring substantial additional improvements. The bridge would provide relief to Coast Highway, resulting in the need for at least one fewer additional through lane in each direction. Additional through lanes on Coast Highway would be inconsistent with the General Plan, and the MPAH designation. Widening of Coast Highway would likely result in a reduction in the size of parklands south of the highway, a reduction in existing commercial parcels, and the displacement of residents in the area. The City Council has determined that these improvements would be unacceptable and infeasible. Further, the Newport Beach Fire Department has identified implementation of the 19th Street Bridge as an improvement for emergency and mutual aid response (Riley 2006).² For these reasons, the City Council has proposed Policy CE 3.1.5 to be included for consideration in this General Plan update.

■ Master Response B: Cumulative Analysis Methodology

Methodology for Determining Cumulative Impacts

The methodology for determining cumulative impacts involves a three-step process. Step one is determining whether or not the project has an impact for a given threshold. As explained in *Sierra Club v. West Side Irrig. Dist.* (2005) 128 CA4th 690, 27 CR3d 223, if a project have an incremental environmental effect, the effect cannot be characterized as having a cumulative impact of that project. Because a cumulative impact of a project is an impact to which the project contributes and to which other projects contribute as well, the project must make some contribution to the impact. Otherwise, it cannot be characterized as a cumulative impact of that project.

¹ The City has discovered that Page ES-21 contains a typographical omission. The last two lines of text are missing. The missing text states “additional through lane in each direction. Therefore it is recommended that Newport Beach continue to be a strong advocate for this bridge.” The text was not missing page 6-1. This typographical omission will be corrected.

² Riley, Tim. Fire Chief, Newport Beach Fire Department, communication, 3 July 2006.

If a project will have an impact for a given threshold, then step two is determining whether the project in combination with other projects results in a cumulative impact (i.e., a potentially significant impact from the combination of projects). CEQA Guidelines Sections 15130(a)(2) states:

When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A Lead Agency shall identify facts and analysis supporting Agencies conclusion that the cumulative impact is less than significant.

If the project, when combined with other past and future projects, creates a cumulative impact, then step three is determining whether the project's contribution to the impact is "cumulatively considerable." CEQA Guidelines Sections 15130(a)(3) states:

An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

As stated on page 1-1, this EIR has been prepared as a Program EIR pursuant to Section 15168 of the CEQA Guidelines. A Program EIR has the advantage of being able to "Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis" (Section 15168(b)(2)). Additionally, the EIR determined the significance of cumulative impacts in accordance with relevant laws, codes, regulations and ordinances.

Comments received regarding the adequacy of the cumulative impact analysis have questioned whether the EIR used a comparative or ratio approach in analyzing the significance of cumulative impacts. Specifically, comment SA-12 indicated that the cumulative impact analysis was flawed because, "The Draft EIR dismisses the significance of cumulative impacts in a number of cases, such as increased runoff and population growth, on the basis that the City would make only a very small contribution to the cumulative impact, since Newport Beach represents less than one percent of the total population growth."

Regarding the claim that increased runoff was evaluated using a ratio approach, the EIR instead used a project-level analysis and identified that the direct and cumulative impacts from individual projects would be addressed by laws, regulations, and or ordinances that would apply to individual projects. Page 4.7-42 of the Draft EIR states that:

... new development would be required to comply with existing regulations regarding construction practices that minimize risks of erosion and runoff. Among the various regulations are the applicable provisions of Orange County Ordinance 3988 (Stormwater Management and Urban Runoff—Orange County Flood Control District Regulations), Best Management Practices, compliance with appropriate grading permits, and NPDES permits. This would minimize degradation of water quality at individual project construction sites. As such, cumulative impacts would be less than significant. Compliance by the City and SOI with applicable SWRCB and RWQCB regulations and the City of Newport Beach Municipal Code, as discussed in Impact 4.7-1, would ensure that water quality is maintained to the maximum extent practicable for new development under the proposed General Plan Update.

Pages 4.7-20 to 4.7-26 list and describe the applicable federal, state, and local water quality statutes, regulations, and standards that currently apply to development and would continue to apply to development under the proposed General Plan. These applicable regulations include the SARWQCB NPDES permit, with which the City is a co-permittee, as well as the City's MS4 NPDES permit. In addition, applicable storm water and urban runoff regulations include what are termed "Total Maximum Daily Loads" or "TMDLs", which are regulations that limit the total amount of a problem pollutant(s) that may be discharged into an impaired water body. TMDLs are to be designed to achieve applicable water quality standards. As described on page 4.7-22 of the Draft EIR, the MS4 permit directs the City to ensure that flows entering the recreational waters from the MS4 "do not cause or contribute to exceedences of water quality standards," and requires the City to, among other things, control contaminants in storm drain systems, control and runoff from construction sites, and inspect commercial and industrial sites for compliance with NDPEs regulations. Also, as described on page 4.7-23 of the Draft EIR, Provision C.3 of the General Construction Activity Stormwater Permit requires new and redevelopment projects that would create or replace impervious surface area to ensure that post-project runoff and volume do not exceed pre-project values. Further, as described on page 4.7-25 of the Draft EIR, Chapter 14.36 (Water Quality) of the City's Municipal Code the City, under its Municipal NPDES Permit, must comply with applicable federal water quality standards established by the Clean Water Act.

In addition to these existing regulations and standards, development under the proposed General Plan would also be subject to the applicable policies of the General Plan itself, and these policies include numerous measures, listed on pages 4.7-44 to 4.7-55 of the Draft EIR, to protect water quality.

The Draft EIR explains on page 4.7-42 that because current and future projects within the geographic cumulative context would be required to comply with requirements imposed by the City, as needed for the City to comply with the terms of its Municipal NPDES Permit, including complying with applicable water quality standards. TMDLs will further limit the maximum amount of problem pollutants that may be discharged into an impaired water body so as to bring any existing impaired water body into compliance with applicable water quality standards. The Draft EIR also explains on the same page that projects undertaken under the proposed General Plan would be subject to applicable policies of the proposed General Plan, some of which would require, as a matter of policy, compliance with NPDES permits (see especially proposed Policy NR 3.5). Consequently, in addition to monitoring and enforcement by the RWQCB and the City, compliance of future City projects with conditions to enable the City to comply with applicable water quality standards would be required. Accordingly, development under the proposed General Plan would necessarily be conditioned to meet established and future water quality standards, and thus would not result in a cumulative adverse impact on water quality because all these requirements are designed to alleviate potential cumulative impacts.

As stated on Page 4.7-43 of the Draft EIR:

Buildout of the proposed General Plan Update, in combination with all other development that would occur within the County, would involve development that would increase stormwater runoff from new impervious surfaces. This increased development would require the construction of new, or expansion of existing, storm drain facilities; however, all new development would be required to comply with existing State and local regulations regarding construction and operation practices that minimize the amount of stormwater runoff that enters the storm drain system. In addition, the proposed General Plan Update policies require that adequate storm water conveyance and storage control facilities be maintained and/or constructed for all development.

As described above, the analysis identifies the laws, regulations, and/or ordinances that would be required to ensure that applicable water quality standards are met (i.e., that water quality within the [geographic area] would be in compliance with applicable State and federal requirements), and concludes that cumulative impacts for water quality and storm drainage would be less than significant given the need for these legal requirements to be met. Consequently, although the Draft EIR acknowledges that additional runoff resulting from the implementation of the General Plan Update would be small on a percentage basis, the cumulative analysis does not rely on this percentage to determine the significance of the impact.

Use of a ratio approach is not of itself inappropriate. The population and housing analysis did use a ratio approach. Page 4.10-5, under Impact 4.10-1, states:

This estimated population increase represents the most conservative or worst-case scenario, as it assumes that all allowed units would be built, which has not occurred under the existing General Plan. Additionally, this estimate assumes that all units in the City would be occupied. However, as previously discussed, the City currently has a 10.9 percent vacancy rate, which is substantially higher than that of the County. Thus, units that would likely remain vacant (due to conditions such as seasonal housing) are included in the calculation of the City's population upon buildout of the proposed General Plan Update. Further, implementation of the proposed General Plan Update would include development of more multi-family residential units, which typically have fewer persons residing in each unit as compared to single-family units. Because multi-family residential units do not presently make up a substantial portion of the City's residential land uses, the existing 2.19 pph does not reflect a reduction in future pph rates.

The Draft EIR acknowledges that an increase of 31,131 residents is a substantial increase in population for the City, and would represent an approximately 43 percent increase in population over the 2002 population and an approximately 37 percent increase in population over existing conditions. However, as previously stated, the SCAG 2030 population projection for Orange County is 3,552,742. As such, at full buildout of the General Plan Update, the City's population increase would represent less than one percent of Orange County's total 2030 population increase. The Draft EIR concluded that the project's projected increase of less than one percent would not represent a cumulatively substantial and significant increase in population growth in the SCAG region. This would be well below the projected county-wide population increase of 495,877 persons and would not represent a cumulatively significant increase in population for the County as a whole.

The EIR based its conclusion upon the effect of exceeding SCAG's 2030 population projections for the City of Newport Beach, and found that the increase in population was a significant impact on a project level, but a less than significant impact cumulatively when examined with the proposed project, past projects, other current projects and probable future projects.

To clarify the methodology used in the cumulative analysis, the following text change has been made to the Draft EIR on page 4.10-6, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR. This text change is not a substantial change to the EIR and does not affect the cumulative analysis contained in Section 4.10 (Population and Housing):

SCAG's regional growth data project that the population of Orange County will be 3,552,742 persons in 2030, an increase of 495,877 persons over the County's existing population. SCAG also projects that the population of the City will be 94,167 persons in 2030. The proposed General Plan Update projects that the population of the City will be 103,753 persons in 2030, an increase of 9,586

persons over what SCAG projects in 2030 for the City and Orange County. As stated in Impact 4.10-1, this is an increase of approximately 10 percent over what SCAG projects for the City in 2030. In the cumulative context of Orange County, this represents an increase of approximately less than one percent over what is projected by SCAG for 2030. ~~On a cumulative level, the proposed project would not result in substantial population growth beyond projections, and would not induce substantial population growth in an area, either directly or indirectly. A projected increase of less than one percent would not represent a cumulatively substantial and significant increase in population growth in the SCAG region. This would be well below the projected county-wide population increase of 495,877 persons and would not represent a cumulatively significant increase in population for the County as a whole.~~ This cumulative impact would be *less than significant*. The project would have a *less-than-significant* contribution to this effect.

Scope of Cumulative Impact Analysis

The scope of the cumulative impact analysis is dictated by the nature of the resource under consideration; consequently, the geographic context of the cumulative impact analysis varies according to resource, and the context is clearly stated in each cumulative impact section, in accordance with 14 Cal Code Regs Section 15130 (b)(3), which states:

Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

The following discussion describes the geographic context for the cumulative impact analysis of each resource section:

Aesthetics

As stated on page 4.1-22 of the Draft EIR, the geographic context for the analysis of cumulative impacts on visual resources is southwestern Orange County, specifically Newport Beach and the visible portions of adjacent cities, such as Huntington Beach, Costa Mesa, and Irvine. This is the appropriate geographic context because visual impacts are generally limited to the immediate vicinity of a proposed project, impacts to where views of and from a project area are most likely to be experienced. Development under the General Plan Update would be visible within this geographic area, and contribution of visual resources impacts of the proposed project that other projects contribute to would be in this geographic context.

Air Quality

As stated on page 4.2-17 of the Draft EIR, the geographic context for the analysis of cumulative air quality impacts is Source Receptor Area (SRA) 18 of the South Coast Air Basin. This area extends from the Los Angeles County Line on the north through Newport Beach on the south, and Interstate 405 on the east to the Pacific Ocean on the west. It includes the Planning Area for the proposed General Plan Update, as well as the cities of Costa Mesa, Huntington Beach, and Seal Beach, and represents a discrete area for the purpose of air quality monitoring. The significance of cumulative air quality impacts is typically determined according to the project methodology employed by the SCAQMD, the regional authority in this area, taking regional growth projections into consideration. Under the method prescribed by the SCAQMD, projects contemplated under a single regulatory program or a program EIR should be evaluated additively for cumulative air quality impacts. If there are no such projects, then the

significance of the project-specific impact determines the significance of the project's cumulative impact. In the case of the General Plan Update, all potential development under the General Plan, which establishes the program for the entire City of Newport Beach and governs projects to be developed within the City, is considered in the Draft EIR; consequently, as the governing program of development, the General Plan Update is both the project and the cumulative context under SCAQMD cumulative impact analysis methodology.

Biological Resources

As stated on page 4.3-29, the geographic context for the analysis of cumulative biological impacts includes the Orange County Central and Coastal Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP). The plan was designed to guide habitat conservation and compatible land use over 209,000 acres of developed land and open space in two noncontiguous areas of Orange County (the Central and Coastal subregions). The plan establishes a permanent reserve of about 38,000 acres of several types of habitat, including 19,000 acres of coastal sage scrub habitat. Impacts to covered species and establishment and implementation of a regional conservation strategy and other measures included in the NCCP/HCP are intended to address the federal, state, and local mitigation requirements for these species and their habitats. This is due to the fact that the creation of the Reserve System provides essential habitat necessary to sustain the target and identified species within each subregion. The commitment of land mitigates, on a regional basis, the loss of habitat value while the mitigation fees provide for future management of the Reserve System as well as providing lands, and funds for future habitat restoration and enhancement (refer to page II-423 of the NCCP/HCP). As the NCCP/HCP focuses on multiple species and habitats and address the conservation of these species on a regional context, the NCCP/HCP by design addresses cumulative biological impacts for take of covered species within the Planning Area for the General Plan Update.

Cultural Resources

As stated on page 4.4-19, the geographic context for the analysis of cumulative cultural resources is Orange County, as cultural resources within the City could be expected to provide important scientific information regarding culture groups that generally ranged throughout portions of the county. Consequently, the overall effect of impacts to cultural resources as a result of the proposed project would contribute to the cumulative impacts on cultural resources of other projects within Orange County.

Geology and Soils

As stated on page 4.5-18, the geographic context for the analysis of impacts resulting from geologic hazards generally is site-specific, rather than cumulative in nature, because each project area has unique geologic considerations that would be subject to uniform site development and construction standards. This geographic context is appropriate. Because these effects are site-specific, and impacts would not be compounded by additional development, and because development that would occur under the General Plan Update would be sited and designed in accordance with appropriate geotechnical and seismic guidelines and recommendations consistent with the California Building Code, any contribution of impacts resulting from geologic hazards of the proposed project would not contribute to those of other projects; therefore, this geographic context is appropriate.

Mineral Resources

As stated on page 4.5-32, the geographic context for cumulative mineral resources impacts that would occur under the proposed General Plan Update is Orange County. This is the appropriate geographic context as any impacts to a mineral or oil resource due to implementation of the proposed project would cumulatively contribute to impacts of other mineral or oil resources within the local geological formations in Orange County. Any contribution of impacts on mineral or oil resources of the proposed project that other projects contribute to would be in this geographic context.

Hazardous Materials

As stated on page 4.6-30, the geographic context for cumulative hazardous impacts is the entire Planning Area (encompassing the City and the SOI). As impacts associated with hazards and hazardous materials are generally considered site-specific, the Planning Area is the appropriate geographic context.

Hydrology and Water Quality

Water Quality

As stated on page 4.7-42, the geographic context for the analysis of cumulative impacts associated with water quality is the area covered by the Newport Bay, Newport Coast, Talbert, and San Diego Creek Watersheds. This is the appropriate geographic context as any potential project-related impacts on water quality would affect water quality within the above mentioned watersheds.

Groundwater

As stated on page 4.7-42, the geographic context for the analysis of cumulative impacts associated with groundwater is the area underlain by the Coastal Plain of Orange County Groundwater Basin. This is the appropriate geographic context as any potential project related-impacts on groundwater resources would contribute to impacts to groundwater resources only within that basin.

Storm Drainage

As stated on page 4.7-43, the geographic context for cumulative impacts to storm drainage is the Orange County. Some local storm drain facilities within the City ultimately flow into the County facilities, and development that would occur within the County would increase stormwater runoff into the County system. This increased development could require the construction of new, or expansion of existing, County storm drain facilities. Therefore, the County is the appropriate geographic context.

Flood Hazards

As stated on page 4.7-43, the geographic context for the analysis of cumulative impacts associated with flooding hazards is the area covered by the Newport Bay, Newport Coast, Talbert, and San Diego Creek Watersheds. Cumulative growth and development throughout the watersheds could result in the introduction of new structures and impervious surfaces that would increase stormwater runoff within these watersheds, which could subsequently lead to increased flood hazards within these watersheds. Additionally, cumulative development could potentially result in increases in the number of people living

in potential dam, levee, seiche, tsunami, and mudflow inundation areas within the watersheds that these events could affect. Therefore, these identified watershed areas are the appropriate geographic context.

Land Use and Planning

As stated on page 4.8-24, the geographic context for the cumulative impacts associated with land use issues is Orange County. This is the appropriate geographic context as regional growth will be reviewed for consistency with adopted land use plans and policies by the County. The City of Newport Beach, and other incorporated cities in the County, in accordance with the requirements of CEQA, the State Zoning and Planning Law, and the State Subdivision Map Act. Additionally, incompatibility would generally occur only with adjacent uses and municipalities.

Noise

As stated on page 4.9-35, the geographic context for the analysis of cumulative noise impacts is the Planning Area. Noise and vibration from localized sources, such as construction sites, HVAC equipment, etc., decrease rapidly with distance from those sources; therefore, the Planning Area is the appropriate geographic context for this localized effect.

Population and Housing

As stated on page 4.10-6, the geographic context for the analysis of cumulative impacts associated with population and housing is Orange County. This context is appropriate because impacts to population and housing resulting from implementation of the proposed project would have the potential to cumulatively contribute to impacts throughout the County, and County-wide population projections generally form the basis for long-term planning and transit planning.

Public Services

Fire Services

As stated on page 4.11-10, the geographic context for the analysis of cumulative impacts associated with fire service is the Newport Beach Fire Department service area. Because impacts to fire service are limited to the area served by the NBFD, this is the appropriate geographic context.

Police Services

As stated on page 4.11-16, the geographic context for the analysis of cumulative impacts associated with police protection services would be the NBPD service area. Because impacts to police service are limited to the area served by the NBPD, this is the appropriate geographic context.

Schools

As stated on page 4.11-24, the geographic context for the analysis of cumulative impacts associated with schools is the Newport Mesa Unified School District and the Santa Ana Unified School District. Because impacts to school service are limited to the area served by the NMUSD and the SAUSD, this is the appropriate geographic context.

Library Services

As stated on page 4.11-29, the geographic context for the analysis of cumulative impacts associated with library services would be the capacity of the NBPL. Because impacts to library service are limited to the area served by the NBPL, this is the appropriate geographic context.

Recreation and Open Space

As stated on page 4.12-17, the geographic context for the analysis of cumulative impacts associated with parks and recreational facilities is the City of Newport Beach and its SOI. Because impacts to recreation and open space are limited to the planning area, this is the appropriate geographic context.

Transportation/Traffic

As stated on page 4.13-46, future traffic volumes for the General Plan Buildout With Project and General Plan Buildout Without Project scenarios were projected using the Newport Beach Traffic Model, Version 3.1 (NBTM 3.1). The NBTM 3.1 is a model that incorporates regional model data and projects on the regional system within and outside of the City. This includes traffic from neighboring jurisdictions. It includes most of Southern California, although the level of detail for areas further away from the City is less detailed than for areas closer to the City. These projections do include all reasonably foreseeable and probable future projects in the region, including growth in other municipalities. Therefore, this is the appropriate geographic context as any potential project traffic and transportation impacts, as well as those from other related projects, would be part of the NBTM model.

As explained in the TBR, Chapter 3, p. 2, the NBTM 3.1 is a three-tier system, with tier 1 being the least detailed analysis and tier 3 being the primary study area. Additionally, the forecasts presented by the application of the NBTM 3.1 are consistent with and inclusive of regional forecasts (i.e. the Newport Beach forecasting process has been accepted by Orange County Transportation Authority as providing results that satisfy their consistency requirements). Pursuant to the Orange County Subarea Modeling Guidelines Manual (OCTA, September, 2004), each subarea model under consideration for consistency determination with OCTAM must meet the guidelines and criteria established in this chapter. Subarea consistency is established by comparing OCTAM and the subarea model for each modeling step. This information is used as a reference point for consistency findings and to provide a basis for comparing changes in the subarea modeling assumptions and input data. Consistency comparisons are made for both the OCTAM base year and horizon year projections. The NBTM 3.1 was found consistent with OCTAM in a letter to Rich Edmonston, Newport Beach Transportation and Development Services Manager, dated March 31, 2004.

Further, the transportation study is based on the best available information regarding development outside the City of Newport Beach at the time the study was prepared. The most current regional projections of growth in housing, population, and employment are the OCP-2004 demographic projections. These projections have been used to reflect cumulative development potential throughout Orange County. Similarly, the most current regional demographic projections as reflected in the Orange County Transportation Analysis Model (OCTAM) have been included in the analysis. The Pacific City project would have been included in the OCP-2004 because it did not involve a General Plan

Amendment. While the Westside Revitalization Plan was not included in OCP-2004, the City of Costa Mesa’s environmental analysis identified no impacts related to that project as provided below.

In its own environmental documents for projects in the Irvine Business Complex (IBC), the City of Irvine has consistently concluded that development in the IBC will not result in impacts greater than those found in the 1988 EIR for the IBC General Plan amendment. The level of development studied in this EIR is included in regional growth projections, and therefore in the Draft EIR for the proposed General Plan update.

For example, the Supplemental Draft EIR for the Central Park project in March 2004 found that, due to complying with the IBC trip budget and using a transfer of development rights (TDR), the project would have no traffic impacts in Newport Beach or Tustin or on I-405 ramps. Only one intersection in Irvine was found to have a significant impact, which was reduced to a non-significant impact after mitigation. An Addendum to the 1998 EIR was prepared for the Plaza-Irvine project in June 2004. Again using the IBC trip budget and TDR, it found that there would be a reduction in both daily and peak hour trips. Phases III and IV of the Plaza-Irvine were found to be within the scope of the IBC EIR, and no further environmental evaluation was done. In August 2005, another Addendum to the 1998 EIR was done for the Kelvin Jamboree Village project. It found that the project would generate trips within the IBC trip budget and that the regional transportation impacts had been analyzed as part of the 1992 IBC Rezoning Traffic Study (part of the 1988 IBC EIR, which was certified in 1992). A Subsequent EIR was prepared for the Avalon Bay project in June 2006, with the traffic study showing that only one intersection in Irvine would be impacted and requiring a contribution to a future traffic improvement as mitigation. The Preliminary Final Subsequent EIR for the 2323 Main Street project found no significant adverse impacts from traffic. Finally, the Draft Negative Declaration for the IBC Residential and Mixed Use Overlay Zone and Vision Plan, released in January 2006, concluded that there would be no significant impacts due to increase in trips related to capacity of the system from this comprehensive planning program that could result in development of an additional 10,000 residential units.

The City of Newport Beach has commented on some of these environmental documents, and does not believe that the analysis to support their conclusions has been adequate in every case. Nonetheless, Newport Beach is unable to analyze the cumulative impacts of these and other projects in Irvine if the City of Irvine has not provided the needed information in the environmental documents on these projects.

Further, some commenters, including the City of Costa Mesa, have referenced other project-level traffic analyses. The City has reviewed several of Costa Mesa’s environmental documents in the vicinity of Banning Ranch, including the Mixed-Use Overlay District and Sobeca Urban Plan IS/MND, which analyzed 2025 conditions. Although it is not stated whether the analysis took into consideration existing conditions or the existing General Plan, the difference is relatively moderate, as shown below:

	<i>Average Daily Trips</i>
Existing	135,561
General Plan	173,286
Revised Plan	157,647

The analysis included several worst-case assumptions, including no extension of SR-55 and no bridge along 19th St at the Santa Ana River. It also assumes numerous local intersection improvements. As a result the three intersections with LOS E under existing conditions would improve, and all intersections would operate at LOS D or better under either the General Plan or the Revised Plan, which adheres to the City's goal for acceptable level of service of LOS D.

Utilities and Service Systems

Water System

As stated on page 4.14-20, the geographic context for the analysis of cumulative impacts associated with water systems would be the water provider projections for the Planning Area. MWDOC, the City's provider of imported water, IRWD, and Mesa Consolidated have each indicated they can accommodate the additional demand from the proposed General Plan Update. As any potential project related water system impacts would cumulatively contribute to water system impacts of the above-mentioned water providers, this is the appropriate geographic context.

Sewer Systems

As stated on page 4.14-33, the geographic context for the analysis of cumulative impacts associated with sewage treatment systems and recycled water conveyance systems would be the wastewater service providers' areas for the Planning Area. Currently, the City of Newport Beach, IRWD, and CMSD provide wastewater infrastructure to the Planning Area. OCSD provides regional wastewater treatment service and the providers listed above utilize OCSD facilities for the treatment of wastewater collected with their infrastructure. As any potential project-related and related projects' wastewater system impacts would cumulatively contribute to wastewater system impacts of the above-mentioned wastewater service providers, this is the appropriate geographic context.

Solid Waste

As stated on page 4.14-45, the geographic context for the analysis associated with cumulative solid waste impacts is Orange County. As any potential project-related and related projects' solid waste impacts would cumulatively contribute to solid waste impacts to the County landfill system, making this the appropriate geographic context.

Energy

As stated on page 4.14-50, the geographic context for the analysis of cumulative energy impacts is the SCE and the SCGC service areas. As any potential project-related and related projects' energy impacts would cumulatively contribute to energy impacts within the SCE and SCGC service areas, this is the appropriate geographic context.

■ Master Response C: Use of 2002 Baseline

It should be noted that the reasoning and justification for the 2002 baseline was previously presented in Section 1.2.1 (Environmental Setting/Definition of the Baseline) starting on page 1-3 of the Draft EIR. However, additional information is provided herein for clarification purposes.

The General Plan update process has been a lengthy one that progressed from visioning, to identification of land use alternatives, to preparation of the TBR, to selection of land use alternatives, to evaluation of the environmental impacts of the various alternatives in the Draft EIR. The General Plan update process included an extensive public participation process that included four years of effort by a 38-member citizen General Plan Advisory Committee (GPAC). As a result of these efforts, the City's vision and strategic directions to implement the vision were identified and documented in the Community Directions for the Future (January 2003).

While the City's process to update the General Plan began with a Visioning Process in late 2001, it was in 2002 that the main technical analyses were developed. The City completed its compilation of the TBR and published the document in June 2004. Subsequently, a framework of principles was identified to guide the formulation of land use alternatives and updated General Plan policies. Alternative land use development scenarios were then formulated in context of the City's vision and guiding principles. The alternatives were evaluated to determine their environmental and economic impacts, based on information in the TBR. The alternative land use scenarios and their impacts were presented to City Council in August 2005 at which time they selected a land use plan for use in the EIR. The update of the General Plan, inclusive of policies, was based on this land use plan, and it constitutes the project analyzed in the Draft EIR.

The purpose of the TBR is stated clearly in the Introduction to the document, as follows:

The purpose of this document, the City of Newport Beach General Plan Technical Background Report (TBR), is to serve as a comprehensive database that describes the City's existing conditions for physical, social, and economic resources. This information includes discussion of the existing characteristics, trends and forecasts, and issues associated with each resource. The planning issues, which were identified based on existing conditions, will be presented as a separate document. The TBR is the foundation document from which subsequent planning policies and programs will be formulated. In addition, the TBR will serve as the "Environmental Setting" section for each technical environmental issue analyzed in the Environmental Impact Report, which will be completed as a component of the preparation of the General Plan.

The January 2006 NOP identified that the EIR analysis would be based on the TBR. Page 1 of the NOP stated:

The City of Newport Beach General Plan Technical Background Report (TBR) provides existing data for the entire Planning Area. The TBR was published June 2004 and is available for review at the Planning Department and Central Library.

The TBR has been publicly available since June 2004, and clearly states that the study year is 2002. The definition of the baseline is identified on pages 1-3 and 1-4 of the Draft EIR.

The use of a 2002 baseline is considered appropriate for this document because, among other reasons, the TBR and traffic modeling efforts were initiated in 2002, subsequent to the initiation of the General Plan update process. The process undertaken for this General Plan update moved forward from visioning to selection of a preferred plan without interruption, in a manner that is entirely consistent with the General Plan process outlined in the *State of California General Plan Guidelines* (2003), which is the State of California's official document interpreting and explaining California's legal requirements for general plans. Specifically, the General Plan Guidelines state that "data collection, data analysis, and special studies should be coordinated with the needs of the CEQA document being written for the plan. In the

interest of efficiency, data collection and analysis should be comprehensive enough to satisfy the needs of both the CEQA document and the general plan.” The Guidelines further state that “To the extent feasible, the planning process and the environmental analysis should proceed concurrently, sharing the same information.”

Accordingly, the TBR (including documents referenced therein), which was completed in June 2004 using data collected in 2002, was used both for purposes of identifying a preferred plan and for use as the environmental setting in the EIR. In some cases, portions of the concurrently prepared General Plan provided additional relevant setting information, and, in those cases, such data was specifically identified in the EIR section. For example, the recreation section of the EIR relied on both the TBR and the 2005 General Plan Update Recreation Element, the latter of which was not available when the TBR was prepared. Similarly, if additional relevant information became available since preparation of the TBR, such as the 2005 Urban Water Management Plan, that information was also used and specifically cited in the EIR. Also, 2005 traffic counts were collected so that the public and decision makers have additional information to help them understand the changes from currently existing conditions that would result from the proposed General Plan update. However, much of the information in the TBR does not change over the course of a few years (e.g., infrastructure, biological resources, hydrology, topography, geology, mineral resources, or hazards).

With respect to Public Services, new data was collected from the fire department, police department, and the Newport-Mesa Unified School District to reflect the most current and available information. No information from the Newport Beach Public Library was presented in the TBR; therefore, information was collected from the library as part of the EIR process in order to evaluate library impacts, although this analysis is not required under CEQA.

With respect to fire protection, the Newport Beach Fire Department (NBFD) uses accepted service levels to determine whether fire protection services are adequate. In this case, “adequate” is defined as a five-minute response time for a first-arriving fire engine at a fire or medical aid event, and an 8-minute response time for a first-arriving fire engine for a paramedic event. The data collected in 2002 and again in 2005 indicates that acceptable service levels are being provided. No new or different impacts would result from use of the 2002 data as compared to the 2005 data.

In terms of police protection, the City considers a ratio of officers to population when determining whether adequate police protection services are provided. With respect to population, the General Plan population projections were used in the EIR analysis. With respect to the number of officers available to serve that population, 2005 staffing levels were used. If 2002 data were used for staffing levels, it would result in an officer-to-population ratio that is higher than under 2005 levels, which would essentially indicate that there were more officers available to accommodate the increased growth; therefore, the 2005 data represents a more conservative analysis. Nonetheless, even if 2002 data were used, no new or different impacts would result and, further, the same General Plan policies would be recommended and no mitigation measures would be required.

For the schools analysis, capacity and campus size are the thresholds used to evaluate school impacts. Using both the 2002 and 2005 data, current school capacity is adequate to serve current levels of enrollment, and any additional population associated with the General Plan update could exceed this

capacity. General plan policies have been developed to address this potential capacity issue. Therefore, no new or different impacts would result from use of the 2002 data as compared to the 2005 data.

With respect to campus size, the same number of public schools were available to City residents in 2002 and 2005; therefore, if new facilities are required (either an expansion of existing facilities or new facilities), as supported by General Plan policy, the use of 2002 data would not result in new or different impacts as compared to 2005 data.

While CEQA Guideline Section 15125(a) notes that the baseline condition for the environmental review of a project will be the NOP date, CEQA permits the use of alternative dates provided substantial evidence supports the lead agency's choice of reference points. Refer to, for example, *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, 1281; *Napa Citizens for Honest Gov't. v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 363.

To suggest that in the context of the massive undertaking of a city-wide General Plan update, all of the technical studies have to be re-commissioned to match the NOP date would lead to a never-ending review process that would be counter to the *State of California General Plan Guidelines* and general CEQA practice, which establishes the goal of a one-year deadline between NOP issuance and EIR certification. See Pub. Res. Code §21100.2 (a)(4), 21151.5(a); CEQA Guideline §15108; Kostka and Zischke, *Practice Under the California Environmental Quality Act*, vol. 1, §16.5. By way of example, the TBR here took approximately two years to complete.

Further, the use of 2002 data as the baseline conditions for the EIR analysis provides a more conservative analysis of the impacts with a greater potential change between baseline and buildout. For these reasons, the Draft EIR's baseline analysis is appropriate.

Master Response D: Analysis of Impacts Beyond City Boundaries

As explained in Section 1.2 of the Draft EIR on page 1-2, the scope of the Draft EIR was determined through the preparation of an Initial Study which is included in Appendix A of the Draft EIR, as well as through the issuance of a Notice of Preparation (NOP). An NOP is designed to solicit guidance from other agencies regarding the scope and content of an EIR. Pub. Res. Code §21080.4; CEQA Guideline §15082. If an agency with jurisdiction over a resource which may be impacted by the project fails to request any particular analysis within 30 days of receiving the NOP, the Lead Agency is authorized to presume that such agency is not asking for the inclusion of the unidentified analysis in the Draft EIR. CEQA Guideline §15082(b)(2).

In this instance, the City issued a combined NOP/Initial Study on January 27, 2006, and sent it to all required agencies, organizations, and interested parties. The recipients included the neighboring cities and the County of Orange, each of whom have jurisdiction over the roadway systems within their boundaries. In addition, the City sent the NOP to Caltrans, since it has jurisdiction of the state highways within and in the vicinity of the City. The NOP asked the adjacent Cities and Orange County to provide their "views on the scope and content of the environmental information relevant to your agency's statutory responsibilities in connection with the proposed project...". Similarly, interested parties were asked to provide their comments on what should be addressed in the Draft EIR.

The NOP notified the recipients that the City would be focusing on impacts at a Citywide level. The NOP states that, “While policies regarding future land use and growth are addressed from a citywide perspective, the majority of land use changes are limited to nine primary study areas. Accordingly, the EIR will comprehensively address the impacts of all policies throughout the City and, additionally, focus on those areas in which the most significant land use changes could occur.”

With regard to Transportation/Traffic, the Initial Study stated that the General Plan Update could potentially result in a substantial traffic increase in the City. The NOP noted that the General Plan Technical Background Report (TBR) had already been prepared and was available for review. The TBR identified the 65 intersections that the City proposed to study. See Exhibit S. The City of Costa Mesa responded to the NOP, but did not request that any intersections or roadway segments within its boundaries be examined in the Draft EIR. Instead, with regard to traffic issues, it merely made suggestions regarding the assumptions about roadway improvements shown on the MPAH within its boundaries. Those suggestions were addressed in the Draft EIR and are further addressed in Master Response A.

The City of Huntington Beach requested no analysis specific to its jurisdiction. Indeed, it simply said it wished to review the Draft EIR when was available.

The City of Irvine requested some specific analysis be included to the Draft EIR, presumably due to increases in land use intensities near the border between the two cities. The impact analysis at the following specific border intersections was requested: MacArthur Boulevard at Campus Drive, Von Karman Avenue at Campus Drive, Jamboree Road at Campus Drive, and MacArthur Boulevard at Jamboree Road. These intersections were included in the analysis, and transportation improvements to achieve LOS D (or LOS E, which is the City of Irvine standard) in the Airport Area were identified for MacArthur Boulevard at Campus Drive, Von Karman Avenue at Campus Drive, Jamboree Road at Campus Drive, MacArthur Boulevard at Ford Road/Bonita Canyon Drive, and MacArthur Boulevard at San Joaquin Hills Road . These improvements are included in the proposed Circulation Element.

The City of Irvine also requested that the traffic analysis include arterials and intersections within the City of Irvine bounded by Main Street to the north, Red Hill Avenue to the west and Harvard Avenue/University Drive to the east. The transportation study found that the proposed General Plan update would not cause significant impacts at the border intersections shared between Irvine and Newport Beach on Campus Drive. This conclusion has been reached because the improvements required to provide acceptable traffic conditions at the border intersections are the same for both the currently adopted General Plan land uses and the Draft EIR General Plan Preferred alternative land uses. Based on this finding, and the professional engineering judgment of Urban Crossroads, Inc., it was determined that intersections further from the City of Newport Beach would not be impacted. Therefore, they were not included in the transportation study.

Caltrans’ NOP response focused on coordination between the City and Caltrans at the individual project construction level. It did not request any analysis beyond what was included in the Study. In addition, none of the other individuals or entities who submitted comments on the NOP requested that analysis be expanded outside of the City’s jurisdiction.

At the core of the traffic analysis completed for the Draft EIR is the Newport Beach Traffic Model, Version 3.1 (NBTM 3.1). The NBTM 3.1 is a model that includes most of Southern California, although the level of detail for areas further away from the City is less detailed than for areas closer to the City. As explained in the TBR, Chapter 3, p. 2, the NBTM 3.1 is a three-tier system, with tier 1 being the least detailed analysis and tier 3 being the primary study area. Additionally, the forecasts presented by the application of the NBTM 3.1 are consistent with and inclusive of regional forecasts (i.e. the Newport Beach forecasting process has been accepted by Orange County Transportation Authority as providing results that satisfy their consistency requirements). Pursuant to the Orange County Subarea Modeling Guidelines Manual (OCTA, September, 2004), each subarea model under consideration for consistency determination with OCTAM must meet the guidelines and criteria established in this chapter. Subarea consistency is established by comparing OCTAM and the subarea model for each modeling step. This information is used as a reference point for consistency findings and to provide a basis for comparing changes in the subarea modeling assumptions and input data. Consistency comparisons are made for both the OCTAM base year and horizon year projections. The NBTM 3.1 was found consistent with OCTAM in a letter to Rich Edmonston, Newport Beach Transportation and Development Services Manager, dated March 31, 2004.

Some comments on the Draft EIR have suggested that the City should have studied additional roadway systems outside of its planning area. Applying the NBTM 3.1, the City's independent traffic experts, Urban Crossroads, outlined the existing vehicle trips per day throughout the Planning Area and also in areas adjacent to the City (see Exhibit ES-A of the Transportation Study, Appendix D of the Draft EIR), and projected the traffic volumes in the buildout condition both with and without the project on some 142 roadway segments, throughout the Planning Area and also in areas adjacent to the City. (See, e.g., Exhibits ES-B and ES-C and Table 5-6 of Appendix D.)

In total, 62 intersections under existing conditions and 64 future intersections under projected conditions were selected for study. The study intersections were identified by Urban Crossroads and City staff as the intersections with the greatest potential for being impacted by the project. They include the border intersections with the City of Irvine, as requested by the City of Irvine, but not the more distant intersections requested by Irvine, as explained above. The location of the intersections is depicted in Figure 4.13-5 of the Draft EIR. Intersection improvements needed to achieve acceptable levels of service at boundary intersections with Irvine along Campus Avenue were reviewed in the Transportation Study. In all cases, the improvement needs do not change as a result of the proposed General Plan update. Moreover, given the fact that the majority of the trips generated by the proposed project are internal to the City and the impacts of the City-generated trips dissipate and become more difficult to predict as they move from the source, the City believes the scope of the Study is appropriate. In addition, in response to public input during development of the proposed General Plan update, various Freeway/Tollway segments and ramp conditions were studied. (See, e.g., Draft EIR, p. 4.13-13.) For the study intersections and the Freeway/Tollway segments and ramps, the Study analyzed and disclosed the Level of Service under the existing scenario, with buildout of the existing General Plan, and with the buildout of the proposed General Plan update.

The projected daily traffic volume on Newport Boulevard north of Hospital Road in the Newport Beach General Plan update Draft EIR is 54,000 vehicles per day. The results of the General Plan analysis from

the City of Costa Mesa 2002 General Plan update have been reviewed to determine the comparable traffic volume in the Costa Mesa analysis. This review indicates that the projected daily traffic volume on Newport Boulevard south of 16th Street is 66,000 vehicles per day per the City of Costa Mesa analysis. The Newport Beach analysis is based on updated regional demographic projections (OCP-2004 socioeconomic data forecasts) and results in a lower daily traffic volume. This indicates that the finding in the Costa Mesa General Plan Update environmental documents of no significant impact along Newport Boulevard is still valid, even with the minor increase in trip generation identified for the With Project scenario compared to the No Project (Currently Adopted General Plan) alternative.

Furthermore, the City of Newport Beach City Council has directed further modifications to the Newport Beach Land Use element that will result in a net reduction in traffic compared to the currently adopted General Plan. This would also result in a reduction in the traffic volume forecasts in the Costa Mesa General Plan Update environmental documentation, which were found to result in less than significant traffic impacts by the City of Costa Mesa.

In addition, based upon daily traffic volumes shown for areas outside the City of Newport Beach (see Exhibits 2-J, 4-B, and 5-A of the Transportation Study), the City of Newport Beach has concluded that traffic from buildout of the proposed General Plan update being added into the roadway system outside of the City's borders is not likely to create significant impacts. At the edges of the City of Newport Beach, traffic volumes do not show a large increase when a comparison is made between the "without project" condition to "with project" conditions. For example, the volume on the SR-55 freeway between 22nd Street and 19th Street is identical without and with the project. Most other locations at the edge of the City of Newport Beach experience increases of 1,000 or fewer vehicles per day from the adopted General Plan to the proposed General Plan scenario.

The scope of the City's traffic analysis is appropriate for a programmatic study. It is consistent with the approach taken by the City of Newport Beach when it completed its last update of the General Plan Land Use and Circulation elements in 1988.

The neighboring cities have taken a similar approach in the traffic analysis completed for their respective General Plan Updates. For example, Irvine limited analysis to intersections within its city limits in the EIR prepared for the Irvine Business Complex General Plan Amendment and Rezoning Project in 1988. The EIR prepared for Irvine's General Plan Update in 1995 again did not include analysis of any intersections outside the City of Irvine. There were two intersections analyzed by the City of Irvine that have since come into the City of Newport Beach through a municipal reorganization, the Bonita Canyon detachment and annexation. The EIR prepared and certified for the City of Costa Mesa's 2002 General Plan Update expressly limited its impact analysis to whether the implementation of its General Plan Update would (1) "result in an increase of traffic volumes for the horizon year of 2020, which in turn would impact the capacities of *roadways within the City of Costa Mesa*"; and (2) "result in the exceedance of LOS standards established by the CMP for designated *Costa Mesa roadway segments*" [emphasis added]. It also examined the update's consistency with the OCTA's MPAH. See Chapter 4.4 of the EIR for Costa Mesa General Plan Update, 2002. Similarly, when Huntington Beach updated its General Plan in 1996, its traffic analysis was limited to the roadway system within its borders. See Chapter 5.3 of the Huntington Beach General Plan EIR. Generally speaking, the recent General Plan Traffic Studies completed by Urban Crossroads, Inc. and included in certified environmental documents

for the following additional jurisdictions also focused on analysis within the Sphere of Influence of the jurisdiction: Downey, Rancho Mirage, Moreno Valley, San Jacinto, and Rancho Santa Margarita.

The regional agency (the Orange County Transportation Authority) administers the Master Plan of Arterial Highways, and monitors and plans for regional issues. OCTA administers projects that evaluate regional issues (recent projects include the I-405 freeway Major Investment Study, the Orange County to Riverside County MIS, etc.). Additionally, OCTA worked with affected Cities in a cooperative study to evaluate alternatives for the Santa Ana River Crossings. Individual cities participate in and contribute to these efforts, but do not lead them.

Finally, because this is a Programmatic EIR and assumes full buildout of the City's General Plan as well as full buildout of the surrounding cities' general plans, the future trip generation and related impacts are likely overly conservative. For example, the existing Newport Beach Land Use Element was adopted in 1988, and significant amounts of the development authorized in that Element have not been implemented. This unused development includes 300 dwelling units on Lido Isle, 530 dwelling units on the Balboa Peninsula, 996 dwelling units on Balboa Island, 360 dwelling units in Corona del Mar, 800 dwelling units in Newport Coast, 100 hotel rooms in Newport Center, 350,000 square feet of office space in the Airport Area, 550,000 square feet of commercial use in Mariners' Mile, 600,000 square feet of commercial and industrial use in West Newport Mesa, 250,000 square feet of commercial space in Corona del Mar, and 200,000 square feet of office and retail use in Santa Ana Heights. In addition, and as mentioned in Chapter 8, minor changes to the General Plan have occurred as a result of the public involvement process that the City has undertaken. Table 1 in Chapter 8 provides a comparison of the General Plan for ease of understanding. However, more realistic and focused review of traffic impacts will be completed for individual projects. If such projects have the potential to cause a substantial impact on roadways outside of the City, those impacts will be analyzed at that time in the project level documents, and impacted agencies will have an opportunity to raise concerns regarding impacts and suggest mitigation at that point in time.

■ **Master Response E: Level of Environmental Analysis**

Consistent with CEQA Guidelines Section 15146, "the degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity ... described in the EIR." As further stated, "the EIR [on a local general plan] need not be as detailed as an EIR on the specific construction projects that might follow." The EIR complies with these Guidelines by focusing on the overall, programmatic effect of increased development; specific information is not warranted for inclusion and cannot be reasonably determined based on currently available information. The environmental effects of project-specific details (i.e., transportation improvements) have been analyzed in the EIR at a programmatic level, consistent with available information and CEQA requirements. A more detailed analysis would be prepared consistent with CEQA once specific proposals have been articulated and the project is proposed as an individual construction project subject to review and consideration by the City.

10.2.2 Individual Responses to Comments

The following section contains all of the responses to individual comments received on the Draft EIR, isolated by individual commenter. All of the original comment letters, in their entirety, are provided before the responses. Pursuant to CEQA, the purpose of the Draft EIR is to evaluate the significance of physical changes in the environment resulting from approval of the City of Newport Beach General Plan Update. Therefore, consistent with Sections 15088(a) and 15088(b) of the CEQA Guidelines, comments that raise significant environmental issues are provided with responses. Comments that are outside of the scope of CEQA review but include anecdotal evidence or opinion will be forwarded for consideration to the decision-makers as part of the project approval process. All comments will be considered by the decision-makers of the City of Newport Beach when making a decision on the project.

US



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92011

In Reply Refer To:
FWS-OR-3410.4

RECEIVED BY
PLANNING DEPARTMENT JUN 09 2006
CITY OF NEWPORT BEACH

Gregg Ramirez
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92658-8915

JUN 14 2006
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

Subj: Draft Environmental Impact Report for City of Newport Beach General Plan 2006 Update, City of Newport Beach, California

Dear Mr. Ramirez:

The U.S. Fish and Wildlife Service (Service) has reviewed the Draft Environmental Impact Report (DEIR) for the City of Newport Beach General Plan 2006 Update, received April 26, 2006. The General Plan update includes changes in the type of development anticipated in the City of Newport Beach (City) (e.g., proportion of development and industrial development), slight changes in proposed areas of development and open space, and new guidelines with respect to project review and coordination with applicable agencies prior to project approval.

We offer the following specific comments and recommendations regarding project-associated biological impacts based on our review of the DEIR, our knowledge of declining habitat types and species within Orange County, and as a signatory to the Central/Coastal Orange County Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP). These comments are provided pursuant to the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.), and in keeping with our agency's mission to "work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people."

Comments:

1. As mentioned in the DEIR, the City is a participating jurisdiction in the NCCP/HCP. In addition, ownership of Buck Gully was transferred from the County of Orange to the City in 2005. Buck Gully is part of the Reserve System established under the NCCP/HCP, so the City now owns and manages part of the NCCP/HCP Reserve System.

Although the City signed the NCCP/HCP in 1999, we have not received a permit application from the City. The NCCP/HCP permit would authorize impacts to coastal sage scrub and incidental "take" of federally threatened coastal California gnatcatcher

1



(*Polioptila californica californica*, “gnatcatcher”) associated with routine maintenance of infrastructure in the Reserve System (provided guidelines provided in the NCCP/HCP are adhered to) and would enable landowners within the City to pay an “in-lieu fee” to offset project-associated impacts to coastal sage scrub, the gnatcatcher, and other Covered Species within identified areas. If the City has questions regarding the permit application process or what activities would be authorized by the permit, please contact the Carlsbad Fish and Wildlife Office at the number listed below.

In addition, as an entity that owns land within the Reserve System, we recommend that the City contact the Nature Reserve of Orange County to discuss the possibility of participating on the Board of Directors of the Nature Reserve of Orange County, which helps implement the NCCP/HCP.

2. We support the City’s commitment to “prepare natural habitat protection regulations for Buck Gully and Morning Canyon for the purpose of providing standards to ensure both the protection of the natural habitats in these areas and of private property rights” and to “include standards for the placement of structures, native vegetation/fuel modification buffers, and erosion and sedimentation control structures.” We recommend that the City coordinate with the Carlsbad Fish and Wildlife Office during preparation of these plans to ensure consistency with the NCCP/HCP and the Act and to explore potential grant opportunities for restoration of habitat in these areas.
3. The DEIR defines “Environmental Study Areas” as “undeveloped areas supporting natural habitats that may be capable of supporting sensitive biological resources.” Environmental Study Areas are mapped in Figure 4.3-2. We recommend that Figure 4.3-2 be revised to include all areas that are part the NCCP/HCP Reserve System or are identified as “Existing Use Areas,” and “Non-Reserve Open Space” in the NCCP/HCP, as all of these areas are likely to support natural habitats that may be capable of supporting sensitive biological resources. Furthermore, even if Figure 4.3-2 is revised as recommended, there will be areas outside of the Environmental Study Areas that support sensitive biological resources, so projects should be evaluated on a case-by-case basis to ensure consistency with applicable environmental laws.
4. We support the City’s efforts to maintain Newport Banning Ranch as open space in perpetuity. Newport Banning Ranch supports a wide variety of sensitive species including the federally threatened coastal California gnatcatcher (*Polioptila californica californica*), federally endangered least Bell’s vireo (*Vireo bellii pusillus*) and San Diego fairy shrimp (*Branchinecta sandiegonensis*), and state-listed endangered Belding’s savannah sparrow (*Passerculus sandwichensis beldingi*). If recreation facilities or development are considered for Newport Banning Ranch, we strongly recommend early coordination with the Carlsbad Fish and Wildlife Office to ensure that impacts to sensitive resources and federally listed species are avoided, minimized, and offset.

1

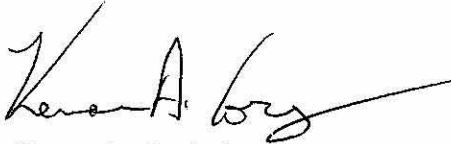
2

3

4

We appreciate the opportunity to comment on the DEIR for the City of Newport Beach General Plan 2006 Update. Should you have any questions pertaining to these comments, please contact Jonathan Snyder of my staff at (760) 431-9440, extension 307.

Sincerely,


For Karen A. Goebel
Assistant Field Supervisor

cc:

David Kiff, City of Newport Beach, Newport Beach, California

Lyn McAfee, NROC, Irvine, California

Leslee Newton-Reed, CDFG, San Diego, California

Warren Wong, CDFG, San Diego, California

■ Response to Comment Letter US

Letter from the United States Department of the Interior, received June 9, 2006

US-1

The City does not have, or anticipate receiving, an application for a project requiring a “take” within the scope of this plan.

The first full paragraph on page 4.3-21 has been amended, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

As a signatory agency, the City is responsible for enforcing mitigation measures and other policies identified in the NCCP/Habitat Conservation Plan Implementation Agreement for properties located within the City Limit that are part of the NCCP Subregional Plan. In 2000, the City annexed Newport Coast which includes Buck Gully. Buck Gully is part of the Reserve System of the NCCP/Habitat Conservation Plan.

The City shall comply with all provisions of the NCCP Subregional Plan, including the recommendations and requirements of the NCCP/HCP with respect to permit requirements and applications. In addition, this comment will be forwarded to the City Council for its consideration regarding participation on the Board of Directors of the Nature Reserve of Orange County.

US-2

Comment noted. No response required. The City will coordinate with the Carlsbad office when it prepares the regulations.

US-3

The Environmental Study Areas (ESAs) include those areas within the City limits that require further study to determine their ability to support sensitive biological resources. These areas have been identified by the City and may or may not include all areas designated as part of the NCCP/HCP Reserve System. The exclusion of those areas in Figure 4.3-2 does not imply exclusion of those areas from consideration by the City as biologically sensitive. They are protected/regulated by the NCCP/HCP and will be taken into consideration by the City during any future development. Further, every development project conducted within the City limits will be subject to its own project-level CEQA review. As part of that review, a site-specific biological analysis may be conducted, depending upon the biological resources present or potentially present, to ensure that potential impacts to sensitive biological resources, whether contained within an ESA or not, will be addressed.

US-4

Should development of Banning Ranch be considered in the future, the City will coordinate with the appropriate agencies, including the Carlsbad office of the Fish and Wildlife Service, regarding the potential impacts of development within the Banning Ranch ESA.

DEPARTMENT OF TRANSPORTATION

District 12

3337 Michelson Drive, Suite 380

Irvine, CA 92612-8894

Tel: (949) 724-2267

Fax: (949) 724-2592



*Flex your power!
Be energy efficient!*

FAX & MAIL**June 8, 2006**

Greg Ramirez
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92685

CT

File: IGR/CEQA
SCH#: 2006011119
Log #: 1678-A
SR-1, I-5, SR-73, SR-55

Subjects: City of Newport Beach General Plan Update 2006- DEIR

Dear Mr. Ramirez,

Thank you for the opportunity to review and comment on the **Draft Environmental Impact Report (DEIR)** for the City of Newport Beach General Plan Update 2006. The DEIR discusses impacts associated with implementation of the proposed General Plan Update and its Sphere of Influence.

Caltrans District 12 status is a responsible agency on this project and has the following comments:

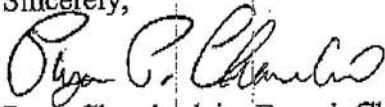
1. The issues of greatest concern to Caltrans are those that may impact traffic circulation and increase demand on State Transportation Facilities. For all new developing areas, major new developments, redevelopment areas that may require new or improved access, new signals or any improvements to State Transportation Facilities will require close coordination with Caltrans. This requirement should be included in the Land Use and circulation Elements of the General Plan and the Final EIR. 1
2. Traffic Operations requests all applicants to use the Highway Capacity Manual (HCM) method outlined in the latest version when analyzing traffic impacts on State Transportation Facilities. The use of HCM is preferred by Caltrans because it is an operational analysis as opposed to the Intersection Capacity Utilization (ICU) method, which is a planning analysis. In the case of projects that have direct impacts on the state's facilities Caltrans recommends that the traffic impact analysis be based on HCM method. Should the project require an encroachment permit, traffic operations may find the Traffic Impact Study based on ICU methodology inadequate resulting in possible delay or denial of a permit by Caltrans. All input sheets, assumptions and volumes on State Facilities including ramps and intersection analysis should be submitted to Caltrans for review and approval. 2
3. Table 2-2 and Page 4.13-25 - Impact 4.13.1. "The Comparison of the Existing With Project scenario (which does not include any regional traffic growth) with the General Plan Buildout With Project scenario, regional traffic is directly responsible for over half of the total traffic volume increases on the City's arterial roadway system. The proposed General Plan update itself would generate 44% of the total increase in traffic." Therefore, the project will impact the surrounding State Transportation Facilities SR-73, I-405 Freeways, and SR-1, SR-55 Conventional Highways. This section in the DEIR should indicate that there will be Potential 3

Significant Impacts and appropriate mitigation should be identified and submitted to Caltrans for review and comments.

4. Table 2-2, Impact 4.13.2 - Implementation of the proposed General Plan Update would contribute to a substantial increase in deficient freeway segments and ramps. Appropriate mitigation measures should be developed and submitted to Caltrans for review and comments.
5. Caltrans supports the statement in the DEIR (4.13-17) on the recreational use of the bicycle and pedestrian trails. However, the use of bicycles as an alternative travel mode for transportation is strongly recommended. Where possible we encourage a Class II bike lane be implemented or at the minimum a class III bike lane.
6. Any major oversight project work proposed for Caltrans facilities, including I-5, SR-73, SR-55, and SR-1 would require coordination with Caltrans and may require an encroachment permit. For specific details on Caltrans Encroachment Permits procedure, please refer to Caltrans Encroachment Permits Manual, Seventh Edition. This Manual is available on the web site: www.dot.ca.gov/hq/traffops/developserv/permits. (See Attachment: Environmental Review Requirements for Encroachment Permit)
7. If an encroachment permit is required, all environmental concerns must be adequately addressed. Please coordinate with Caltrans to meet requirements for any work within or near Caltrans Right-of-Way. For Projects on our Right-of-Way, Caltrans has the authority to maintain or delegate Lead Agency status for CEQA.
8. Each proposed project must have subsequent environmental documentation prior to implementation that addresses any direct or indirect impacts to Caltrans Right-of-Way. The environmental documentation and associated technical studies must adhere to Caltrans protocol.

Please continue to keep us informed of this project and any future developments, which could potentially impact the State Transportation Facilities. If you have any questions or need to contact us, please do not hesitate to call Maryam Molavi at (949) 724-2267.

Sincerely,



Ryan Chamberlain, Branch Chief
Local Development/Intergovernmental Review

Post-it® Fax Note	7671	Date	6-7-06	# of pages	2
To	Greg Ramirez	From	M. Molavi		
Co./Dept.	N. Port Beach	Co.	CT - D-12		
Phone #	644-3219	Phone #	724-2267		
Fax #	644-3229	Fax #			

- C: Terry Roberts, Office of Planning and Research
Terri Pencovic, Caltrans HQ IGR/Community Planning
Gale McIntyre, Deputy District Director
Raouf Moussa, Traffic Operations South
Isaac Alonso Rice, traffic Operations North
Praveen Gupta, Environmental Planning A
Leslie Manderscheid, Environmental Planning
Mory Mohtashemi, Permits

■ Response to Comment Letter CT

Letter from the State of California, Department of Transportation, received June 8, 2006

CT-1

Comment acknowledged. The proposed General Plan Update already includes goals and policies related to this comment's request and those goals and policies are echoed in the EIR. More specifically, Goal CE 3.1 on page 4.13-51 of the Draft EIR, Goal LU 2 on page 4.13-59 of the Draft EIR, Goal LU 3 on page 4.13-60 of the Draft EIR, and their corresponding policies identify the necessary coordination between the City and other agencies, such as Caltrans, to ensure that the appropriate level of transportation infrastructure/facilities are available and whether improvement of existing facilities will be necessary. Should a proposed development within the City limits potentially impact Caltrans facilities, the City shall coordinate with Caltrans to determine the need and subsequent method of providing new or improved access, new signals, or any improvements to State Transportation Facilities.

CT-2

Comment acknowledged. ICU analysis is an appropriate long range planning tool and has been used pursuant to City policies, consistent with other long range analyses that have been completed with respect to Caltrans facilities in Orange County. More detailed analysis may be appropriate as future design activities are initiated. Individual development projects will be analyzed further as they are proposed. Should any proposed development within the City limits impact Caltrans facilities and potentially require a permit from Caltrans, the City will coordinate with Caltrans to ensure that impacts to State Transportation Facilities related to any proposed development are adequately addressed, including review of modeling results and methodology.

CT-3

Please note that the reference to the proposed General Plan Update accounting for 44 percent of the total increase in traffic refers to the impacts of the proposed General Plan Update on the City of Newport Beach, and does not refer to impacts on surrounding State transportation facilities, SR-73, I-405 Freeways, and SR-1, SR-55 Conventional Highways.

As stated under Impact 4.13-2 on page 4.13-32 and the discussion of cumulative impacts on page 4.13-46, impacts to State Transportation Facilities are considered significant. Further, on page 4.13-62, the Draft EIR states that due to the location of the impacts outside of the City's jurisdiction (and within Caltrans jurisdiction), impacts are considered significant and unavoidable. However, the EIR does state that measures can be implemented but would need to be performed in cooperation with Caltrans, as requested under Comments CT-1 and CT-2. See also Tables 1 and 2 which identify the improvements for the roadways and freeway segments. At the present time and because the General Plan Update has not been approved, such coordination has not taken place. Should the General Plan Update be approved and the EIR certified, the City shall coordinate with Caltrans regarding the development of feasible mitigation measures to reduce potential impacts to freeway segments and ramps. Please also note that

Caltrans does not currently have in place a mechanism to allocate a fair share or pro rata to participating jurisdictions.

The forty-four percent increase is Citywide, not on the freeway system. Freeway/tollway and ramp analysis is included for each scenario in the Transportation Study. Existing freeway/tollway and ramp analysis is included from pages 2-62 through 2-66. Evaluation of freeways/tollways and ramps for without project conditions starts on page 4-20. The with project evaluation of freeways/tollways and ramps starts on page 5-32. Evaluation of impacts to Coast Highway is included with the intersection analysis just prior to the freeway/tollway analysis for each scenario. There is no established program for contributing to improvements to the freeway system.

Refer to response to comment CT-2 regarding coordination with Caltrans with respect to impacts on State Transportation Facilities.

Table 1 General Plan Buildout with Project Summary of Freeway Improvement Needs Beyond 2005 Existing Lanes	
INTERSECTION	ADDITIONAL IMPROVEMENTS WITH PROJECT
SR-73 Freeway Northbound:	
405 Fw. To Bear St.	
<ul style="list-style-type: none"> ▪ Anticipated Regional Improvements ▪ Additional Improvements 	Construct 4th and 5th NB freeway lanes. Construct 6th NB freeway lane.
Bear St. to 55 Fw.	
<ul style="list-style-type: none"> ▪ Anticipated Regional Improvements ▪ Additional Improvements 	Construct 4th and 5th NB freeway lanes. Construct 6th, 7th, and 8th NB freeway lanes.
55 Fw. To Jamboree Rd.	
<ul style="list-style-type: none"> ▪ Anticipated Regional Improvements ▪ Additional Improvements 	Construct 4th and 5th NB freeway lanes. Construct 6th and 7th NB freeway lanes.
Jamboree Rd. to Bonita Canyon Dr.	
<ul style="list-style-type: none"> ▪ Anticipated Regional Improvements 	Construct 4th and 5th NB freeway lanes.
Bonita Canyon Dr. to Newport Coast Dr.	
<ul style="list-style-type: none"> ▪ Anticipated Regional Improvements ▪ Additional Improvements 	Construct 5th and 6th NB freeway lanes. Construct 7th NB freeway lane.
Newport Coast Dr. to Toll Plaza	
<ul style="list-style-type: none"> ▪ Anticipated Regional Improvements ▪ Additional Improvements 	Construct 4th and 5th NB freeway lanes. Construct 6th NB freeway lane.
SR-73 Freeway Southbound	
405 Fw. To Bear St.	
<ul style="list-style-type: none"> ▪ Anticipated Regional Improvements ▪ Additional Improvements 	Construct 4th SB freeway lane. Construct 5th and 6th SB freeway lanes.
Bear St. to 55 Fw.	
<ul style="list-style-type: none"> ▪ Anticipated Regional Improvements ▪ Additional Improvements 	Construct 4th and 5th SB freeway lanes. Construct 6th and 7th SB freeway lanes.
55 Fw. To Jamboree Rd.	

Table 1 General Plan Buildout with Project Summary of Freeway Improvement Needs Beyond 2005 Existing Lanes

<i>INTERSECTION</i>	<i>ADDITIONAL IMPROVEMENTS WITH PROJECT</i>
<ul style="list-style-type: none"> ▪ Anticipated Regional Improvements ▪ Additional Improvements 	Construct 4th and 5th SB freeway lanes. Construct 6th SB freeway lanes.
Jamboree Rd. to Bonita Canyon Dr. <ul style="list-style-type: none"> ▪ Anticipated Regional Improvements 	Construct 4th and 5th SB freeway lanes.
Bonita Canyon Dr. to Newport Coast Dr. <ul style="list-style-type: none"> ▪ Anticipated Regional Improvements 	Construct 5th and 6th SB freeway lanes.
Newport Coast Dr. to Toll Plaza <ul style="list-style-type: none"> ▪ Anticipated Regional Improvements ▪ Additional Improvements 	Construct 4th, 5th, and 6th SB freeway lanes. Construct 6th SB freeway lane.
SR-73 Freeway Northbound at:	
Bristol St. Off Ramp	Construct 6th NB freeway lane. Construct 2nd ramp lane. Extend acceleration lane to 280 feet.
MacArthur Bl. On Ramp	Construct 6th NB freeway lane. Construct 2nd ramp lane.
Bonita Canyon Dr. On Ramp	Decrease acceleration lane to 1020 feet.
Newport Coast Dr. Off Ramp	Construct 6th NB freeway lane. Extend acceleration lane to 240 feet.
Newport Coast Dr. On Ramp	Construct 6th NB freeway lane. Decrease acceleration lane to 860 feet.
SR-73 Freeway Southbound at:	
Jamboree Rd. On Ramp	Construct 6th SB freeway lane. Decrease acceleration lane to 1570 feet.
MacArthur Bl. Off Ramp	Construct 6th SB freeway lane. Construct 2nd ramp lane.
Newport Coast Dr. Off Ramp	Extend acceleration lane to 240 feet.

The comment is acknowledged. The City recognizes the need to provide adequate bicycle and pedestrian trails within city limits. This comment will be forwarded to the decision-makers for their consideration prior to taking action and taken into consideration during the planning of any trail project within City limits under the proposed General Plan Update. The bikeways map has been reviewed for feasibility by the City of Newport Beach Traffic Engineer.

CT-5

These comments are acknowledged. The City will apply for any necessary encroachment permits, as necessary, in conformance with the requirements of the appropriate permitting agency, which may include Caltrans.

Should improvement of a Caltrans right-of-way be necessary due to development under the proposed General Plan Update, the City shall aid in the performance of any necessary improvement in compliance with CEQA and in cooperation with Caltrans.

The EIR is a programmatic document and does not identify a schedule or identify implementation procedures for any specific projects within the City limits. Any development or project carried out under the proposed General Plan Update would be subject to its own environmental review under CEQA.

Due to the location of Caltrans facilities within the City, Caltrans will be notified of any future project that may impact Caltrans facilities.

California Regional Water Quality Control Board Santa Ana Region



3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana

Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

CR

June 13, 2006

RECEIVED
PLANNING DEPARTMENT
CITY OF NEWPORT BEACH

Gregg B. Ramirez, Senior Planner
Planning Dept., Community and Economic Development
City of Newport Beach
P.O. Box 1768
Newport Beach, CA 92658-8915

JUN 13 2006
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR), CITY OF NEWPORT BEACH GENERAL PLAN UPDATE, STATE CLEARING HOUSE NO. 2006011119

Dear Mr. Ramirez:

Staff of the Regional Water Quality Control Board, Santa Ana Region (RWQCB), has reviewed the Draft Environmental Impact Report (DEIR) for the City of Newport Beach (City) comprehensive General Plan update (project). The project focuses on accommodating infill development, redevelopment, and use conversions within the nearly built-out City and Sphere of Influence (SOI). The planning areas consist of approximately 13,000 acres (ac) of land area and 11,000 ac of marine and estuarine area. The latter includes varied coastline, tributary stream channels, and Lower and Upper Newport Bay with associated bayshores and wetlands.

The following comments apply citywide to many of the General Plan elements and nine designated study subareas as discussed in the DEIR. We request incorporation of these comments into the final EIR:

1. Water Quality Beneficial Uses

The DEIR states on p.4.3-36 that for implementation of the General Plan elements, "no mitigation measures are necessary, as the proposed General Plan Update policies fully mitigate the impacts." Elsewhere in the document (Chapter 4; Table 2-2 summary of impacts) the City explains that no mitigation measures are anticipated for future actions taken under the revised General Plan because preventive measures and programs will intercept any environmental impacts, including those affecting the City's groundwater, surface water bodies, and varied aquatic habitats. Despite the DEIR's knowledgeable summaries of regulations, permits, and Best Management Practices (BMPs), we believe that Chapters 4.3 (Biological Resources) and 4.7 (Hydrology) should reflect that mitigation must be conducted for impacts to, or loss of, the water quality beneficial uses of these water bodies and their tributaries as listed in the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan¹), 1995, and subsequent amendments.

¹ The Basin Plan establishes water quality standards, i.e., water quality objectives, beneficial uses, and an appropriate antidegradation policy, for waters of the region.

Gregg B. Ramirez

- 2 -

June 13, 2006

While the Basin Plan and beneficial uses are briefly introduced on p. 4.7-23, beneficial uses should be specifically listed. Within the project area, the beneficial uses of San Diego Creek, Reach 1 (listed as "present or potential") are Non-contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD), and restricted Water Contact Recreation (REC1). The beneficial uses of both Upper and Lower Newport Bay include Commercial and Sportfishing (COMM), REC1, REC2, WILD, Rare, Threatened or Endangered Species habitat (RARE), Spawning, Reproduction and Development waters (SPWN), Marine Habitat (MAR), and Shellfish Harvesting (SHEL). Upper Newport Bay also is designated for the Estuarine Habitat (EST) and Preservation of Biological Habitats of Special Significance (BIOL) beneficial uses, while Lower Newport Bay is designated for the Navigation (NAV) beneficial use.

The beneficial uses of Upper Newport Bay apply to the Delhi Channel, Big Canyon Creek, and other tributaries not listed in the Basin Plan, according to the "tributary rule" of the Basin Plan².

Further, in 2004 the Irvine Groundwater Management Zone (GMZ) was adopted for the Newport Beach/Irvine area by the Regional Board as part of Resolution No. R8-2004-0001 with the following four beneficial uses: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), and Industrial Process Supply (PROC). The following water quality objectives were adopted for the Irvine GMZ: total dissolved solids (TDS; 910 milligrams per liter, mg/l) and nitrate-nitrogen (NO₃-N; 5.9 mg/l).

2. Clean Water Act Section 401 Water Quality Certifications

DEIR pgs. 4.3-25 and 30 acknowledge that future development may cause potential impacts to riparian habitats, but consider these indirect and cumulative impacts to be "less than significant" because General Plan Update policies will regulate such development, thereby reducing the threat. Further, p. 4.3-25 infers that "some unmitigated loss of riparian resources may occur" because there exists a regulatory gap where "federal regulations do not specifically address protection of riparian vegetation under the [Clean Water Act, CWA] Section 404 permitting process" and the Fish and Game Code provides only "negotiated agreement." That discussion does not acknowledge that losses of riparian vegetation and other resources are mitigated through CWA Section 401. As a prerequisite to issuance of a Section 404 permit by the U.S. Army Corps of Engineers (Corps) for excavation of ("dredging") and/or placement of fill into waters of the U.S., the RWQCB must issue a CWA Section 401 Water Quality Certification (Certification)³ finding that sufficient mitigation measures will

² Waters not specifically listed in the Basin Plan have the same water quality standards as the waters to which they are tributary. See Basin Plan, 1995, page 3-5.

³ The issuance of a 401 Certification represents a determination by the Executive Officer that discharges of waste to waters of the U.S. that are associated with the project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. In order for such a determination to be meaningful, projects subject to Certification are evaluated for their direct, indirect, and cumulative impacts to waters of the U.S., specifically, impacts to water quality objectives and beneficial uses. Further, Certification applies not only to impacts to water quality standards that occur during project

Gregg B. Ramirez

- 3 -

June 13, 2006

be conducted for impacts to beneficial uses of waters of the United States and the State. However, the following clarifications should be added to the DEIR:

a. Every reasonable effort must be made to avoid impacts to surface waters of the United States, including waters such as known ephemeral drainages in the Newport Beach area. Impacts to waters of the U.S. that are unavoidable must be minimized. Where impacts are unavoidable, Certification requires mitigation that, at a minimum, replaces the full function and value of the impacted water's beneficial uses that existed prior to impact. As discussed in the DEIR, pursuant to the Porter-Cologne Water Quality Control Act (Water Code), the Regional Board has the authority to issue waste discharge requirements (WDRs) requiring implementation of mitigation measures that compensate for impacts to water quality standards. The DEIR should reflect that operations entailing excavation, dredge, and/or fill activities within waters of the State, such as the periodic maintenance dredging projects necessary in Upper/Lower Newport Bay, remain subject to regulation under WDRs. For example, WDRs will continue to regulate turbidity from bay dredging through required monitoring and necessitating the use of silt curtains or similar practices, as well as requirements for replanting with such community keystone vegetation as eelgrass and pickleweed.

b. Authorization under General WDRs may accompany Certifications, as appropriate, or individual WDRs may be issued by the Regional Board when surface waters of the state, including wetlands and seasonal pools, are deemed by the Corps to be isolated (SWANCC⁴ decision, 2001) and not subject to the Corps' jurisdiction. Any such isolated wetlands should be identified in undeveloped open spaces such as the Banning Ranch or the San Joaquin Hills.

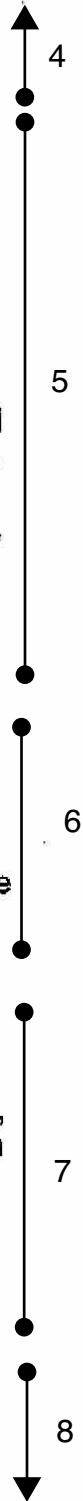
3. Hydromodification

Rapid urbanization in subwatersheds identified for the Newport Beach City/SOI has increased the volume and velocity of stormwater runoff and the persistence of dry-weather flows. Consequently, marine terrace drainages with abrupt elevation changes, such as Buck Gully and Morning Canyon Creek, have experienced headcutting erosion that increased the amount of sediment transported to receiving water bodies. Such artificial changes to channel geometry and hydrology (hydromodification) threatens property and diminishes the drainage's support of beneficial uses. The DEIR should reflect that review of, and mitigation for, hydromodification is part of the Certification process and discuss measures to prevent it.

Established native riparian vegetation along and within drainage systems, flanked by adequately vegetated upland buffer areas, will capture storm flows and thereby lessen erosion. Therefore, we encourage the proactive replanting and hydroseeding of native

development and construction, but also to water quality standards impacts that may or are likely to occur during the operational life of the project. Such impacts must be mitigated to receive a Certification. Information concerning Section 401 certification can be found at www.swrcb.ca.gov/rwqcb8/html/401.html.

⁴ *Solid Waste Agency of Northern Cook County v. Army Corps of Engineers*, U.S. Supreme Court, 2001.



Gregg B. Ramirez

- 4 -

June 13, 2006

vegetation in most operations. The following EPA website, www.epa.gov/npdes/menuofbmeps/post.htm contains information on construction BMPs.

4. General Non-Point Source Runoff

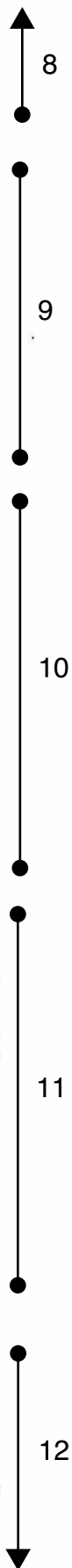
DEIR Chapter 4, Environmental Analysis, should analyze the likely impacts of non-point source pollution, posed by increased development within the project area, on the above-referenced beneficial uses of the receiving waters identified by the DEIR. Sediment, selenium, nitrates, residual pesticides, and other pollutants discharged from the San Diego Creek and Newport Bay watersheds (which involves much of the project area), into Upper and Lower Newport Bay, all impact the Bay's robust biota by causing or contributing to impacts on beneficial use, including bacterial contamination and toxicity. Excessive nutrients in storm water runoff and surface waters tributary to Upper Newport Bay facilitates algal blooms.

The DEIR should refer to State Board General Order No. 2004-0017-DWQ, which requires owners/operators of specified vessel terminals located in Newport Bay (and Huntington Harbour in Huntington Beach) to install, maintain, and operate pumpout facilities and dump stations to receive vessel sewage. The Regional Board's Vessel Waste Program implementing this Order may be viewed at http://www.waterboards.ca.gov/santaana/pdf/nph_pumpout.pdf. Sewage, ballast, and deck washwater must never be discharged into waters of the State. Similarly, the particulate wastes created by underwater hull blasting or other cleaning techniques carried out within marinas may contain metals and/or other substances that adversely impact the Bay's beneficial uses. The public should be referred to information in our "Marinas and Boating" link at http://www.waterboards.ca.gov/santaana/html/nonpoint_source.html.

The DEIR should reflect that Upper Newport Bay, the Newport Coast (Corona Del Mar State Beach to the Little Corona tidepools), and the Irvine Coast to the south are designated Critical Coastal Areas (CCA) by the Coastal Commission, the Regional Board, and the State Water Resources Control Board because they are significant ecological areas affected by non-point source runoff. Upper Newport Bay was assigned CCA status given its designation as a Marine Managed Area. Mention should be made that the Newport and Irvine Coasts have been designated State Water Quality Protection Areas (formerly Areas of Special Biological Significance, ASBS), or generally pristine waters to which no discharges of wastes are allowed. The Newport Coast, the Irvine Coast, and Upper Newport Bay have been combined into one CCA pilot project (with Heisler Park, Laguna Beach) for a grant project intended to improve control of non-point source pollutant discharges affecting these areas.

5. TMDL Compliance

We commend the DEIR's summary and reference website introducing Total Maximum Daily Loads (p. 4.7-8; TMDL) and requirements for TMDL compliance. Upper and Lower Newport Bay, and Reaches of San Diego Creek tributary to Newport Bay (and therefore affecting City compliance), have been listed as impaired by various pollutants, pursuant to Clean Water Act Section 303(d). The following list of existing and



Gregg B. Ramirez

June 13, 2006

anticipated TMDLs, with website links, should be helpful to any revisions of the DEIR summary:

TMDLs have been adopted for sedimentation and nutrients for Lower Newport Bay, Upper Newport Bay, San Diego Creek Reach 1, and San Diego Creek Reach 2 (see <http://www.swrcb.ca.gov/rwqcb8/pdf/TMDL02.pdf> for sediment, and <http://www.waterboards.ca.gov/santaana/pdf/TMDL01.pdf> for nutrients).

A fecal coliform TMDL has been adopted for Lower Newport Bay and Upper Newport Bay (see <http://www.waterboards.ca.gov/santaana/pdf/TMDL03.pdf>.)

A chlorpyrifos TMDL has been adopted for Upper Newport Bay; a diazinon/chlorpyrifos TMDL has been issued for San Diego Creek Reach 1 (see http://www.waterboards.ca.gov/santaana/pdf/tmdl/03-39_attach.pdf.)

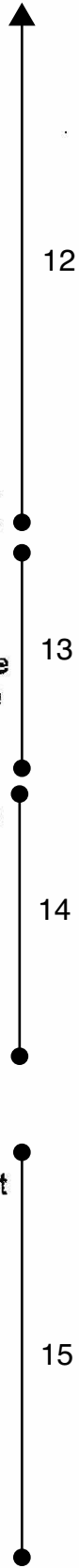
TMDLs for toxic pollutants, including selenium, were promulgated by the USEPA in June 2002. See "USEPA, Region 9: Total Maximum Daily Loads (TMDLs) for Toxic Pollutants, San Diego Creek and Newport Bay" at <http://www.epa.gov/region09/water/tmdl/final.html>.

The DEIR should evaluate the extent to which the project will affect attainment of load reductions required by these TMDLs. Future TMDLs are anticipated for selenium and metals (Lower and Upper Newport Bay), selenium and fecal coliform (San Diego Creek Reach 1), and specified metals (San Diego Creek Reach 2). TMDLs for organochlorine compounds (particularly DDT, chlordane, and PCBs) are anticipated for all four of these water bodies (as well as Newport Bay's Rhine Channel), with toxaphene also targeted in San Diego Creek Reaches 1 and 2.

The DEIR should add that where groundwater samples required from local construction projects proposing dewatering discharges indicate selenium and nitrate levels that exceed TMDL or California Toxics Rule numeric targets, the discharger must obtain a discharge authorization under Order No. R8-2004-0021, NPDES No. CAG998002, General Waste Discharge Requirements for Short-Term Groundwater Related Discharges and De Minimus Wastewater Discharges to Surface Waters Within the San Diego Creek/Newport Bay Watershed. Discharge activities requiring more than one year to complete must be covered under individual WDRs.

6. Low-Impact Development

The DEIR should encourage BMPs that utilize the principles of low impact development (LID) as part of a comprehensive, community-wide system for protecting water quality standards. These principles are intended to reverse the trend of increasingly paved and constructed areas that alter the rate and volumes of surface water runoff and groundwater recharge. LID makes use of project-level features such as grassed paseos to manage urban runoff quantity and quality while conserving water. LID is among the Ahwahnee Water Principles for Resource Efficient Land Use, adopted in 2005 by the Local Government Commission (LGC; www.lgc.org), which encourages communities to incorporate these principles into general plans. The State Water Resources Control Board management has expressed support of LID and the Ahwahnee principles in addressing the SWRCB's major goals and objectives.



Gregg B. Ramirez

- 6 -

June 13, 2006

If you have any questions, please contact Glenn Robertson at (951) 782-3259, or me at (951) 782-3234.

Sincerely,



Mark G. Adelson, Chief
Regional Planning Programs Section

cc: State Clearinghouse - Scott Morgan
California Department of Fish and Game, Ontario - Scott Dawson
U.S. Fish and Wildlife Service, Carlsbad - Jack Fancher
U.S. Army Corps of Engineers - Stephanie Hall
Newport Bay Watershed Management Committee

X: Groberts on Magnolia/Data/CEQA/CEQA Responses/DEIR- City of Newport Beach- General Plan_tsr_mga2.doc

■ Response to Comment Letter CR

Letter from the California Regional Water Quality Control Board, received June 13, 2006

CR-1

As required by the National Pollutant Discharge Elimination System (NPDES) Permit for Orange County (Permit No. CAS618030), which was adopted by the Santa Ana and San Diego Regional Water Quality Control Boards in early 2002, the County of Orange, the Orange County Flood Control District, and the incorporated cities of Orange County prepared a Drainage Area Management Plan (DAMP) to provide a program for reducing the discharge of pollutants from municipally separate storm drains to the maximum extent practicable and, therefore, satisfying the NPDES permit requirements.

In order to maintain the integrity of the receiving waters and their ability to sustain beneficial uses, the DAMP includes – as a component - a countywide baseline stormwater management program to assess the conditions of waters within the county and to determine the impact, if any, of urban stormwater discharges to the beneficial uses of those waters. This baseline effort is complimented by local water quality implementation plans that are designed to reduce impacts to beneficial uses, if they occur. In summary, the DAMP provides a program to meet the requirements of the stormwater permit by implementing water management strategies on a local level in order to protect the beneficial uses of receiving waters within the Orange County watershed area, including the Santa Ana drainage area. Thus, development within the City resulting from implementation of the proposed General Plan Update would also be subject to the provisions of the DAMP, which would ensure that beneficial uses of the receiving waters in that portion of the Santa Ana drainage area within the City are also protected to the maximum extent practicable through an existing program that has been approved by both the Santa Ana and San Diego Regional Water Quality Control Boards. Therefore, no further mitigation measures are recommended or required.

The commenter is further directed to Master Response B.

CR-2

The beneficial uses presented in the Regional Water Quality Control Board (RWQCB) letter for San Diego Creek, Reach 1, and the Upper Newport Bay tributaries are accurate, and, by inclusion of the RWQCB's letter in this Final EIR, such beneficial uses are also specifically listed.

CR-3

The beneficial uses and water quality objectives presented in the RWQCB letter for the Irvine Groundwater Management Zone are accurate, and, by inclusion of the RWQCB's letter in this document, such beneficial uses and water quality objectives are also specifically listed in this EIR. This information does not affect the analysis or conclusions presented in the Draft EIR.

CR-4

The section of the EIR referenced in this comment refers to situations where Section 404 of the *Clean Water Act* does not apply, nor do any other federal actions, and, therefore, Section 401 of the *Clean Water Act* would not be required. However, the commenter is correct in noting that a prerequisite to issuance of a Section 404 permit is certification, or a waiver thereof, under Section 401 of the *Clean Water Act*.

CR-5

The clarification suggested in this comment (for inclusion in the EIR) is already required pursuant to existing laws or orders (the latter of which functions as law), which include, but are not necessarily limited to, Sections 401 and 404 of the *Clean Water Act*, Executive Order 11990 (Protection of Wetlands), and the *Porter-Cologne Water Quality Control Act*. As such, the measures (or clarifications) suggested are required by law and the inclusion of separate mitigation is not necessary.

CR-6

This comment suggests that general/individual waste discharge requirements (WDRs) may accompany a water quality certification issued pursuant to Section 401 of the *Clean Water Act*. This is an accurate statement.

Further, should certain development proposed under the General Plan be located within or adjacent to wetland areas, state and federal laws and regulations would be implemented to identify and protect resources from development through compliance with Section 1600 *et al.* of the Fish and Game Code of California, Section 404 of the *Clean Water Act* (which is a discretionary rather than negotiated process), and the California Wetlands Conservation Policy (CWCP 1993), all of which would require the identification of wetlands, including isolated wetlands, prior to disturbance. In addition to the state and federal regulations, proposed General Plan Update Policies NR 13.1 and NR 13.2 would protect, maintain, and enhance the City's wetlands.

CR-7

In addition to NDPES regulations, the City's Municipal Code, and any other applicable laws or regulations, General Plan policies NR 3.10, NR 3.11, NR 4.4, NR 3.20, S 5.3, NR 3.16, and NR 3.21 are designed to reduce impacts associated with operational erosion by requiring preparation of a Water Quality Management Plan (WQMP), implementation of Best Management Practices (BMPs), incorporation of stormwater detention facilities, design of drainage facilities to minimize adverse effects on water quality, and minimization of increases in impervious areas. Implementation of these policies would reduce the volume sediment-laden runoff discharging from sites within project area. In addition, as noted by the commenter, a review of, and mitigation for, hydromodification may be part of the certification process required by Section 401 of the *Clean Water Act*.

CR-8

Comment noted.

CR-9

The impact of non-point source pollutants on receiving waters (including the potential to impair beneficial uses) as the result of both construction and operational activities associated with the proposed General Plan update is addressed in Impact 4.7-1. In addition, existing surface water and groundwater quality conditions, including the measures used to monitor, control, and/or improve these conditions, are discussed in detail on page 4.7-8 through 4.7-11 of the Draft EIR. In fact, the pollutants identified by the commenter, including selenium, nitrates, pesticides, nutrients, and other pollutants, are specifically addressed.

CR-10

By inclusion of the RWQCB's letter in this document, State Board General Order No. 2004-0017-DWQ, which requires owners/operators of specified vessel terminals located in Newport Bay to install, maintain, and operate pumpout facilities and dump stations to receive vessel sewage, is specifically identified in this Final EIR. This information does not affect the analysis or conclusions presented in the Draft EIR.

CR-11

By inclusion of the RWQCB's letter in this document, the fact that Upper Newport Bay, the Newport Coast (Corona Del mar State Beach to the Little Corona tidepools), and the Irvine Coast to the south are designated Critical Coastal Areas by the California Coastal Commission, the Regional Water Quality Control Board, and the Water Resources Control Board because they are significant ecological areas affected by nonpoint source runoff is specifically identified in this Final EIR. This information does not affect the analysis or conclusions presented in the Draft EIR.

CR-12

Comment noted. Further, by inclusion of the RWQCB's letter in this document, the additional website links related to existing and anticipated Total Maximum Daily Loads (TMDLs) are also specifically identified in this Final EIR. This information does not affect the analysis or conclusions presented in the Draft EIR.

CR-13

The City of Newport Beach, Santa Ana Regional Water Quality Control Board, California Department of Fish and Game, County of Orange, and other cities in the Newport Bay watershed have established the Newport Bay Watershed Executive Committee, which is advised by the Watershed Management Committee (WMC), to implement the TMDLs. Generally, all the TMDLs established by the Santa Ana Regional Water Quality Control Board requires that watershed-based solutions are developed by the watershed stakeholders, followed by joint funding for the implementation of these projects throughout the watershed. Through this mechanism, compliance with existing TMDLs can be ensured. Further, General Plan Goal NR4 requires the maintenance of water quality standards through compliance with the TMDL standards. This goal is implemented by Policy NR 4.1, which requires that the TMDLs established by the RWQCB, Santa Ana Region, and guided by the Newport Bay Watershed Executive

Committee, are implemented. This goal and policy ensures that compliance with any future TMDLs is also achieved.

CR-14

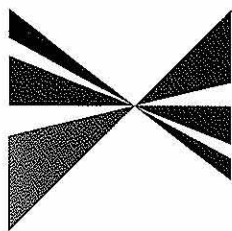
By inclusion of the RWQCB's letter in this document, the fact that a discharger must obtain a discharge authorization under Order No. R8-2004-0021, NPDES No. CAG998002 (General Waste Discharge Requirements for Short-Term Groundwater Related Discharges and De Minimus Wastewater Discharges to Surface Waters Within the San Diego Creek/Newport Bay Watershed) for circumstances where groundwater samples indicate selenium and nitrate levels that exceed TMDL or California Toxics Rule numeric targets and construction activities will require dewatering, is also specifically identified in this Final EIR. This information does not affect the analysis or conclusions presented in the Draft EIR.

CR-15

The principles of low impact development (LID) are addressed in the proposed General Plan Update and Draft EIR. As stated on page 4.7-31, “[i]mplementation of Policy NR 3.21 [now NR 3.18 under the revised General Plan] contained in the proposed General Plan Update would minimize the creation of and increase in impervious surfaces, while increasing the area of pervious surfaces, where feasible.” In addition, Policy NR 3.15 (now NR 3.13 under the revised General Plan) is identified on page 4.7-46 states “[r]etain runoff on private property to prevent the transport of pollutants into recreational waters, to the maximum extent practicable. (Policy HB 8.15).” These policies have been incorporated into the proposed General Plan Update to address LID.

SC

SOUTHERN CALIFORNIA



ASSOCIATION of GOVERNMENTS

Main Office

818 West Seventh Street

12th Floor

Los Angeles, California

90017-3435

t (213) 236-1800

f (213) 236-1825

www.scag.ca.gov

Officers: President: Yvonne B. Burke, Los Angeles County • First Vice President: Gary Ovitt, San Bernardino County • Second Vice President: Richard Dixon, Lake Forest • Immediate Past President: Joni Young, Port Hueneme

Imperial County: Victor Carrillo, Imperial County • Jon Edney, El Centro

Los Angeles County: Yvonne B. Burke, Los Angeles County • Zev Yaroslavsky, Los Angeles County • Jim Aldinger, Manhattan Beach • Harry Baldwin, San Gabriel • Paul Bowen, Cerritos • Todd Campbell, Burbank • Tony Cardenas, Los Angeles • Stan Carroll, La Habra Heights • Margaret Clark, Rosemead • Gene Daniels, Paramount • Mike Dispenza, Palmdale • Judy Dunlap, Inglewood • Rae Gabelich, Long Beach • David Galin, Downey • Eric Garretti, Los Angeles • Wendy Greuel, Los Angeles • Frank Gurulé, Cudahy • Janice Hahn, Los Angeles • Isadore Hall, Compton • Keith W. Hanks, Azusa • Jose Huizar, Los Angeles • Tom LaBonge, Los Angeles • Paula Lantz, Pomona • Paul Nowatka, Torrance • Pam O'Connor, Santa Monica • Alex Padilla, Los Angeles • Bernard Parks, Los Angeles • Jan Perry, Los Angeles • Ed Reyes, Los Angeles • Bill Rosendahl, Los Angeles • Greig Smith, Los Angeles • Tom Sykes, Walnut • Paul Talbot, Alhambra • Mike Ten, South Pasadena • Tonia Reyes Uranga, Long Beach • Antonio Villaraigosa, Los Angeles • Dennis Washburn, Calabasas • Jack Weiss, Los Angeles • Herb I. Wesson, Jr., Los Angeles • Dennis Zine, Los Angeles

Orange County: Chris Norby, Orange County • Christine Barnes, La Palma • John Beauman, Brea • Lou Bone, Justin • Art Brown, Buena Park • Richard Chavez, Anaheim • Debbie Cook, Huntington Beach • Leslie Daigle, Newport Beach • Richard Dixon, Lake Forest • Paul Glaab, Laguna Niguel • Marilyn Poe, Los Alamitos

Riverside County: Jeff Stone, Riverside County • Thomas Buckley, Lake Elsinore • Bonnie Flickinger, Moreno Valley • Ron Loveridge, Riverside • Greg Pettis, Cathedral City • Ron Roberts, Temecula

San Bernardino County: Gary Ovitt, San Bernardino County • Lawrence Dale, Barstow • Paul Eaton, Montclair • Lee Ann Garcia, Grand Terrace • Tim Jasper, Town of Apple Valley • Larry McCallon, Highland • Deborah Robertson, Rialto • Alan Wapner, Ontario

Ventura County: Judy Mikels, Ventura County • Glen Becerra, Simi Valley • Carl Morehouse, San Buenaventura • Toni Young, Port Hueneme

Orange County Transportation Authority: Lou Correa, County of Orange

Riverside County Transportation Commission: Robin Lowe, Hemet

Ventura County Transportation Commission: Keith Millhouse, Moorpark

31 May 2006

Mr. Gregg Ramirez
Planning Department
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

RECEIVED BY
PLANNING DEPARTMENT
CITY OF NEWPORT BEACH

JUN 05 2006

AM PM
7 8 9 10 11 12 1 2 3 4 5 6

RE: **Comments on the Notice of Availability of a Draft Environmental Impact Report for the General Plan 2006 Update**
SCAG No. I20060304

Dear Mr. Ramirez:

Thank you for submitting the Draft Environmental Report for the above-mentioned project to SCAG for review and comment. As areawide clearinghouse for regionally significant projects, SCAG reviews the consistency of local plans, projects, and programs with regional plans. This activity is based on SCAG's responsibilities as a regional planning organization pursuant to state and federal laws and regulations. Guidance provided by these reviews is intended to assist local agencies and project sponsors to take actions that contribute to the attainment of regional goals and policies.

SCAG staff has evaluated your submission for consistency with the Regional Comprehensive Plan and Guide, Regional Transportation Plan, and Compass Growth Vision. The Draft EIR addresses SCAG's policies and forecasts appropriately and has provided sufficient explanation of how the plan helps meet and support regional goals. Based on the information provided in the EIR we have no further comments.

A description of the proposed project was published in the May 1-15, 2006 Intergovernmental Review Clearinghouse Report for public review and comment.

If you have any questions, please contact me at (213) 236-1851. Thank you.

Sincerely,

Brian Wallace
Associate Regional Planner
Intergovernmental Review

DOCS # 122665

■ Response to Comment Letter SC

Letter from the Southern California Association of Governments, received June 5, 2006

SC-1

Comment acknowledged. The Southern California Association of Governments (SCAG) had concluded that the Draft EIR addresses SCAG's policies and forecasts appropriately and has provided sufficient explanation of how the plan helps meet and support regional needs. No response required.

M

From: Ramirez, Gregg [<mailto:GRamirez@city.newport-beach.ca.us>]
Sent: Monday, May 08, 2006 1:37 PM
To: Wood, Sharon; Temple, Patty; Avila, Kimberly; Efner, Erin T; Elwood
Tescher
Subject: FW: City of Newport Beach Draft Environmental Impact Report
General Plan 2006 Update

Here's the e-mail from Mesa. Exhibit sent seperatley.

-----Original Message-----

From: Bob McVicker [<mailto:BobM@mesawater.org>]
Sent: Thursday, May 04, 2006 3:20 PM
To: Ramirez, Gregg
Subject: City of Newport Beach Draft Environmental Impact Report
General Plan 2006 Update

Hello Gregg, Please revise the subject document based on the comments
in the attached file. Also please change my name in reference 107 on
page 4.14-20 to either Robert or Bob. Thanks.

● 1
●
● 2
●

Robert R. "Bob" McVicker
District Engineer
Mesa Consolidated Water District
(949) 631-1291
BobM@mesawater.org



April 20, 2006

*District Mission:
Dedicated to Satisfying
our Community's
Water Needs*

Ms. Sharon Wood
Assistant City Manager
City of Newport Beach
P.O. Box 1768
Newport Beach, CA 92658-8915

BOARD OF DIRECTORS

PAUL E. SHOENBERGER
President
Division II

JAMES F. ATKINSON
First Vice President
Division IV

FRED BOCKMILLER
Vice President
Division I

SHAWN DEWANE
Vice President
Division V

TRUDY OHLIG-HALL
Vice President
Division III

DIANA M. LEACH
General Manager

COLEEN L. MONTELEONE
District Secretary

VICTORIA L. BEATLEY
Treasurer / Auditor

**BOWIE, ARNESON, WILES
& GIANNONE**
Legal Counsel

Subject: Water Supply for Changes in Land Use in the City of Newport Beach's
Proposed General Plan

Dear Ms. Wood:

As requested, Mesa Consolidated Water District (Mesa) analyzed the impact on water supply of the changes in land use within Mesa's service area in the City of Newport Beach proposed General Plan. The changes were an increase in MFR/SRA land use area of 15.6 acres, an increase in Public/Semi-Public Use land use area of 8.5 acres, a decrease in Commercial land use area of 1.3 acres and a decrease in Industrial land use area of 22.2 acres. These changes in land use result in an increase in water demand estimated to be 58.6 acre-feet per year. Mesa has sufficient supply sources (groundwater, treated colored groundwater and imported water) to supply the additional demands that would result from the proposed changes in land use.

If you have any questions or require additional information, please contact me at (949) 631-1291 or via e-mail at bobm@mesawater.org.

Sincerely,

Robert R. McVicker, P.E.
District Engineer

c: Diana M. Leach, General Manager

4.14 Utilities and Service Systems

year operating conditions. Imported water deliveries are expected to be reduced in the projected supply mix, only because IRWD is developing local supplies; however, IRWD owns more capacity in the imported supplies than what is projected in this analysis. It is anticipated that MWD imported water will be required for supplemental supply as well as peak and emergency conditions.⁹⁸

Secure, potable water supplies are required to meet (1) maximum day demands under normal operating conditions, and (2) to meet maximum month demands under worst-case, short-term supply outage scenarios. In the event of a single dry year, IRWD has sufficient supply to meet demand without requiring any reduction in use. In regards to IRWD's imported supplies, MWD fully expects to be 100 percent reliable throughout the next 20 years through effective management of its water supply.⁹⁹

IRWD's effective water efficiency improvements and additional water supply will help to enhance IRWD's water supply position and ensure IRWD meets projected water demand. The District will continue to assess improving water supplies, including expanding water recycling through conversions, groundwater storage, other groundwater treatment methods, or other such water supply alternatives. If necessary, for subsequent dry years, the District would enter into a Stage I alert of the Water Shortage Contingency Plan, and emphasize voluntary reduction in water use to all customers, but may not impose any additional restrictions. IRWD anticipates having sufficient water supplies to meet estimated demands under projected multiple dry year scenarios.¹⁰⁰

Mesa Consolidated Water District

On an annual basis, Mesa delivers approximately ⁹² 8 billion gallons (24,500-AF) of water to various users.¹⁰¹ Approximately ^{6.8} 75 percent of Mesa's water is provided by local groundwater pumped from Orange County's natural groundwater basin via nine wells. ~~Similar to the City's service, the remaining 25~~ ^{20,850} percent of Mesa's water is imported water from MWD, which delivers water imported from the Colorado River and State Water Project. At various times of the year, Mesa will supplement its groundwater with imported water.¹⁰² As discussed previously, the area served within the Planning Area represents approximately one percent of Mesa's total service area. Thus, information regarding water demand and use was not obtained.

Recycled Water

City of Newport Beach

The City of has approximately 10 miles of recycled water distribution pipeline, which currently supplies eight recycled use sites. Recycled water is supplied to the City from the Orange County Water District (OCWD) from Fountain Valley as part of OCWD's Green Acres Project. OCWD produces approximately 7.5 mgd of tertiary treated, disinfected recycled water. Some of the sites served by recycled

⁹⁸ Irvine Ranch Water District, 2005. Urban Water Management Plan, November.

⁹⁹ Irvine Ranch Water District, 2005. Urban Water Management Plan, November.

¹⁰⁰ Irvine Ranch Water District, 2005. Urban Water Management Plan, November.

¹⁰¹ Mesa Consolidated Water District. ~~2003. Water Quality Report.~~ 2005 Urban Water Management Plan

¹⁰² Mesa Consolidated Water District. ~~2003. Water Quality Report.~~ 2005 Urban Water Management Plan

■ Response to Comment Letter M

Letter from Mesa Consolidated Water District, received May 8, 2006

M-1

Refer to responses to comments M-3 and M-4 below.

M-2

The following text change has been made to the Draft EIR in response to this comment. On page 4.14-20, reference number 107 has been changed, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

¹⁰⁷ ~~McVicker, Robert~~. Mesa Consolidated Water District. Written communication via email to City staff, April 5, 2006.

M-3

Comment 3 noted. This information is consistent with the water supply analysis in the Draft EIR. No response required.

M-4

The following text changes have been made to the Draft EIR pursuant to updated information received from the Mesa Consolidated Water District.

On page 4.14-13, the paragraph under the heading Mesa Consolidated Water District has been changed to reflect the information in the comment, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

On an annual basis, Mesa delivers approximately 6.8 billion gallons (~~24,500~~20,850 AF) of water to various users.¹⁰¹ Approximately 75.92 percent of Mesa's water is provided by local groundwater pumped from Orange County's natural groundwater basin via nine wells. ~~Similar to the City's service,~~ ~~€~~The remaining 25.8 percent of Mesa's water is imported water from MWD, which delivers water imported from the Colorado River and State Water Project. At various times of the year, Mesa will supplement its groundwater with imported water.¹⁰² As discussed previously, the area served within the Planning Area represents approximately one percent of Mesa's total service area. Thus, information regarding water demand and use was not obtained.

¹⁰¹ Mesa Consolidated Water District. ~~2003~~2005. ~~Water Quality Report~~ Urban Water Management Plan.

¹⁰² Mesa Consolidated Water District. ~~2003~~2005. ~~Water Quality Report~~ Urban Water Management Plan.



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92625-1200

DEVELOPMENT SERVICES DEPARTMENT

RECEIVED BY
PLANNING DEPARTMENT
CITY OF NEWPORT BEACH

June 8, 2006

CM

JUN 08 2006
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

Mr. Gregg B. Ramirez, Senior Planner
Planning Department, Community and Economic Development
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF NEWPORT BEACH GENERAL PLAN UPDATE

Dear Mr. Ramirez:

The City of Costa Mesa has reviewed the Draft Environmental Impact Report (DEIR) for the City of Newport Beach General Plan update encompassing the City of Newport Beach corporate boundaries and its sphere of influence. Please see Attachment 1 for our comments on the DIER.

Thank you for the opportunity to comment since the City of Costa Mesa is very interested in the update. Additionally, we respectfully request a copy of the Responses to Comments document prior to the EIR's certification by your City Council. If you have any questions or need additional information, please contact me at (714) 754-5610.

Sincerely,

R. MICHAEL ROBINSON, AICP
Assistant Dev. Svs. Director

- Attachments: 1. City of Costa Mesa Comments
2. 19 West Urban Plan
3. Mesa West Bluffs Urban Plan

cc: Donald D. Lamm, Deputy City Mgr., Dev. Svs. Director
Peter Naghavi, Transportation Mgr.

1

Comments on Newport Beach General Plan DEIR

LAND USE PLANNING

1) **Annexation Issues-** The Environmental Impact Report should discuss the annexation issues associated with both Banning Ranch and West Santa Ana Heights, and both Newport Beach's and Costa Mesa's pending applications to LAFCO for changes in the municipal boundaries. The EIR should account for the changes to the draft General Plan that would be necessary in order for West Santa Ana Heights to be incorporated into Newport Beach.

2

2) **Banning Ranch-** The City recommends the EIR address the following regarding Banning Ranch.

- The appropriate location for the clustering of the oil extraction activities on Banning Ranch and the potential impact to existing and planned land uses in the City of Costa Mesa.

3

- The recently adopted Costa Mesa urban plans for the West 19th Street and the Mesa West Bluffs areas as they relate to planned land uses in Banning Ranch and the West Newport Mesa area. A copy of both plans is attached for your use.

4

- The impact of Newport Beach's proposed Master Plan of Streets and Highways in respect to both development options for Banning Ranch. Specifically, if Banning Ranch is developed primarily as open space, how would that development option affect the City's Master Plan of Streets and Highways, as well as the respective master plans of the County of Orange and the City of Costa Mesa?

5

- The consistency of Newport Beach's proposed Master Plan of Streets and Highways with the master plans of the County of Orange and the City of Costa Mesa.

TRANSPORTATION/CIRCULATION

1) Expansion of traffic study area is recommended:

- DEIR Page: 3-13 (Table 3-3)

The proposed City of Newport Beach General Plan Update includes significant increases in land uses in several planning areas adjacent to the City from existing conditions will result in significant traffic impacts to several intersections in the City of Costa Mesa. The increases listed below (but not limited to) are also substantially higher than their current General Plan:

6

- West Newport Mesa
- Mariners' Mile
- Airport Area
- Old Newport Boulevard

Therefore, the study area should be expanded to cover Costa Mesa intersections. Specifically, Newport Boulevard (including 19th Street), intersections along 17th Street from Newport Boulevard up to (and including) Irvine Avenue, and intersections along Superior Avenue should be included.

- DEIR Page: 4.13-6

Existing traffic conditions analysis should be expanded to include Costa Mesa intersections listed above.

- DEIR Page: 4.13-31

With the proposed General Plan Update, the intersection of Newport Boulevard/Hospital Road was impacted. These impacts would likely continue to other intersections along Newport Boulevard to the north of the study area. This should be addressed in the study.

- DEIR Page: 4.13-32

The analysis should be expanded to include SR-55 segments north of 19th Street as they would be affected by the significant increases in land uses proposed in the General Plan Update.

- Appendix D Tables: 4-5, 4-6

The analysis does not include intersections or roadway segments within the City of Costa Mesa. The roadway volumes are expected to grow by approximately 20 percent on Newport Boulevard with No Project condition. This will be even higher with the proposed General Plan land uses. The impact of this growth should be addressed.

- Appendix D Page: 5-1

Section 5.1.1 states that "Large land use changes occur in Airport Area (to incorporate residential uses...), in Newport Center and in places like Mariners Mile and Old Newport Boulevard (where a mixed use component has been added)." The impact of this growth at nearby Costa Mesa intersections should be addressed and included in the study.

- Appendix D Page: 5-6

The trip generation with the proposed General Plan land uses will exceed existing trip ends by approximately 29 percent (220,772 trips). Due to the

6

proximity of the projected growth to Costa Mesa, several intersections in the City of Costa Mesa would be impacted. This should be identified in the environmental impact report and the impacts should be addressed.

- Appendix D Page: 5-7

The projected growth of traffic on Newport Boulevard north of Hospital Road is approximately 25 percent with the proposed General Plan land uses. However, the analysis was limited to City limits. The projected increase in traffic will affect roadway segments and intersections to the north in the City of Costa Mesa. This should be addressed in the environmental document.

6

- Appendix D Table: 5-8

Due to the proximity of the projected growth to Costa Mesa, several intersections in the City of Costa Mesa would be impacted. This should be identified in the environmental impact report and the impacts should be addressed.

- 2) Additional analysis should be conducted under the assumption that the 19th Street bridge over the Santa Ana River is not constructed:

- DEIR Page: 4.13-23

The study is correct in analyzing "constrained roadway system." However, the constrained system includes 19th Street bridge over Santa Ana River. Similar to the SR-55 freeway extension, the possibility of 19th Street bridge over Santa Ana River to be implemented in the General Plan timeframe is very remote considering that the Cities of Costa Mesa and Huntington Beach are opposed to it and the feasibility of constructing the bridge has not been determined. By including the 19th Street bridge, the true impacts of the proposed General Plan land uses are not addressed in the study. The full analysis presenting impacts and mitigations without 19th Street bridge should be included at least as an alternative within the General Plan.

7

- DEIR Page: 4.13-25

Project Impacts – The study includes 19th Street bridge over Santa Ana River. The study should be expanded to include Costa Mesa intersections and an analysis of constrained network without the 19th Street bridge should be included.

- Appendix D Page: 4-8, 5-8

The constrained network was revised to include the bridge over 19th Street. By incorporating an improvement that is not feasible due to jurisdictional and environmental issues, the true impacts of the General Plan Update are understated. The analysis should be revised without the 19th Street bridge over Santa Ana River.

■ Response to Comment Letter CM

Letter from the City of Costa Mesa, received June 8, 2006

CM-1

Comment noted. The Final EIR will be forwarded to the City pursuant to State CEQA Guidelines.

CM-2

The General Plan incorporates policies only for properties within the current jurisdictional boundaries of the City and does not speculate on any pending or anticipated future boundary adjustments. An exception is Banning Ranch, which is within the City's designated Sphere of Influence. As required by State law, the Plan indicates the City's intentions regarding use and conservation of this property should it be annexed. It does not specify a pro-active strategy on behalf of the City for annexation. Any annexation procedures would be processed according to LAFCO requirements.

The EIR does not address annexation of West Santa Ana Heights, as any annexation that may occur of this area would be separate from the current General Plan Update. An amendment to the General Plan in order for West Santa Ana Heights to be incorporated into the City has been approved by the City Council and would be effective if and when annexation of this area occurs. This amendment made no land use changes.

CM-3

The consolidation of oil extraction activity on Banning Ranch is not proposed at this time. Should it be proposed in the future, the appropriate location for clustering of the oil extraction activities and the impact to existing and planned land uses in Costa Mesa would be determined through its own environmental review under CEQA. Without knowing the proposed location of oil extraction activities, no further analysis can be done at this time. The commenter is also directed to Master Response E.

CM-4

The City is aware of the land use changes for Costa Mesa. These plans did not warrant any revision to the Draft EIR relative to the uses in the Newport Mesa area. Further, the land use impact analysis specifically addresses compatibility with the City of Costa Mesa under Impact 4.8-1, page 4.8-10. "Properties along the northern edge abutting the City of Costa Mesa would be encouraged to retain light manufacturing and research and development uses. It is possible that adjacent to these uses, in the City of Costa Mesa, additional residential units may be developed." Because these conditions would not result in any new land use conflicts, impacts have been identified as less than significant.

In addition, the City has reviewed several of Costa Mesa's environmental documents in the vicinity of Banning Ranch, including the Mixed-Use Overlay District and Sobeca Urban Plan IS/MND, which analyzed 2025 conditions. Although it is not stated whether the analysis took into consideration existing conditions or the existing General Plan, the difference is relatively moderate, as shown below:

	Average Daily Trips
Existing	135,561
General Plan	173,286
Revised Plan	157,647

The analysis included several worst-case assumptions, including no extension of SR-55 and no bridge along 19th St at the Santa Ana River. It also assumes numerous local intersection improvements. As a result the three intersections with LOS E under existing conditions would improve, and all intersections would operate at LOS D or better under either the General Plan or the Revised Plan, which adheres to the City's goal for acceptable level of service of LOS D.

CM-5

The *City of Newport Beach General Plan Traffic Study Preliminary Alternatives Analysis* (Urban Crossroads, Inc., May 3, 2005) included evaluation of open space in Banning Ranch. Discussion of the impacts of open space on Banning Ranch is included on pages ES-32 and 6-2 of the Transportation Study. If an open space option is ultimately selected and implemented, no roadways would be anticipated upon Banning Ranch.

The City of Newport Beach proposed Master Plan of Streets and Highways is consistent with the MPAH.

CM-6

The proposed project in the northerly areas of Newport Beach (particularly the Airport Area) reflects a better balance of employment and residential opportunities and has less impact on Costa Mesa than the existing General Plan. The net impact of Project Only growth is an increase in LOS that is generally less than the threshold for acceptable traffic operations that is accepted by the City of Costa Mesa. Any explicit development projects increasing development over existing levels will be required by the City of Newport Beach to evaluate impacts until they reach a level of insignificance.

In addition, in public hearings on the General Plan, the City Council has directed that staff revise the proposed General Plan Update to respond to the impacts identified in the Draft EIR. For the areas discussed in the comment most likely to affect Costa Mesa these reductions are as follows:

- Airport Area: residential growth reduced by 2,100 units to 2,200 units, with commercial development the same as the existing General Plan, but since most of the residential growth has to occur in association with elimination of existing commercial development, no traffic increases from the existing General Plan will occur.
- West Newport Mesa: permitted floor area ratios reduced to below existing General Plan levels, reducing projected daily traffic by 3,406 trips.
- Old Newport Boulevard: The proposed General Plan is now status quo from the existing, with no increase in trips.
- Mariners Mile: The introduction of residential will reduce the amount of commercial available for development, with an overall trip reduction of 3,629 from the existing General Plan.

The potential for a cumulative impact outside the City of Newport Beach, consistent with previously completed analysis (for instance the City of Costa Mesa General Plan and Santa Ana River Crossings studies) is acknowledged as part of this effort.

Refer to the Master Response D regarding analysis of traffic impacts beyond City boundaries.

CM-7

Refer to the Master Response A regarding inclusion of the 19th Street bridge in the EIR analysis.

CM-8

The comment connects the roadway network used within the traffic study to the proposed Circulation Element roadway network. This is not a correct connection to make. While the City used a network for analysis that reflects what might reasonably be built within the timeframe of the proposed General Plan Update, the City is not proposing any changes to the circulation network of the MPAH.

The *City of Newport Beach General Plan Traffic Study Preliminary Alternatives Analysis* (Urban Crossroads, Inc., May 3, 2005) included evaluation of an alternative with the Orange County Master Plan of Arterial Highways. The City of Newport Beach proposed Master Plan of Streets and Highways is consistent with the Orange County Master Plan of Arterial Highways. Refer to Master Response A regarding including the 19th Street bridge consistent with the MPAH. The two access points through the Banning Ranch property (15th Street and Bluff Road) are similar to the Bluff Road and 17th Street connections. These minor differences in the road connections through Banning Ranch have been on the City and County Master Plans for a long time, and the City of Newport Beach has always been found to be consistent with the MPAH. As part of the Santa Ana River Crossings study process, the three cities that would be affected by the extension of Bluff Road north of 19th Street to Victoria Avenue have determined this to be an unnecessary improvement.



www.ci.irvine.ca.us

City of Irvine, One Civic Center Plaza, P.O. Box 18575, Irvine, California 92623-9575 (949) 724-6000

May 4, 2006

IR

Sent via fax:
(949) 644-3229

Mr. Gregg Ramirez
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Subject: Review the Draft Environmental Impact Report for the City of Newport Beach General Plan Update

Dear Mr. Ramirez:

The City of Irvine has received and reviewed the information on the above referenced project and has the following comments:

General Plan

1. Please revise the language for the statement on Page 3-96 of the General Plan: "Recent development activity in the City of Irvine's Business Complex (IBC), to the north, has included the transfer of development rights, *bringing more intense development closer to the Airport Area*, and resulting in the conversion of office to residential entitlement." The transfer of development rights between sites within the IBC does not necessarily mean that more intense development will be located closer to the Airport Area. The conversion of land uses between office and residential is required to remain within the overall intensity limits established for the IBC. Therefore, the change in land uses does not necessarily mean that the City has allowed more intense development to occur.

1

The following comments are based on the review of the Circulation Element of the DEIR and the Traffic Study associated with the general plan update.

2. Although Tables ES-11 and 5-11 of the Traffic Study Tables appear to be consistent with Figure CE-3 of the Circulation Element, it is unclear why Table ES-8 is inconsistent with Figure CE-3. Please address the inconsistencies shown for build-out conditions at the following six intersections that lie partially within the Irvine city limits:

2

Mr. Gregg Ramirez
 May 4, 2006
 Page 2

Intersection	Figure CE-3 (Circulation Element)	Table ES-8 (Traffic Study)
MacArthur/Campus	Provide 2 nd NB LT lane; Remove 4 th SB thru lane to provide shared thru/RT lane.	Provide 2 nd NB LT lane; SB free-RT lane
Von Karman/Campus	Provide 2 nd EB LT lane; Remove EB and NB free- right turn lanes.	Provide 1 st WB RT lane; 1 st SB RT lane.
Jamboree/Campus	Provide 4 th SB thru lane; NB RT lane; remove EB free-RT lane.	Provide NB free-RT lane; 4 th SB thru lane; 1 st SB RT lane; 3 rd EB LT lane; WB free-RT lane
Jamboree/Birch	Provide 4 th SB thru lane	Provide 2 nd EB LT lane; 1 st WB RT lane.
MacArthur/Jamboree	Provide 4 th EB thru lane; 3 rd WB LT lane.	Provide 4 th NB thru lane; 4 th EB thru lane; 3 rd WB LT lane.
SR-73 NB ramps /Bonita Cyn	Provide 2 nd LT lane	(not included)

3. Traffic impacts were identified along the boundary of the study limits at the intersections of MacArthur/Campus, Von Karman/Campus, Jamboree/Campus, Jamboree/Birch, Jamboree/MacArthur, and SR-73 NB ramps/Bonita Canyon, all of which lie partially within Irvine city limits. Therefore, please expand the limits of the study area such that impacts dissipate to a level of insignificance.
4. The underlying assumptions made in the Traffic Study at the intersections of MacArthur/Campus and Von Karman/Campus are inconsistent with the City of Irvine's ITAM model. At the intersection of MacArthur/Campus, the eastbound right-turn lane from Campus to MacArthur will not exist with build-out conditions per the ITAM model, while the Traffic Study assumes that this right-turn lane will exist. At the intersection of Von Karman/Campus, the eastbound right-turn from Campus to Von Karman is a free-right per the ITAM model, while the Traffic Study assumes a designated right-turn lane. Please address these inconsistencies and reanalyze these intersections as appropriate.
5. Provide text in the Circulation Element as well as the Traffic Study indicating that improvements must be coordinated and feasibility analyzed for those impacted intersections that lie within both the Irvine and Newport Beach city limits.

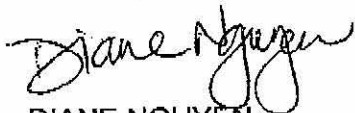
Thank you for the opportunity to review and comment on the proposed document. We would appreciate the opportunity to review any further information regarding this project



Mr. Gregg Ramirez
May 4, 2006
Page 3

as the planning process proceeds. If you have any questions, please contact me at by phone at (949) 724-6375 or by email at dinguyen@ci.irvine.ca.us.

Sincerely,



DIANE NGUYEN
Associate Planner

cc: Barry Curtis, Principal Planner
Michael Haack, Manager of Development Services
Bill Jacobs, Principal Planner
File

■ Response to Comment Letter IR

Letter from the City of Irvine, received May 4, 2006

IR-1

This comment does not address the adequacy of the EIR analysis for the proposed General Plan Update. No further response is necessary.

IR-2

The information in the comment letter under the heading of “Table ES-8” is not from Table ES-8 of the Transportation Study. The comment claims that there are inconsistencies in the improvements included in the “table” with Figure CE-3 of the Circulation Element. The Transportation Study Table ES-8 (beginning on page ES-17) only provides level of service (LOS) information without improvements and does not identify any improvements explicitly. Assuming the information has been extracted from Table ES-9, it is incorrect. Therefore, the comment fails to identify any inconsistencies with Figure CE-3. The improvements listed in Table ES-9 are consistent with Figure CE-3.

IR-3

The comment identifies cumulative impacts per the Draft EIR and traffic study report. Please also see Master Response D regarding analysis of impacts beyond City boundaries. However, review of the direct project impact analysis (consisting of Existing plus Project conditions) indicates that all of the referenced intersections experience acceptable traffic operations under Existing plus Project conditions. The cumulative analysis for the General Plan project also indicates that the proposed project has less impact than the Currently Adopted General Plan. Therefore, the overall study area evaluated in the traffic study is adequate and does not need to be expanded.

IR-4

The different lane configuration assumptions identified in the comment are based on minor differences in the City of Newport Beach and City of Irvine approaches to operational analysis and do not affect the overall conclusions of the Draft EIR.

The rightmost through lane at the intersection of MacArthur Boulevard at Campus Drive is 19’ wide (including the 8’ bike lane). This provides an implied or “defacto” right turn lane in which right turning vehicles can turn without waiting for / being impeded by through vehicles. This analysis approach is supported by field observation of driver behavior at this location.

The analysis at the intersection of Von Karman Avenue at Campus Drive differs based on differing definitions of a free right turn lane. While the City of Irvine considers any right turn lane with a concrete barrier (i.e. porkchop) separating vehicles from other traffic a free right turn lane, the City of Newport Beach does not recognize those lanes that are controlled by a Yield sign and/or do not have exclusive receiving lanes as free right turn lanes and treats them as exclusive right turn lanes. If the City of Irvine standard was used in this analysis, it would result in improved Level of Service at this intersection. To

maintain conservative results and because the south side of the intersection is within the City of Newport Beach, the analysis is considered accurate as stated in the traffic study report.

IR-5

It is acknowledged that the timing and feasibility of improvements to intersections shared with adjacent jurisdictions must be coordinated with said jurisdictions. This is consistent with Policies CE 3.1.2 and 3.1.4 recommended for adoption in the City of Newport Beach Circulation Element.

From: Susan/Barry Eaton [mailto:eaton727@earthlink.net]
Sent: Monday, May 29, 2006 4:04 PM
To: Wood, Sharon; Temple, Patty; Ramirez, Gregg
Cc: Edmonston, Rich
Subject: Comments on DEIR for the GPU

Sharon, et al,

Pursuant to Patty's suggestion, I am herewith submitting my comments on the DEIR for the General Plan Update:

Executive Summary/Project Description:

The most important comment herein is that the entitlements that would be granted by the project have changed substantially since the project description was written. Those changes need to be described thoroughly, and the impacts based on that description analyzed. It seems to me that the response document should contain a description of all the changes that have been made, both for the described sub areas, and for the other areas that have been changed. This should include changes to the summary tables (such as Tables 2-1 and 3-3), the traffic generation tables (tables ES 1 through 3 in the Traffic Appendices) - preferably by adding a new column, so that a comparison can be made between the existing General Plan, the originally-proposed project, and the revised project, the dwelling unit and population totals (which appear at numerous places in the DEIR), and amending those paragraphs in the Executive Summary and Project Description that refer to specific proposals that have now been modified (such as the reference on page 3-15 to the number of proposed additional housing units in Newport Center, and the first paragraph under "Other Land Use Changes" on pages 2-3 and 3-17, that state that the area west of St. Andrews road is going to be redesignated).

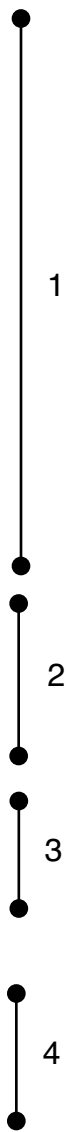
In addition, the traffic model should be rerun (utilizing the budget allocation for this purpose) once all the changes have been made, and any differences in the resulting link v/c ratios, and of intersection LOSs from the original project should be discussed in the traffic section responses and summarized in the Executive Summary responses.

If table 2-2 is supposed to list all the impacts, it appears to have several missing (e.g. - the Significant findings under Hazards and Land Use, and Public Services impacts 4.11.2 through 4.11.4).

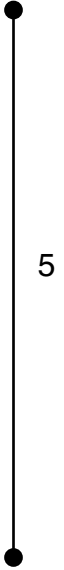
Aesthetics and Visual Quality:

Why is there no Coastal Views Figure for CDM or the Newport Coast (it should be Figure 4.1-4)?

Air Quality:

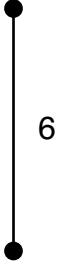


Page 4.2-12 and 4.2-13 state that there is a significant impact (impact 4.2-1) because the proposed population exceeds that estimated by SCAG by 9,748 people. At the stated household size of 2.19, a reduction of 4,377 dwelling units would bring the population estimate back down to the level estimated by SCAG, and possibly eliminate this significant impact. If the revised project does, in fact, reduce the residential component by that much, this finding should be changed. (However, it should be noted that in the Population and Housing Section (page 4.10-5), the DEIR states that the proposed project exceeds the SCAG dwelling unit projections by 11,294. I fail to understand how there could be a greater discrepancy in the number of units than in total population - less than 1 person per unit? - unless one or the other of the population projections was based on occupied units, as the traffic model is.) If the remaining impact is based upon exceedance of SCAG's estimates of dwelling units, rather than population, then it would appear that this impact could not be modified. In any event, it should be made clear which exceedance creates the remaining impact.



Geology:

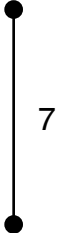
Impact 4.5-2 (pages 4.5-14 and 4.5-15) includes impacts related to liquefaction, and concludes that those impacts are less than significant. However, the text doesn't appear to state how further structures permitted under the project could be prevented from the effects of liquefaction, even if designed according to the latest codes. If, in fact, the effects of liquefaction cannot be prevented, then this section should so state, and probably a remaining effect should be declared.



Hazards:

The section on Aviation Hazards on page 4.6-9 far understates the number daily commercial flights at JWA. This should be corrected.

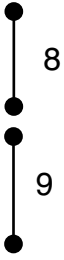
(See also the comment hereinbelow under Land Use.)



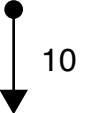
Hydrology:

The introductory paragraph in this section refers to a Technical Background Report for the City of Corona. Why?

Figure 4.7-1 in this section shows all of the islands in the lower bay as "tidelands and submerged lands". Although they may have been so at one time, are they still considered submerged? (They appear to be pretty dry to me.)



The first paragraph under "Seismically Induced Inundation" (on page 4.7-19) refers to the threat of flooding from several open reservoirs, including the "Harbor View Reservoir".



Is there such an open reservoir?

10

Land Use:

Impact 4.8-1 (on page 4.8-12) refers to a remaining significant effect if the CC approves residential development within the 65 CNEL line around JWA. (Similar remaining effects are also reflected in the Hazards and Noise sections of the DEIR.) Now that the mixed use designation has been removed from the Airport Area within the 65 CNEL line (thus presumably requiring a future General Plan Amendment, in addition to an ALUC override, to approve residential development within this area), do all three of these effects remain significant, or can they now be reduced to a level of less than significant?

11

Noise:

(See comment just above, under Land Use.)

12

Population and Housing:

(See comment hereinabove under Air Quality.)

13

Public Services:

On page 4.11-14, the DEIR states that "There are no Federal, State, or local policies that are directly applicable to police services within the Planning Area." Can this be serious? I hear statements from Police representatives all the time about how handcuffed they are by State and Federal regulations that control how they go about their business. Do none of those at all apply within this context?

14

With regard to schools, I have to say that this is just about the weakest EIR section that I have ever seen on this topic - especially as it applies to the Santa Ana Unified School District (SAUSD), which serves the Airport Area (where thousands of new dwelling units are proposed where none have existed heretofore).

15

This starts with the paragraph under Standards, where the DEIR states that the capacity of SAUSD "is currently unknown". Could not this have been established with a simple phone call? It should be.

16

Next, under Projected Needs, SAUSD is not even mentioned. Why not?

17

Under Planned Improvements, there is no mention of the improvements planned under Measure W for the NMUSD; and, again, SAUSD is not even mentioned. Why not?

18

Under Regulatory Context, the DEIR states that "There are no federal, state or local policies that are directly applicable to schools within the Planning Area." This statement seems almost absurd on its face. There are innumerable state laws governing the operation of school districts in California - so much so that they have very little local flexibility within which to operate.

19

More important, there is a specific state law which entitles school districts to charge impact fees for both residential and non-residential development, and limits the mitigation that might otherwise be required for school impacts. I don't think I have ever seen an EIR that failed to state this, with prominence.

Under project impacts, at the top of page 4.11-23, the DEIR states that "enrollment capacity and operating conditions of the SAUSD are unknown." Why? It doesn't seem that that information would have been so difficult to obtain; and it should have been, in light of the potential impact to that District.

20

Two paragraphs later, this same "unknown" is used to avoid assessing the impact on that District.

21

In the following paragraph, the DEIR talks about how the GPU policies "accommodate" and "allows for" the development of new schools in the area. No mention whatever is made of the state law which specifically mitigates, and limits mitigation to, the fees that it authorizes school districts to charge to allay such impacts.

22

The concluding paragraph of this section (at the top of page 4.11-24) then concludes that there is a less than significant effect, based on the proposed GP Policies that "accommodate" and "allows for"; without even mentioning the state law that governs the effect and mitigation of these impacts. This really needs to be changed!

23

Finally, in the Cumulative Impacts section (on the same page), the DEIR states that "it is presently unclear how many residential units the IBC [in the City of Irvine] would add to the area" (which is also served by the SAUSD). It seems to this reviewer that a phone call to the SAUSD could have established how many such units the District is planning for, what student generation has been forthcoming from those units already completed and being occupied, and what the District is doing to plan for those students, as well as those being contemplated in this DEIR.

24

To conclude (in this same paragraph) that the impact is less than significant, in the absence of the information that could have been relatively easily gathered from the SAUSD (they do have a full time planner, to deal with exactly this topic) is simply unfounded, in my opinion.

25

Transportation and Traffic:

(See comments under Executive Summary/Project Description, hereinabove.)

26

The 5th paragraph on Page 4.13-5 states that Jamboree Road "has volumes between 30,000 and 67,000 ADT." But Figure 4.13-3 (on page 4.13-7) shows no volumes higher than 47,000 ADT on Jamboree Road. Which is correct? (In the traffic study addendum [in table 1, on page 4 of the letter immediately following Appendix E], it is noted that 2006 volumes on Jamboree, between Ford/Eastbluff and San Miguel, now exceed 50,000 ADT.)

27

In the section on Trails (on page 4.13-7), no mention whatever is made of equestrian trails. Why not?

28

Under regulatory Setting (on page 4.13-19), the DEIR states that "There are no relevant federal regulations applicable to the General Plan Update." I have the impression that there are a number of federal regulations that effect the planning and implementation of circulation system improvements. Is this not the case?

29

At the bottom of page 4.13-24, the DEIR states that "The current goal for acceptable level of service in the City of Newport Beach is as close to LOS D as possible". Is this a statement of the current General Plan, or the proposed project? It certainly does not describe the proposed GPU; and I had the impression that the current GP is not so ambiguous, either.

30

In the actual traffic study (on page 2-25 of Appendix D) it is stated that "the regional socioeconomic data (SED) based models generate fewer trips, then distribute the trips over longer distances." Inasmuch as all the carefully gathered Land Use data within Newport Beach has had to be converted into this more amorphous SED in the traffic model (so that the model can be consistent with OCTAM - the regional model for Orange County), this fact should be included in the traffic summary section of the DEIR, along with an explanation of how the model was corrected to account for this discrepancy.

31

Finally, I believe that there should be some reference in the traffic section of the DEIR to the "Special Issues" section of the traffic study (commencing on page 6-1 of Appendix D). There are a number of notable statements in this section of which any reader of the DEIR should be aware, in my opinion

32

Utilities and Service Systems:

The 2nd threshold of Significance (on page 4.14-16) states that the 2nd threshold is "sufficient water supplies". Is that supposed to be insufficient water supplies, or is it an either/or threshold?

33

In the paragraph dealing with sewers (on page 4.14-30), the middle of the paragraph refers to a couple of policies dealing with watershed-based runoff reduction and enforcing the City's Water Quality Ordinance. Do these have anything to do with sewers?

34

In table 4.14-12 (at the bottom of page 4.14-31), the table states that there would be 500 new students generated as a result of implementation of the proposed GPU. But the section on school impacts states that the student generation could be as high as 6,230. This is a difference of a magnitude of 12; and needs to be corrected.

35

On pages 4.14-35 and 36, six different policies are listed - all of which appear to have to do with surface water quality, not sewers. Why are they listed here?

36

Alternatives:

Table 5-2, on page 5-13 (summarizing the GPAC Alternative), appears to have several anomalies - e. g.: 500,000 sq. ft. less industrial in the Airport Area, no institutional (i.e. courthouse) in the Airport Area, and 83% less institutional (i.e. no City Hall?) on the Balboa Peninsula. If these are errors, they should be corrected.

37

Similarly, Table 5-3, on page 5-21, (summarizing the "Sub Area Only Minimum" Alternative, appears to have numerous anomalies and errors - e.g.: 70,000 more sq. ft. of office in Mariner's Mile, 800 more units in Newport Center, 2300 less units in the Airport Area, 14 units total in Banning Ranch, almost 375 more units in West Newport Highway, 400,000 sq. ft. less commercial on the Balboa Peninsula, and the same two anomalies relating to institutional uses in the Airport and Balboa Peninsula as the summary table for the GPAC Alternative. To the extent that these are, in fact, errors, they should be corrected.

38

Other CEQA Considerations:

It appears that Section 6.2 (on pages 6-1 through 6-3) is supposed to be a summary of all of the Significant, Unavoidable Adverse Impacts. However, it does not include the 2 identified remaining impacts (in the Hazards and Land Use sections) if residential is permitted within the 65 CNEL boundary around JWA. If these impacts do, in fact remain (see earlier comment herein, under Land Use), then they should be included in this Table.

39

Thank you for your consideration of these comments. I look forward to the responses thereto in the response document.

Barry

■ Response to Comment Letter B

Letter from Barry Eaton, Planning Commission, received May 29, 2006

B-1

In public hearings on the General Plan, the City Council has directed staff to make project modifications that reduce impacts below those identified in the Draft EIR. Therefore, the EIR analysis overstates the impacts of the proposed General Plan Update as there is little change in the density or amount of single-family land uses proposed in the General Plan Update. As mentioned in Chapter 8, minor changes to the General Plan have occurred as a result of the public involvement process that the City has undertaken. Table 1 in Chapter 8 provides a comparison of the General Plan for ease of understanding.

B-2

Although a final model run to evaluate the land use plan approved by the City of Newport Beach will in fact be performed, it is not required or possible to include this information in the Final EIR.

B-3

In response to this comment, the following text changes have been made to the Draft EIR to incorporate all impacts into Table 2-2 of Chapter 2 (Summary).

On page 2-10, under Impact 4.6-7, the text has been amended to incorporate the significant impact referred to in the comment, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

<i>Impact</i>	<i>Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Significance After Mitigation</i>
Impact 4.6-7 Implementation of the proposed General Plan Update could result in a safety hazard for people residing or working in the Planning Area as a result of the proximity of a public airport.	LTS <u>(S—should residential development be constructed within the 65 dBA CNEL noise contour)</u>	No mitigation is required. <u>(No mitigation measures would be feasible)</u>	LTS <u>(SU)</u>

On page 2-12, under Impact 4.8-1, the text has been amended to incorporate the significant impact referred to in the comment, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

<i>Impact</i>	<i>Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Significance After Mitigation</i>
Impact 4.8-1 Implementation of the proposed General Plan Update could involve new uses and structures that may result in intensification of development within the Planning Area that creates incompatibilities with adjacent land uses.	LTS <u>(S—should residential development be constructed within the 65 dBA CNEL noise contour)</u>	No mitigation is required. <u>(No mitigation measures would be feasible)</u>	LTS <u>(SU)</u>

On page 2-12, under Impact 4.8-3, the text has been amended to incorporate the significant impact referred to in the comment, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

<i>Impact</i>	<i>Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Significance After Mitigation</i>
Impact 4.8-3 Implementation of the proposed General Plan Update could conflict with applicable land use plans, policy, or regulations.	LTS <u>(S-should the AELUP be overridden by City Council)</u>	No mitigation is required. <u>(No mitigation measures are feasible)</u>	LTS <u>(SU)</u>

On page 2-13, under Public Services, the text has been amended to incorporate the impacts referred to in the comment, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

<i>Impact</i>	<i>Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Significance After Mitigation</i>
Impact 4.11.1-1 Implementation of the proposed General Plan Update could increase the demand for fire protection services, which could result in the need for additional fire facilities.	LTS	No mitigation is required.	LTS
Impact 4.11.2-1 <u>Implementation of the proposed General Plan Update could increase the demand for police protection services, which would result in the need for additional police facilities.</u>	<u>LTS</u>	<u>No mitigation is required.</u>	<u>LTS</u>
Impact 4.11.3-1 <u>Implementation of the proposed General Plan Update would result in an increase in the student enrollment which could result in the need for additional staff and school facilities.</u>	<u>LTS</u>	<u>No mitigation is required.</u>	<u>LTS</u>
Impact 4.11.4-1 <u>Implementation of the proposed General Plan Update could result in the need for additional library facilities in order to maintain acceptable service ratios.</u>	<u>LTS</u>	<u>No mitigation is required</u>	<u>LTS</u>

B-4

Corona Del Mar is included on Figure 4.1-3, on page 4.1-8. A Coastal Views Figure for Newport Coast has been added to the EIR as new Figure 4.1-4. This figure is reprinted in Chapter 9 (Text Changes) in the Final EIR.

B-5

The commenter has subtracted the number of households (43,100) projected by SCAG from the number of dwelling units (54,394) under the proposed General Plan Update. SCAG projections for population and the City’s projection of dwelling units are two independent values. These are not the same thing, and cannot be correlated. Because the City has historically experienced vacancy rates of 10.9 percent, the EIR analyzed dwelling unit projections. As explained on page 4.10-3 of the Draft EIR, a household differs from a dwelling unit because the number of dwelling units includes both occupied and vacant dwelling

units. Thus, for the City dwelling unit projection to exceed the City population projection is not unusual. The EIR analysis is based on the change in dwelling units as this number reflects a greater difference than the difference in population, and presents a conservative analysis.

B-6

As stated on page 4.5-15, in compliance with the California Building Code, an assessment of geologic hazards would be conducted that would consider the feasibility of development on a particular site in combination with available measures/design features that could mitigate potential liquefaction and other hazards. Should the potential liquefaction hazards not be mitigable, development of a particular project would be considered infeasible and not pursued. However, if a project is deemed feasible, any and all applicable codes, as well as the City's Safety Element, would be adhered to such that potential liquefaction hazards would be less than significant.

B-7

The information referred to in this comment was taken from a report prepared in 2003 by Gunnar J. Kuepper of Emergency and Disaster Management for Earth Consultants International. His findings are based on in-person interviews with Michael R. Hart, the Deputy Director of Operations at John Wayne Airport, and Chuck Ulmann, the Air Traffic Manager in the FAA Tower at John Wayne Airport. Information cited on the official website of the John Wayne Airport clarifies that on an average business day, 300 commercial flights (150 departures and 150 arrivals) arrive at and depart from JWA.

In response to this comment, the following text changes have been made on page 4.6-9, the second sentence under the heading Aviation Hazards, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

John Wayne Airport (JWA) generates nearly all aviation traffic above the City of Newport Beach. On an average business day, approximately ~~150-300~~ commercial flights (150 departures and 150 arrivals) and 20 regional flights arrive at and depart from JWA. ...

B-8

The City of Corona Technical Background Report (2003) was consulted during the preparation of the Hydrology Section to confirm certain regional hydrologic conditions.

B-9

The outer area of Balboa Island, Lido Isle, Bay Island, and Harbor Island contain tidelands. Figure 4.7-1 has been amended to identify the tidelands. This figure is reprinted in Chapter 9 (Text Changes) in the Final EIR.

B-10

Harbor View Dam is a small earthen reservoir that is usually empty and primarily used for flood control purposes. It is located approximately 700 feet upstream of Harbor View School and has a storage capacity of 28 acre-feet.

B-11

The commenter is correct that the EIR evaluates the project description identified within Chapter 3, and on page 3-15 specifically identifies new residential development within the Airport Area. Impacts related to new residential development within the Airport Area have been identified on pages 4.8-1 (land use compatibility), 4.6-28 (safety hazards associated with the airport), and 4.9-35 (exterior noise levels at new land uses) that are related to residential development within the 65 dBA CNEL. In public hearings on the General Plan, the City Council has directed that residential development be excluded within the 65 dBA CNEL. If the City approves the current version of the General Plan Update, the commenter is correct that these three identified significant impacts would no longer occur.

B-12

Refer to response to comment B-11. Similarly, significant noise impact 4.9-5 has been revised to indicate that exterior noise levels would be within acceptable levels, and the impact would be less than significant.

B-13

Refer to response to comment B-5.

B-14

The language quoted in the comment was intended to convey the fact that within the context of accommodating the need for new police infrastructure, no federal, state, or local policies are directly applicable to the number of police resources that would be needed as a result of the proposed General Plan Update's potential impacts.

B-15

This is a general stated of the commenter's opinion about the schools analysis. All of the commenter's specific comments with respect to schools are provided in comments B-16 through B-25, and responses are provided below.

B-16

Although the SAUSD did not respond to phone calls and other inquiries and the City was unable to obtain the current capacity of the SAUSD via phone or other methods, the EIR reflects a conservative analysis regarding potential impacts to SAUSD schools within the City limits. As stated on page 4.11-23 of the EIR, "because the current capacity of the SAUSD is unknown, it is possible that this potential increase in students may exceed" SAUSD's capacity. Further, it should be noted that during the project-specific environmental review of any development project within SAUSD jurisdiction, potential impacts to schools and the need for additional school facilities (to increase capacity) will be evaluated in conformance with Item XIII.a) of Appendix G of the CEQA Guidelines.

B-17

Information contained under the heading "Projected Needs" includes any needs identified by local school districts that may require the expansion of existing infrastructure. As stated in response to

comment B-16, the EIR, since the capacity and needs of SAUSD were unknown, reflects a conservative analysis regarding the potential need for additional facilities within SAUSD. Further, it should be noted that during the project-specific environmental review of any development project within SAUSD jurisdiction, potential impacts to schools and the need for additional school facilities (to increase capacity) will be evaluated in conformance with Item XIII.a). of Appendix G of the CEQA Guidelines.

B-18

Although the SAUSD did not respond to phone calls and other inquiries and the City was unable to obtain information regarding the current funding of SAUSD facilities, similar to the existing capacity, via phone or other methods, the EIR reflects a conservative analysis regarding potential impacts to SAUSD schools within the City limits. Further, from a programmatic perspective, the type and/or level of funding available for new schools does not affect analysis of the proposed General Plan Update's impact on local school districts.

B-19

Comment acknowledged. On page 4.11-21, the text immediately following the heading "Regulatory Context" has been amended to include these regulations, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR. This amendment is not a substantial change to the EIR and does not affect the analysis contained in Impact 4.11.3-1.

■ Regulatory Context

There are no federal, state, or local policies that are directly applicable to schools within the Planning Area.

California State Assembly Bill 2926 (AB 2926)—School Facilities Act of 1986

In 1986, AB 2926 was enacted by the state of California authorizing entities to levy statutory fees on new residential and commercial/industrial development in order to pay for school facilities. AB 2926, entitled the *School Facilities Act of 1986*, was expanded and revised in 1987 through the passage of AB 1600, which added Section 66000 *et seq.* of the Government Code. Under this statute, payment of statutory fees by developers would serve as total CEQA mitigation to satisfy the impact of development on school facilities.

California Government Code Section 65995—School Facilities Legislation

The School Facilities Legislation was enacted to generate revenue for school districts for capital acquisitions and improvements.

California Senate Bill 50 (SB 50)

The passage of SB 50 in 1998 defined the Needs Analysis process in Government Code Sections 65995.5–65998. Under the provisions of SB 50, school districts may collect fees to offset the costs associated with increasing school capacity as a result of development. The fees (referred to as Level One fees) are assessed based upon the proposed square footage of residential, commercial/industrial, and/or parking structure uses. Level Two fees require the developer to provide one-half of the costs of accommodating students in new schools, while the state would provide the other half. Level Three fees require the developer to pay the full cost of accommodating the students in new schools and would be implemented at the time the funds available from Proposition 1A (approved by the voters in 1998) are expended. School districts must demonstrate to the state their long-term facilities needs

and costs based on long-term population growth in order to qualify for this source of funding. However, voter approval of Proposition 55 on March 2, 2004, precludes the imposition of the Level Three fees for the foreseeable future. Therefore, once qualified, districts may impose only Level Two fees, as calculated according to SB 50.

B-20

The comment is acknowledged. Refer to response to comment B-16 regarding the current capacity of and assessment of impacts on SAUSD facilities.

B-21

The comment is acknowledged. Refer to response to comment B-16 regarding the current capacity of and assessment of impacts on SAUSD facilities.

B-22

Implementation of the goals and policies of the proposed General Plan would include and incorporate the state laws regarding educational facilities, which are primarily devoted to funding of new schools and do not aid in the assessment of the need for additional school facilities. However, please note that for informational purposes and as stated in response to comment B-19, the text of the EIR has been amended to include state legislation regarding the funding of educational facilities.

B-23

The comment is acknowledged. Refer to response to comment B-16 regarding the implementation of the proposed General Plan Update.

B-24

The City of Irvine has proposed a Negative Declaration for their IBC residential zoning overlay, which states that the proposed project does not authorize any residential development, and that the SAUSD has indicated they have sufficient capacity to accommodate additional population from the IBC, with the required payment of impact fees. The Negative Declaration does not provide any student projection numbers, nor does it reference any communication with SAUSD. Furthermore, one of the City of Newport Beach's comments on this proposed Negative Declaration is that it is unclear how much additional land would be allowed to develop with residential uses.

B-25

This is a general comment that reflects the opinion of the commenter. Comment is noted. The goals and policies of the proposed General Plan Update will guide development within the City and ensure that adequate public services, including school facilities are provided, thereby resulting in a less-than-significant impact.

B-26

Refer to responses to comments B-1, B-2, and B-3.

B-27

Comment acknowledged. The existing traffic volumes for Jamboree Road shown in Figure 4.13-3 are correct, but the text was incorrect. Therefore, the third sentence of the fourth paragraph on page 4.13-5 has been modified to reflect the volumes shown in Figure 4.13-3, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

Jamboree Road is a northeast/southwest roadway with six divided lanes between Coast Highway and Campus Drive. South of Coast Highway it is a four-lane divided roadway. Jamboree Road has volumes between 302,000 and 647,000 ADT. Volumes south of Coast Highway are 12,000 ADT.

B-28

The trails listed in Section 4.13 are provided as a means of identifying alternative means of travel/transportation within the City. As equestrian trails would be used solely for recreational purposes, the listing of such trails was not deemed necessary to assess alternative means of transportation.

B-29

Comment acknowledged. While the federal and state regulations are primarily devoted to funding of transportation planning projects and does not directly affect the identification or planning of projects in the Newport Beach Area, Section 4.13.3 (Regulatory Setting) on page 4.13-19 has been amended to include these regulations, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

■ **Federal**

~~There are no relevant federal regulations applicable to the proposed General Plan Update.~~

Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU)

SAFETEA-LU funds highway, transit, and safety programs through the use of gas tax revenue and user fees deposited into the federal Highway Trust Fund, which is then distributed to State and local transportation agencies. SAFETEA-LU also provides the regulatory framework for transportation planning in urban areas at the federal level. Under SAFETEA-LU, the U.S. Department of Transportation requires that metropolitan planning organizations prepare long-range transportation plans.

Congestion Management System (CMS)

In order to meet federal certification requirements for the Federal Transportation Improvement Program (FTIP), SCAG and the County Congestion Management Agencies (CMAs) have developed a Congestion Management System (CMS) process for the region. In Orange County, the CMS is comprised of the combined activities of the RTP, the State Congestion Management Program (CMP), and the Regional Transportation Improvement Program (RTIP).

■ **State Regulations**

California Transportation Plan (CTP)

The CTP, which was formulated and is maintained by the Caltrans, is a state-wide long-range transportation plan that is updated every two years to reflect new and completed projects. In Orange

County, Caltrans District 12 coordinates with OCTA each time the CTP is updated to ensure consistency with the long-range transportation plan.

B-30

Comment noted. The commenter is referred to the last paragraph on page 4.13-21, which states:

The threshold used in this EIR for intersections is based on the existing General Plan Circulation Element, which provides for the construction of intersection improvements to ensure service levels as close to LOS D as possible.

This statement in the Draft EIR is correct with regard to the current General Plan. Policy 1 is to construct “facilities’ improvements ... to accommodate all vehicular traffic generated by existing development and anticipated growth, as well as some regional traffic, at service levels as close to Level of Service D as possible.” In fact, the discussion following Policy 1 refers to intersections that are predicted to function above LOS-D (i.e., at a higher intersection capacity utilization), and states, “... this Element represents a conscious decision to accept levels of service in the airport area that have been forecast by (sic) and focus efforts to improve service levels on those portions of our system less affected by regional traffic.” Policy 2 also refers to “service levels as close to LOS-D as possible.”

B-31

Page 4.13-23 of the Draft EIR describes, in detail, the analytic method used during the traffic analysis. The modifications to land use data are explained in this section (see third paragraph on page 4.13-24). An explanation of the intricacies of the model was not provided for ease of understanding within the EIR sections. However, the traffic study was included as an appendix of the Draft EIR to provide the public additional technical information such as inconsistencies inherent between the SED and OCTAM models.

The land use and socioeconomic data based modeling approaches may differ in some details, but the overall result is an accurate prediction of traffic volumes and potential project impacts.

B-32

Comment acknowledged. The Special Issues section provides further clarification regarding the intersection improvements within the City limits. For ease of understanding, this information, which does not contradict the EIR analysis or add information that would substantially alter the EIR analysis, was left in the traffic study appendix (Appendix D). Reference was made to the appendix throughout the EIR and Section 4.13 (Transportation/Traffic), and therefore, no information has been omitted that would deprive the public of the opportunity to provide meaningful comments.

B-33

The threshold, as accurately stated on page 4.14-18 of the Draft EIR is: “Would the project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?” The text on page 4.14-16 has been revised to clarify the threshold, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

The following thresholds of significance are based on Appendix G of the 2005 CEQA Guidelines. For purposes of this EIR, implementation of the proposed project may have a significant adverse impact on water systems within the Planning Area if it would result in any of the following:

- Require or result in the construction and/or expansion of water supply facilities, the construction of which could cause significant environmental impacts
- Have insufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed

B-34

It is surmised that this comment addresses the reference to Policies NR 3.7 and N.R 3.8. The threshold for this impact addresses wastewater treatment requirements of the applicable Regional Water Quality Control Board, and as such, is related to water quality. In addition to addressing watershed-based runoff, Policy NR 3.7 concerns water quality control and planning efforts of the RWQCB, both of which could affect wastewater discharges. Policy NR 3.8 relates to enforcement of the Newport Beach Water Quality Ordinance, a document which could address wastewater discharges. As such, reference to these policies is relevant to the discussion and no change to the EIR has been made.

B-35

Table 4.14-12 on page 4.14-31 has been amended, as shown in Chapter 9 (Text Changes) in the Final EIR. This amendment is not a substantial change to the EIR and does not affect the analysis contained in Impact 4.14.2-1. Due to the change to Table 4.14-12, subsequent changes to the final sentence on page 4.14-31, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR, have been made.

Under development of the proposed General Plan Update, the number of housing units could increase by approximately 14,215 units; commercial, visitor serving, and institutional uses would also increase, while industrial uses would decrease compared to existing conditions. Based on sewer flow generation factors provided in the Newport Beach Master Plan of Sewers, as shown below in Table 4.14-12, this increased development under the proposed General Plan Update is anticipated to generate an estimated additional wastewater flow of 4,12380,173 gpd (4.128 mgd) within the City.

Table 4.14-12 Projected Wastewater within the City			
<i>Type of Land Use</i>	<i>Estimated Potential New Development</i>	<i>Sewer Generation Factor</i>	<i>Additional Projected Wastewater (gpd)</i>
Single-Family Residential	1,700 units	370 gpd/du	629,000
Multi-Family Residential	12,515 units	213 gpd/du	2,665,695
Commercial	1,851,122 sf	200 gpd/1,000 sf	370,224
Visitor Serving (hotel)	3,184 rooms	150 gpd/room	477,600
Industrial	-405,769 sf	60 gpd/1,000 sf	-24,346
Institutional ^a	120,343 sf	n/a	n/a
Schools	500 <u>6,230</u> students	10 gpd/student	5,0 <u>62,300</u>
Parks ^a	55.4 acres	n/a	n/a
Total			4,123<u>80</u>,173

SOURCE: Sewer Generation Factors based upon the City of Newport Beach, Master Plan of Sewers, August 1996.

^a The Master Plan of Sewers does not contain generation rates for institutional or park uses.

B-36

As correctly noted by this comment, Policies NR 2.2, NR 3.12, and NR 3.16 are not relevant to the analysis of wastewater discharges. Reference to these policies has been deleted from the EIR, as shown below. Policy NR 3.5 relates to the provision of a municipal separate storm sewer system permit, the procurement of which could affect wastewater discharges. With regards to the relevance of Policies NR 3.7 and NR 3.8, please refer to response to B-34.

On page 4.14-35 and 36, the following policies have been deleted, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

~~Policy NR 2.2 — Advanced Water Treatment Processes~~

~~Use alternative water sources for the City's water supply by implementing advanced water treatment processes such as brackish groundwater and seawater desalination programs, when feasible.~~

~~Policy NR 3.12 — Site Design and Source Control~~

~~Include site design and source control BMPs in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality as required by the National Pollutant Elimination System, structural treatment BMPs will be implemented along with site design and source control measures. (Policy HB8.12)~~

~~Policy NR 3.16 — Street Drainage Systems~~

~~Require all street drainage systems and other physical improvements created by the City, or developers of new subdivisions, to be designed, constructed, and maintained to minimize adverse impacts on water quality. Investigate the possibility of treating or diverting street drainage to minimize impacts to water bodies. (Policy HB8.16)~~

B-37

The General Plan, in fact, calls for no additional industrial development in the Airport Area, as shown in Table 3-3 and Table 5-2. The GPAC Recommendations Alternative would preserve some of the existing land use patterns in the Airport Area, including retention of up to 551,930 sf of allowable industrial development identified in the existing General Plan, an increase of 43,171 sf compared to existing conditions. Similarly, the GPAC Recommendations Alternative does not propose any institutional uses in the Airport Area, whereas 96,996 sf is recommended under the proposed General Plan. The information identified in the table has been verified, and no text correction is needed.

With regards to institutional development on the Balboa Peninsula, as shown in Table 3-3, the existing General Plan permits 32,010 sf of institutional development, with 21,710 sf existing. The proposed project would greatly expand institutional development through allowance of up to 96,710 sf. The GPAC

Recommendation Alternative would result in 16,650 sf of development in this area, thereby downsizing the amount of institutional development in this subarea.

B-38

Table 5-3 on page 5-21 of the Draft EIR that describes Alternative 4 does contain typographical errors. However, the impact analysis was done on the correct numbers as shown in revised Table 5-3, reprinted below. The mix of development under the “Subarea Only Minimum” alternative consists of greater levels of land uses in some areas and less in other areas, however overall, implementation of this alternative would reduce the total number of new residential units, and result in an overall city-wide trip generation that is reduced by approximately eight percent from the proposed General Plan land use distributions. The reduction of 2,350 allowable units would occur in the Airport Area, as this alternative would substantially reduce residential additional development within this subarea.

With regards to the institutional uses in the Airport Area and Balboa Peninsula, please refer to response to B-37.

Table 5-3 City of Newport Beach General Plan Update and Subarea Only Minimum Alternative (Alternative 4)

		Subareas								
		West Newport Mesa	Mariners' Mile	Newport Center/ Fashion Island	Airport Area	Banning Ranch	Balboa Village	Balboa Peninsula	West Newport Highway	Old Newport Boulevard
Office (sf)										
Proposed GPU		1,025,865	294,725	3,675,670	4,911,197		12,000	80,656		185,696
Alternative 4		850,950	363,557	<u>4,519,602</u>	<u>6,423,733</u>		60,000	<u>201,189</u>		
Residential (du)										
Prop GPU	MFR	3,542	625	845	4,300	687	512	823	361	244
	SFR(A)	98	837			688	1,196	291		579
Alt 4	MFR	3,172	817	<u>365</u>	1,950	14	242	<u>763</u>	273	250
	SFR(A)	98	837	419			1,190	<u>538</u>	462	659
Commercial (sf)										
Proposed GPU		50,910	853,208	1,986,980	880,620	75,000	192,503	745,320	57,935	92,848
Alternative 4		72,170	916,110	<u>2,089,960</u>	854,167		217,340	<u>774,492</u>	18,105	<u>120,879</u>
Visitor Serving (hotel-motel rooms)										
Proposed GPU			204	1,175	1,213	75	265	240		53
Alternative 4			204	1,036	1,431		34	<u>350</u>	145	53
Industrial (sf)										
Proposed		837,270								
Alternative 4		499,457			606,370					
Institutional (sf)										
Proposed GPU		1,235,797	105,260	105,000	96,996			96,710		
Alternative 4		1,235,797	95,360	105,000	10,900		13,470	<u>36,650</u>		
Parks (acres)										
Proposed GPU		1				30				
Alternative 4			0.4			20				

B-39

As indicated in response to comment B-11, significant land use and hazards impacts from locating residential development within the 65 dBA noise contour would no longer remain if, as has occurred during the public hearing process, the City Council has directed that residential uses be prohibited within the 65 dBA CNEL. However, the EIR evaluates the proposed General Plan Update and these text changes are made consistent with response to comment B-3. Therefore, inclusion of these impacts in Section 6.2 is included here. Page 6-2, is amended to add the following text between the discussion of Cultural and Noise impacts, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

■ **Hazards and Hazardous Materials**

Impact 4.6-7 Should residential development be constructed within the 65 dBA CNEL noise contour, implementation of the proposed General Plan Update could result in a safety hazard for people residing or working in the Planning Area as a result of the proximity of a public airport.

■ **Land Use and Planning**

Impact 4.8-1 Should residential development be constructed within the 65 dBA CNEL noise contour, implementation of the proposed General Plan Update could involve new uses and structures that may result in intensification of development within the Planning Area that creates incompatibilities with adjacent land uses.

MEMORANDUM

To: Gregg Ramirez, Senior Planner, City of Newport Beach

From: Environmental Quality Affairs Citizens Advisory Committee
City of Newport Beach

Subject: **Draft Environmental Impact Report for the City of Newport Beach
General Plan Update (the “Project”)**

Date: June 5, 2006

Thank you for the opportunity to comment on the Draft Environmental Impact Report (“DEIR”) for the captioned Project. We offer the following comments in the hopes of improving the final Environmental Impact Report and this important Project for the City of Newport Beach (“City”).

A. Project Description:

The Statement of Objectives defines an objective to “provide effective means to ensure compliance with Section 423 of the Charter”. The Project description in the final EIR should define Section 423 of the Charter so that reviewers can determine whether that objective is being met. (Page 3-9)

1

The Updated General Plan Land Use Changes describes the existing land use categories and summarizes proposed land uses under the General Plan Update on Table 3-3. These changes were reportedly made in response to the Objectives referred to above which resulted from the extensive public outreach process and in accordance with CEQA requirements. However, another guiding document for General Planning has been published by California Air Resources Board and should be consulted as part of this EIR. “Air Quality and Land Use Handbook: A Community Health Perspective,” published in 2005, contains valuable guidelines for making land use decisions which minimize the effects of air pollution on the affected community. (Page 3-10)

2

Table 3-3 shows a planned increase of 1188 dwelling units and 430 hotel rooms on the Balboa Peninsula without any significant traffic impacts (Also see Table 3-4). This seems wrong based on the experience of those who travel regularly on the peninsula. The final EIR should clearly discuss whether a formal traffic study prepared for this area reflecting the residential/hotel room growth as well as the theaters, nautical museum and other growth at Balboa Village. The final EIR should fully discuss the findings of such a study. (Page 3-13)

3

B. Environmental Checklist and Discussion:

I. Aesthetics and Visual Quality

Section 4.1 analyzes the impacts of the proposed General Plan Update on the aesthetic character of the City. The first threshold question to be addressed is whether the proposed Project would have a substantial adverse effect on a scenic vista. As the DEIR points out, there are numerous scenic vistas in the City due to the topography within the City and the natural features in and around the City, including the ocean and the bay, as well as nearby and distant mountain ranges.

4

The DEIR goes on to say that the proposed General Plan Update would protect the scenic vistas in the City; however, it states that there are no “officially designated scenic vistas in the City.” The final EIR should define “official designation” with respect to scenic vistas in the City and discuss what, if anything, an official designation would add to the protection of the scenic vistas beyond the policies included in the proposed General Plan Update.

The second threshold question that is addressed in the Aesthetics and Visual Quality Section is whether the proposed Project would substantially damage scenic resources, including trees, rock outcroppings and historic buildings within a State scenic highway. The DEIR states that “there are currently no officially designated scenic highways within the City of Newport Beach,” and the reason for that is because the City has not applied to Caltrans for scenic highway approval.

5

The final EIR should explain the implications of a highway being designated as a scenic corridor, including the effects such a designation would have on future development within the City of Newport Beach.

Another threshold question is whether the proposed Project would create a new source of substantial light and glare that would adversely affect day or nighttime views. The DEIR states that if Banning Ranch is not acquired for open space and development occurs in that area, there will be significant and unavoidable light and glare impacts due to nighttime lighting. The final EIR should discuss why, even with sensitive siting of uses and structures, these impacts would not or could not be mitigated to a level less than significant.

6

As a point of correction, Figure 4.1-3 should be revised to include MacArthur Boulevard from San Joaquin Hills Road to Coast Highway.

7

II. Air Quality

Table 4.2-1 (Page 4.2-6) provides a summary of ambient air quality as measured at the South Coast Air Quality Management District (“SCAQMD”) monitoring station in Costa Mesa from 2001-2003 and lists the relevant Air Quality Standards for Ozone, CO,

8



NO₂ and SO₂. However, the text describing Table 4.2-1 notes that “the largest contributor to inhalation cancer risk is small diameter particulate matter produced by diesel engines.”

The DEIR also describes atmospheric lead (Pb) particulates as a health concern. Both of these health hazards (i.e. lead) and respirable particulate matter (PM_{2.5}/PM₁₀) should be included in SCAQMD monitoring station results in the final EIR. Since these are airborne contaminants, which are sure to increase in our elevated traffic and construction intensive areas (due to heavy use of diesel equipment), the final EIR should explain how the City can be assured that we are properly accounting for the health hazards associated with them.

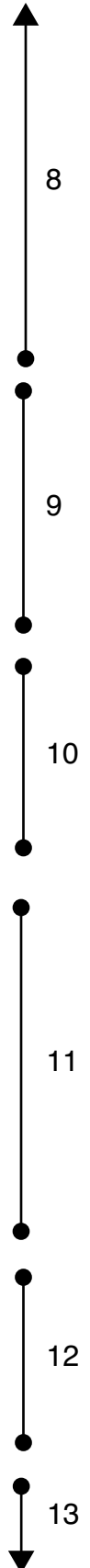
Volume II of the DEIR contains Appendix B, related to Air Quality, which requires attention. Near the end of Appendix A, there is a letter from Steve Smith, Ph.D. of SCAQMD. Among other comments, Dr. Smith recommends that “projects generating or attracting vehicular trips, especially heavy-duty diesel vehicles, perform a mobile source health risk assessment” in accordance with California Environmental Quality Act (“CEQA”) Guidelines published on the CEQA website. The final EIR should include a mobile source health risk assessment and provide the results of the analysis.

Appendix B contains Air Quality Data based on computer analysis from a modeling program titled Urban Emissions Model (“URBEMIS”) 2002 for Windows 8.7.0.” Although Pb and PM_{2.5} have been previously noted as potential health hazards, they are not included in the modeling. The final EIR should identify how the proposed Project would deal with these hazards, and identify other possible analysis tools that could be utilized.

In this same Appendix B, the URBEMIS modeling results are potentially confusing and contradictory. Compare the results from Appendix B, sheet #1 (marked page: 1, 3/8/2006, 2:36 pm) and sheet #5 (also marked page: 1, 3/2/2006, 2:37 pm). The titles on these pages are identical regarding on-road motor vehicle emissions summarized in pounds/day for summer. The final EIR should explain the difference, for example, in ROG from 2937.54 lbs/day to 359.52 lbs/day, and state how the City can assure that the correct numbers are used in subsequent analyses. Also, ROG is not defined. Is this related to the volatile organic compounds (“VOCs”) defined on page 4.2-2 of the DEIR? If so, the final EIR should fully explain. If not, the analysis of VOCs should be included in the final EIR.

Under Construction Emission Thresholds (Page 4.2-10), the DEIR identifies a threshold of 150 lbs/day of PM₁₀, but says nothing about PM_{2.5} (another potentially dangerous respirable particulate pollutant). The final EIR should clarify whether this is a potential problem in pollution enforcement and identify the thresholds for this component.

Table 2-2, identifies five Air Quality Impacts and states that three of these (Impacts 4.2-1, -2 and -3) are Potentially Significant with no feasible mitigation



measures available. This leaves three of the five Air Quality Impacts with Significant Unavoidable impacts due to these projects. (Page 2-7)

However, discussion of Impact 4.2-1 on page 4.2-12 states that this project would “obstruct implementation of the Air Quality Management Plan because the Updated General Plan leads to a total Newport Beach population of 103,753 persons which is approximately 10% over the SCAG-projected population for this area.” Since the City has the option to plan for any population level, it seems reasonable to plan for the SCAG-projected population in an effort to comply with thresholds implicit in Impact 4.2-1.

The discussion of Impact 4.2-2 regarding construction emissions states that, despite implementation of policies NR 8.1 through NR 8.5, we expect that construction emissions resulting from this project will lead to significant and unavoidable consequences. The final EIR should analyze whether the City’s policies related to construction emission should be strengthened to make them more effective. (Pages. 4.2-13, 14, 15)

The discussion of Impact 4.2-3 regarding cumulative increases in non-attainment air pollutants is very encouraging and shows that the proposed policies should be effective in achieving 2003 AQMP performance standards and emission reduction targets. It appears reasonable to for the final EIR to state that rigorous enforcement of these policies will lead to a less than significant impact. (Pages 4.2-14, 15)

III. Biological Resources:

The second sentence under “Watersheds” appears to conflict with the final sentence and should therefore be deleted. The watersheds are not discussed in detail in this chapter. (Page 4.3-3)

The location of giant kelp beds in Figure 4.3-1 is almost impossible to read. Surely it is not in the State highways shown in red. It is suggested that an arrow and label be added to the diagram. Additionally, the legend shows “county boundary in green,” but the green area is simply everything outside of Newport Beach. In order to fulfill the informational function of CEQA, this diagram needs to be clarified.

Under Impact 4.3-2, the fourth sentence does not logically follow its predecessors. The first part of the discussion states that the proposed Project would allow infill development and would concentrate new development in certain specified subareas. It goes on to state that the proposed Project priority for Banning Ranch is open space, “the Plan also considers the possible development of a mixed-density residential village with a small component of resident- and visitor-serving commercial ...” Then it states that “(t)his would preclude most sites containing riparian habitats from being developed under the proposed General Plan Update.” *What* would preclude development of riparian sites? This may belong at the end of the paragraph discussing regulation. The discussion should be clarified or the sentence should be removed. (Page 4.3-24)



There is a typographical error in the paragraph entitled Proposed General Plan Update Policies. The second and third sentences are duplicates. (Page 4.3-30)

19

The use of the word “important” in Policy NR10.10 provides a loophole for a potential developer of the Banning Ranch to avoid habitat replacement if it is not “important.” In order to support the conclusion of less than significant impact on biological resources, the word “important” should be deleted and replacement of *any* habitat should be required. (Page 4.3-32)

20

The final EIR should state the official source of the Southern California Eelgrass Mitigation Policy. This detail does not appear to be in the text of the DEIR. In order to fulfill the informational purpose of CEQA the origin of this policy should be noted. (Page 4.3-32)

21

IV. Cultural Resources

The DEIR states that "(t)he City's Historic Resource Inventory includes 61 properties which while not officially adopted, serves as a useful guide to potentially historic properties...." The final EIR should clarify the City's criteria for selecting potentially historic properties. (Page 4.4-14)

22

V. Geology, Soils and Mineral Resources

The section of the document is difficult to measure. It relies heavily on citing documents that are not included; i.e., "all activities within the City would be required to comply with standards, which will ensure implementation of appropriate ...etc." Short of finding all of those documents and reviewing them, one must assume that future building will comply with all safety and earthquake standards, and that the soil beneath them, subject to geological studies, will also be in compliance.

23

In describing the coastal platform occupied by Corona del Mar, and the area of Newport Coast, no mention is made of the sediment flows or major drainage courses found in these areas. These areas should be identified in these opening descriptions in the final EIR, since they are referred to in later sections. (Page 4.5-1)

24

The subsection on regulatory framework sites Uniform Building Code, California Building Code, Seismic Hazards Mapping Act, National Pollution Discharge Elimination System (“NPDES”) (general construction activity stormwater permit). However, there is no discussion of the Clean Water Act that would limit the AMOUNT of runoff or limit the percentage if increase a project generates on the AMOUNT of runoff. Construction here and in surrounding cities increases the effects runoff has on all the concerns addressed in this section of geology and soils and other sections. The final EIR should address this issue.

25

The discussion of the Thresholds of Significance states that the “(i)mplementation of the proposed General Plan Update could result in substantial soil erosion and the loss of topsoil.” The final EIR should identify the standards that would be used to determine if a project results in significant impacts with respect to soil erosion and the loss of topsoil. (Page 4.5-15)

26

VI. Hazards and Hazardous Materials

With each and every item in the Hazards and Hazardous Materials section, the DEIR refers to regulations and the proposed policies as the factors that render each and every item LESS THAN SIGNIFICANT.

EXAMPLE: Future development could “uncover previously undiscovered soil contamination as well as result in the release of potential contaminants that may be present in building materials (e.g. mold, lead, etc.). This could result in a significant impact.” (Page 4.6-19) The DEIR cites “compliance with existing regulations” and with proposed General Plan Update policies as factors that would “reduce impacts to less than significant.”

The DEIR states it has been prepared as a “Program EIR” pursuant to CEQA guidelines and lists one advantage as allowing “the Lead Agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts.”

27

Accordingly, and in light of the DEIR’s reliance on regulations and proposed policies as the factors that reduce any and all potential impacts to “less than significant,” it appears necessary to include in the final EIR (1) a further discussion of the means of enforcement and the agencies/departments of enforcement of the City’s proposed policies, (2) the timelines and response times for enforcement of each regulation and policy, and (3) the implementation of a General Plan Update-wide policy that sets forth a checklist to be used in each and every specific project EIR, for routinized tracking and application of the regulatory obligations and enforcement timelines/response-times (both for the applicants and the enforcement agencies) as they relate to all projects implicating hazards and hazardous waste impacts/risks.

Impact 4.6-1 states that implementation of the proposed General Plan Update could result in an increase in commercial development that could increase the overall routine transport, use, storage, and disposal of hazardous materials within the City. NO MITIGATION IS REQUIRED. LESS THAN SIGNIFICANT.

28

Impact 4.6-2 states that construction activities associated with implementation of the proposed General Plan Update could result in the release of hazardous materials to the environment through reasonably foreseeable upset and accident conditions. NO MITIGATION IS REQUIRED. LESS THAN SIGNIFICANT.

Impact 4.6-3 states that operation of future land uses that could be developed under the proposed Project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. NO MITIGATION IS REQUIRED. LESS THAN SIGNIFICANT.

Impact 4.6-4 states that implementation of the Proposed General Plan Update could result in a safety hazard as a result of existing oil wells or methane gas areas within the City. NO MITIGATION IS REQUIRED. LESS THAN SIGNIFICANT.

Impact 4.6-5 states that implementation of the proposed General Plan Update could emit hazardous emissions or handle acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. NO MITIGATION IS REQUIRED. LESS THAN SIGNIFICANT.

Impact 4.6-6 states that the proposed General Plan Update includes sites, which are included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, could create a significant hazard to the public or the environment. NO MITIGATION IS REQUIRED. LESS THAN SIGNIFICANT.

Impact 4.6-7 states that implementation of the proposed General Plan Update could result in a safety hazard for people residing or working in the Planning Area as a result of the proximity of a public airport. NO MITIGATION IS REQUIRED. LESS THAN SIGNIFICANT.

Impact 4.6-8 states that implementation of the proposed General Plan Update could result in interference with an adopted emergency response plan or emergency evacuation plan. NO MITIGATION IS REQUIRED. LESS THAN SIGNIFICANT.

Impact 4.6-9 states that implementation of the proposed General Plan Update could result in development in urbanized areas adjacent to or intermixed with wildlands. NO MITIGATION IS REQUIRED. LESS THAN SIGNIFICANT.

These potential impacts are remote and undefined. Each and every project under the proposed General Plan Update should be specifically evaluated as it becomes more defined, rather than allowing this DEIR and related conclusions to function and serve as the conclusive evaluation of environmental impacts.

Most importantly, there should be a system with which to track the cumulative impacts as each project is implemented under the proposed General Plan Update, which should in turn serve as the threshold data for all specific-project EIR analyses.

VII. Hydrology and Water Quality

Section 4.7 analyzes the impacts of the proposed Project on hydrology and water quality within the City of Newport Beach.

Three types of upgrades are proposed for the City’s storm drain system at a total estimated cost of \$18.5 million. The final EIR should detail the mechanisms that will be put into place to ensure that these upgrades will be carried out despite potential budget issues and any changes in City personnel.

All cumulative impacts for Water Quality, Groundwater, Storm Drainage and Flood Hazards are rated as “less than significant” because each project within each area will meet City, County and State Regulations and Codes. Again, upgrades to existing facilities or the construction of new facilities would be required to meet the “less than significant” standard. The final EIR should detail the mechanisms that will be put into place to ensure that these upgrades will be carried out despite potential budget issues.

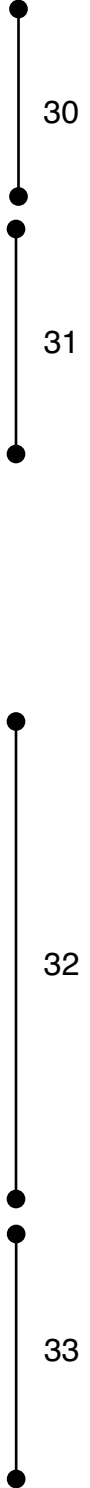
VIII. Land Use and Planning

The proposed General Plan Update will be the blueprint for future development within the City of Newport Beach for the next twenty years, and Section 4.8 analyzes the impacts of the proposed General Plan Update on the future land use and planning within the City that will guide that development.

The first threshold question asks whether the proposed development within any Planning Area would create incompatibilities with adjacent land uses. The DEIR states that the potential for conflict exists most where mixed use development occurs. The proposed General Plan Update would add mixed use in some planning areas, such as Mariners’ Mile, West Newport Mesa, Balboa Peninsula, Banning Ranch (if it is not acquired for open space) and Newport Center, and would introduce mixed use in other areas, including the Airport Area. Proposed Land Use Policies are cited as reasons why intensification of land use will not result in an incompatibility.

Overall, the policies encourage but do not mandate property owners to comply with the policies. In the absence of any incentive programs or mandatory requirements, the EIR may not actually mitigate land use incompatibilities to a less than significant level.

The DEIR Policy LU 5.2.2 “Buffering Residential Areas” suggests the use of landscape screening to accomplish buffers to residential areas. No mention is made of the potential to use specialized Mixed Use structures to transition from commercial to residential. Examples of this would be single family type structures with a commercial use such as a bookkeeper or architect on the commercial side, and the proprietor's residence being located on the residential side.



The DEIR lists Policy LU 5.3.1 of the General Plan Update, which “provides guidance that would minimize conflicts among uses in mixed use facilities,” and lists such items as design, building materials, building elevations, design of parking areas, and landscape to minimize conflicts. These items are physical measures to minimize conflicts. The policy does not include operational measures or discretionary review procedures to provide the means to fully evaluate the range of mixed uses that would occupy the same site. The final EIR should discuss additional methods to reduce conflicts so that incompatible mixed uses proposed on the same site are modified or prohibited.

34

In the West Newport Mesa Area, Policy LU 6.6.5 is intended to increase compatibility between residential and industrial uses through master plans for the new residential areas. However, this policy does not address problems generated by industrial uses that do not respect master plan boundaries, such as diminished air quality, odors, noises and the attractive nuisance that industrial sites become when resident children are introduced into the area.

35

The commentary on the existing land use at Lido Peninsula within Section 4.8.2 (Existing Conditions/Residential Neighborhoods) incorrectly identifies the land use as single family attached (it is manufactured housing) and fails to identify Lido Peninsula as manufactured housing in the list of manufactured and/or mobile home uses within the City.

36

IX. Noise

Figures 4.9 2, 4, 5, and 7 show the airport as being gray on the Legend, yet that area is not included on these figures. The figures should be revised in the final EIR to delete that reference.

37

Paragraph 4.9-4 contains a statement that construction noise would be considered "less than significant" even though exempt from City Code. Construction noise should be further analyzed in the final EIR, with supporting data based on numerical noise levels.

38

Pages 4.9-36 and 37 refer to Tables N2, N3; however, these tables do not appear to be in the document.

39

X. Population and Housing

The housing/population section of the DEIR reflects EQAC's request for an analysis of the buildouts proposed as measured by both the number of dwelling units proposed and related population increases. Using the figure of 2.19 persons per unit (2005) for projection purposes, the DEIR numbers are condensed as follows:

40

	<u>Dwelling</u>	<u>Population</u>
GP Existing	9549	20,912
GP Proposed	14,215	31,131

The population numbers on page 4.10.2 however, do not provide a breakdown under either scenario as to the demographics (ages) of the population. The final EIR should provide this information, which would provide the City with an additional planning tool with respect to where growth is more likely to occur. Different age groups need different housing options. For example, high rises for seniors that also meet affordable housing quotas are more likely over time to reduce the 2.19 figure per unit.

40

The paragraph entitled "Vacancy Rates" indicates that the City currently has a vacancy rate of 10.9%, substantially higher than that of the county at 3.7%. This intuitively seems incorrect and the use of 10.9% is likely under-representing the actual population levels. (Page 4.10-3)

In the third paragraph on page 4.10-5, this percentage is used to indicate that all allowed units would likely only be filled to the level of 89.1%, thereby justifying a higher number of units.

41

This vacancy rate should be verified in the final EIR. It is likely being under-represented because of the protocol by which vacancy is being measured.

XI. Public Services

(a) Fire Protection

The DEIR states that the proposed Project is not found to have significant impacts on fire protection. However, this statement appears to contradict the remainder of the text in this subsection. Throughout the subsection, the need for new services is directly related to population growth, yet the DEIR states that the "NBFD does not use population projections to determine projected future needs." (Page 4.11-7)

The DEIR further states that "(i)n the Airport Area, an **increase in density** by both infill and conversion of low rise properties to mid and high rise will necessitate the addition of a ladder truck company to the Santa Ana Heights Fire station." The DEIR also states that "(u)nder build out of the proposed General Plan Update, 4300 multi-family units would be constructed in this area. **As a result of this development**, demand for 24 hour residential medical service could increase." (Page 4.11-8 and 9) "Thus, fire staffing and facilities would be expanded **commensurately to serve the needs of new development** to maintain the current response time." (Page 4.11-10)

42

The DEIR goes on to state that the "**demand created by residents** at the Irvine Business Complex would adversely affect fire demand in the Planning Area such that

new facilities would be required, and thus the cumulative impact would less than significant.”

In addition, the DEIR states that the City of Costa Mesa is anticipating an increased need for their services as a result of build out. “Given the large number of firefighters that are required to respond to high risk, high consequence fire, fire departments increasingly rely on automatic and **mutual aid agreements** to address the fire suppression needs of the DEIR community.” (Page 4.11-7)

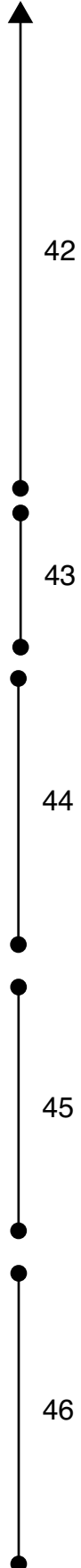
The final EIR should fully analyze the impacts noted above, as well as the potential addition of 31,131 residents as projected in the proposed Project. In addition, the final EIR should indicate where additional fire stations would be located and list the criteria that would be used to site additional stations.

By adding 31,000 people at build out, our ability to respond inside the City will be stretched, which will necessitate reducing our ability to respond outside the City. The final EIR should analyze the impact that this will have on the City’s Mutual Aid Agreements with the surrounding cities.

The DEIR states that “(t)he Insurance Service Office recommends that a second company be put in service in a fire station if that station receives more than 2,500 (medical emergency) calls per year.” At the current rate of 2,011 calls per ambulance, the City is perilously close to that level already. As the population increases, the City will quickly reach the level where another station is needed, since most of the City’s stations cannot accommodate another company. This will have extensive environmental effects. The final EIR should fully analyze this situation and propose any necessary mitigation measures. (Page 4.11.5)

Further, the DEIR goes on to state that “(i)f an engine company provides support to the paramedic ambulance by responding to medical aid calls and this impacts the station’s response to structure fire calls, it ... can result in a company being unavailable to respond to a structure fire ... it can result in a larger fire before assistance arrives.” This would be especially applicable to fires within the Newport Coast area, which is built over a large area and surrounded by natural vegetation that has already proved to be a fire hazard. The final EIR should fully analyze this situation and propose any necessary mitigation measures.

The DEIR discusses the problems associated with structural fires in the older portions of the City, which are especially susceptible to this hazard; areas such as Balboa Peninsula, Balboa Island and Corona del Mar. The density of construction and the narrow streets in these areas can affect emergency access. Although the DEIR recognizes these problems, it offers nothing in the way of providing additional fire protection for the thousands of new residents projected for these areas. The final EIR should fully analyze this situation and propose any necessary mitigation measures.



There is a likely typographical error on page 4.11.1, last paragraph, third line. The sentence now reads: “Most of the Banning Ranch is not served.....” and it should read “Most of the Banning Ranch is **now** served.....”

47

(b) Police Protection

There appears to be an error in the number of calls that are received by the Dispatch Center. In one instance the DEIR states that there is an average of 24,000 calls received by the Police Dispatch Center and in the next paragraph, the DEIR states that the Dispatch Center receives 200,000 calls a year. This information should be corrected in the final EIR because it will determine the accurate impact of the proposed Project on the police protection services.

48

(c) Schools

The DEIR states that with the total increase of approximately 6,230 students within the City (after buildout of the General Plan), it is assumed that approximately 4,347 students could attend schools within the Newport Mesa Unified School District (“NMUSD”), which could potentially **exceed the capacity** of the District.” However, the DEIR goes on to state that “adherence to the policies contained in the proposed General Plan Update, would ensure that impacts related to the provision of new educational facilities is less than significant.” (Page. 4.11-24)

49

These two statements appear to be contradictory. The final EIR should clarify this inconsistency, fully analyze the impacts to the schools at full buildout of the proposed General Plan Update and recommend any necessary mitigation measures.

XII. Recreation and Open Space

Policy R9.5 (regarding private communities) is unclear. The final EIR should clarify whether the policy is recommending that coastal access be protected for the residents of these communities, or that private developments not be allowed to inhibit coastal access for non-residents. (Page 4.12-24)

50

XIII. Transportation/Traffic

The discussions of traffic in Corona Del Mar do not show what happened to all the traffic on Coast Highway between Marguerite and Poppy in both A.M. and P.M. The numbers do not add up when the cars on Marguerite, Poppy and Coast Highway are calculated to get to the ICU of 0.99, 0.69, 0.83, 0.82, and 0.61 and 0.65. There is a discrepancy with Marguerite at .83 and .82 and Poppy at .61 and .65 for A.M. and P.M. (Page 4.13-11)

51

The DEIR discusses some “suggested” ideas for parking. In addition, it discusses some programs but does not identify any "problems" that may be made worse than they

52

already are if the additional square footage is allowed for development of homes and businesses. The final EIR should discuss specific proposals for parking. (Page 4.13-17)

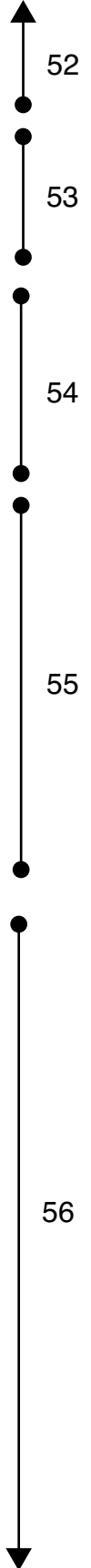
The Thresholds of Significance outlines some CEQA guidelines on "adverse impacts." Because of the Newport Beach Traffic Phasing Ordinance ("TPO"), the final EIR should analyze the "adverse impacts" from traffic not only as CEQA requires, but also as the TPO requires. (Page 4.13-21)

The DEIR states that "LOS D is the threshold for intersection performance" in the City of Newport Beach. Considering the adverse effects of LOS "D," the policy makers and decision-makers may want to know what would be required to bring this "threshold" to some better or more comfortable driving LOS, for example LOS "C." The final EIR should include such an analysis. (Page 4.13-21 and 22)

It is unclear whether items are or are not considered that have not been built and may never be built are included in the statistics developed by the model. It is also unclear whether actual existing traffic is considered in the model. It appears as if certain traffic that exists is not considered. (SHOULDER SYSTEM - We don't consider and omit heavy traffic use in summer and instead use spring and fall traffic counts discussed in multiple locations, but by example see General Plan Public Draft - Chapter 7 - Circulation Element - page 7-3 continued on page 7-4 and Appendix D to DEIR - paragraph 2.7 at page 2-25 and DEIR - Chapter 4 - Daily Traffic Volumes - page 4.13-24.) This should be made much clearer in the final EIR so the decision-makers are not confused as to what is and what is not included so that they can make decisions on the value or lack thereof of this model's estimates or predictions. (Page 4.13-23)

Project Impacts, page 4.13-25, states under Impact 4.13-1 that "implementation of the proposed General Plan Update could result in a substantial increase in the number of vehicle trips, volume to capacity ratio on roads, or congestion at intersections compared to existing conditions." Following this statement, the DEIR states that the alternatives analyzed using the roadway system incorporate the "constrained roadway network" explained in Section 4.13.5. However, here it indicates that the highest daily traffic volume counted in 2002 occurred on certain roadways. The roads mentioned where this would occur are Campus Drive, Irvine Avenue, Coast Highway, Jamboree Road, MacArthur Boulevard, Newport Boulevard, and Newport Coast Drive. The DEIR further indicates that "this proposed General Plan Update itself would generate approximately 44 percent of the total increase in traffic ..."

While some additional information in the final EIR might make the analysis even more cumbersome than this DEIR, it does seem that the decision-makers might want available to them, in a format that they can easily utilize, a very clear statement of the name of a roadway, the segment of that roadway involved, and the actual traffic as it exists today in that segment, the estimated traffic for that segment that would be generated without any change in the current General Plan, and the anticipated amount of traffic on that segment of the road if this proposed General Plan Update is approved.



It would seem that with this relatively simple to prepare document, the decision-makers would have clear examples in front of them of the current traffic and increased traffic that might result from changes currently in effect or changes that might go into effect with the proposed General Plan Update. That information may be of assistance to them in making decisions on whether the proposed General Plan Update or even the current General Plan should or might be modified. (Page 4.13-25)

56

Pages 4.13-25 and 28 list certain roadway segments that are currently operating at volume/capacity ("V/C") ratios greater than 0.90. It is unclear whether this list was prepared from actual traffic counts or based on calculations using a traffic model. This should be clarified in the final EIR.

57

Throughout the segment of this chapter dealing with daily traffic, the issue of traffic generated within the City that obviously utilizes City streets and discussions of traffic that commences outside of the City and then comes into the City and utilizes City roads is discussed in great detail. It would be beneficial to provide the information in the final EIR on the sources for that information as it is utilized in this DEIR.

58

The DEIR states "the proposed General Plan Update, without growth in the region, would increase traffic volume 13 percent over 2002 traffic counts, and would increase the number of roadway segments exceeding a V/C ratio of 0.90 from 17 to 30." The DEIR goes on to state that "because intersection operations are considered to be the most meaningful measure of the performance of the roadway system, this impact related to the proposed General Plan Update would be less than significant."

59

It is unclear whether these statements contrast with the statement earlier in this Section wherein the DEIR indicated "the proposed General Plan Update itself would generate approximately 44 percent of the total increase in traffic." This inconsistency should be corrected in the final EIR: how an increase in traffic volume of 13 percent from the proposed General Plan Update contrasts with the statement that the "General Plan Update itself would generate approximately 44 percent of the total increase in traffic." (Page 4.13-32)

60

The DEIR asks the threshold question: "Would the proposed project (General Plan Update) result in inadequate emergency access?" The finding stated is that any potential impacts would be "less than significant." The final EIR should include a much more detailed analysis of emergency evacuation from the area. It appears that if you have a number of roadways, the main thoroughfares in the City, operating at LOS E during periods of time of heavy traffic, and it is anticipated that there would be very heavy traffic in any attempt to evacuate the area in the event of an emergency, that the statement that approval of this proposed General Plan Update would result in "a less than significant" impact on emergency evacuation may be an unfair statement or an inaccurate statement for the decision-makers to rely upon in reviewing this proposed General Plan Update. (Page 4.13-44)

The DEIR also asks the following threshold question: "Would the proposed project (the General Plan Update) result in inadequate parking capacity?" The finding is that the impact on parking by the proposed General Plan Update would be "less than significant," which was based on parking surveys/studies and recommendations. Relying on "recommendations" which have not been implemented and upon surveys/studies in an analysis, and then making the statement that there is no parking problem or that it is "less than significant" is not an appropriate conclusion based upon the information provided.

61

The final EIR should include a much more detailed analysis of the parking issue with proposals that shall be implemented and with studies indicating that those requirements are practical and cost effective and can be implemented by the City. This analysis must be completed before a finding of "less than significant" can be made. (Page 4.13-45)

62

In the Cumulative Impacts discussion, the DEIR indicates that traffic volumes anticipated by the proposed General Plan Update would increase 30.9 percent over 2002 counts and 23.9 percent over 2005 levels. The DEIR then goes on to indicate that with proposed improvements, the number of intersections operating at LOS E or worse would decrease. Again, the City's existing General Plan circulation element, and other documents in the City state that LOS D is the "threshold" on which the City of Newport Beach acts.

63

The DEIR then concludes that the traffic volumes in the proposed General Plan Update would be "less than significant." The DEIR goes on to state that the proposed Project's contribution to this impact would be cumulatively considerable and "significant and unavoidable." The final EIR should clearly state why the DEIR has discussed throughout the traffic analysis a seeming approval of LOS E when the City's existing General Plan circulation element, and other documents in the City, identify LOS D or better as being acceptable. The General Plan circulation element specifically indicates that LOS E is considered unacceptable. (Page 4.13-46)

64

In several locations in the Transportation/Traffic Section, the DEIR places an emphasis on completing the improvements set forth in Table 4.13-10 in order to achieve or continue to allow a reasonable level of traffic movement. After placing significant emphasis on these modifications, the DEIR then indicates on page 4.13-46 that "these are conceptual improvements, and alternative improvements that would achieve acceptable operations could be substituted."

65

The section entitled Roadway System indicates at Policy CE 2.1.2 of the Traffic Phasing Ordinance "update the Traffic Phasing Ordinance to maintain consistency with the General Plan Circulation Element level of service standards." Obviously, there is some plan to update the TPO, but there is no suggestion as to how it should be updated or the language that should be utilized. Considering the significance of the TPO and its effect upon the City of Newport Beach, it seems reasonable that the final EIR should point out the changes necessary in the TPO so that the people reviewing the final EIR and the decision-makers are aware of the modifications or changes that are necessary in this very important ordinance to ensure its compliance with this new General Plan Circulation Element. (Page 4.13-49)

66

Under Policy CE 2.1.5 (Roadway Improvements), the DEIR states that "(p)ursuant to construction of intersection improvements shown in Figure CE 3 are alternate improvements that achieve an acceptable level of service." Throughout the proposed General Plan Update and this DEIR, it is stated that the current City's circulation element requires LOS "D" or better. The language in Policy CE 2.1.1 agrees with this with six exceptions. Policy CE 2.1.5 should also make it clear that the "acceptable level of service" is LOS "D" so there is no confusion between the different policies set forth on these two pages. (Page 4.13-50)

67

Policy CE 2.2.2 (Up-to-Date Standards) states: "Periodically review and update street standards to current capacity and safety practices." While "standards" are important, considering the fact that this document outlines a number of "street standards" and indicates in many circumstances the "current capacity" is arguably lower than what the "street standards" should be. It is suggested that an example be set forth under this policy as to what this particular policy means as a practical matter by giving a practical example that would meet this particular policy so that the decision-makers would know on voting on this particular policy what they were voting for. (Page 4.13-50)

68

Policy CE 7.1.5 (Avon Street Municipal Parking Lot relocation) states: "Consider relocation of the Avon Street Municipal Lot to better serve commercial uses in Mariner's Mile." The final EIR should include a discussion of some practical suggestions for where this municipal lot might be relocated. Also, the number of parking spaces currently available in that lot and how that might be replaced with a lot or lots of equal size should be detailed in the final EIR. (Page 4.13-56)

69

Policy CE 7.1.9 (Parking Requirements for Pedestrian - Oriented and Local- Serving Uses) states: "Consider revising parking requirements for small scale neighborhood serving commercial uses in areas that derive most of their trade from walk-in business, especially where on-street or other public parking is available." The final EIR should include a discussion of the specific areas that are under consideration when this policy was developed, as well as the proposed "revised parking requirements" for these specific areas. (Page 4.13-57)

70

Policy CE 7.1.10 (Parking for Marine Recreational Users) states: "Provide adequate parking as necessary in the vicinity of visitors serving marine uses, including marinas, water transportation terminals, boat ramps, as well as parking suitable for service vehicles in commercial marinas and berthing areas." The final EIR should indicate the names and descriptions of these areas and proposals for how to provide this "adequate parking." (Page 4.13-57)

71

Policy CE 7.1.13 (Up-to-Date Parking Requirements) states: "Periodically review and update off-street parking requirements to insure that new development provides off-street parking sufficient to serve approved uses." If this is merely a recommendation to review the requirements but not to impose them on existing businesses, then this would seem to be appropriate. However, if any review and update, under this policy, would be

72

read by anyone as imposing upon existing buildings or developments "updated off-street parking requirements" then this should be made very clear in the final EIR so that it could be commented upon by the business community. (Page 4.13-57)

Policy CE 7.2.3 (Shared Valet Service) states: "Explore the feasibility of shared valet parking programs in areas with high parking demand and less conveniently located parking facilities, such as Mariner's Mile and McFadden Square." The final EIR should indicate where these shared parking facilities would be located. (Page 4.13-57)

Policy LU 3.2 (Growth and Change). This particular policy states that there is a necessity to "accommodate Newport Beach's share of projected regional population growth." It is not clear that the DEIR indicates what the number of people concerned is or the number of families or the number of units that would be the "share" of Newport Beach. The final EIR should indicate the number of this "share" based on some recognized standard or requirement. (Page 4.13-60)

Policy LU 6.15.20 (Connected Streets). This policy proposes to connect new and existing streets across MacArthur Boulevard, along with crosswalks and pedestrian refuges in the median. The final EIR should indicate where these connections across MacArthur Boulevard are intended or contemplated to occur. The reason that this is significant is because of the V/C figures for MacArthur Boulevard discussed in this transportation/traffic element. It would appear that additional street crossings or signals might create additional delays on the roadway that might affect even more than currently the V/C ratio. (Page 4.13-61)

XIV. Utilities and Service Systems

(a) Water System

The DEIR states that the City currently supplies water to 75,600 people and various land uses. The sources are water that is imported from the Municipal Water District of Orange County ("MWDOC"), groundwater that is pumped from the Orange County Groundwater Basin and reclaimed water. Also, there are areas of the City that get water from Irvine Ranch Water District ("IRWD") and Mesa Consolidated Water District ("MCWD").

The DEIR states that MWDOC can meet 100 percent of the City's imported water needs until the year 2030. The DEIR further states that the implication of the proposed General Plan Update could require or result in the construction of new/and or expanded water treatment plants or water conveyance systems in the Planning Area. This impact would be less than significant since the City LU2.8 directs the City to accommodate any infrastructure or conveyance necessary to meet the water needs.

The DEIR states that currently the City only receives 25 percent of its water from MWDOC and 75 percent from Orange County Groundwater Basin. However the Notice



of Preparation (“NOP”) for the proposed Project, Volume II, page 44, states that the City currently receives 64 percent from the Basin and 36 percent from MWDOC. The DEIR gives no information or indication as to how often the percentages change and why and what the current numbers are. The DEIR neglects to give any information regarding what other cities get their water from the Groundwater Basin, how much, and how the cumulative growth of all the cities will affect the availability of water from the Groundwater Basin up and until the year 2030.

The DEIR neglects to give any numbers as to how MWDOC and the Orange County Groundwater Basin would be affected by dry years and out and out drought. The final EIR should provide this analysis and recommend any necessary mitigation.

The DEIR informs the reader with Table 4.14-2 of the Water Supply Reliability, which shows drought and dry years. It goes on to say that during short-term periods (of drought and /or dry conditions) the City would implement its *water shortage contingency plan*. The final EIR should provide a full discussion of the City of Newport Beach water shortage contingency plan.

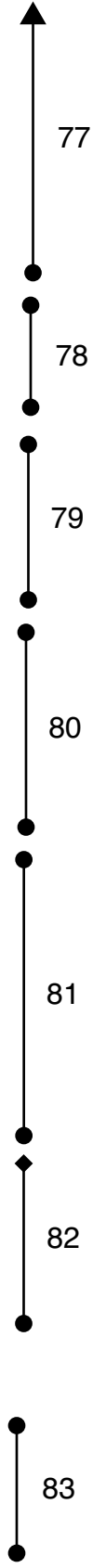
The DEIR states that “(a)ccording to the City of Newport Beach’s 2005 Urban Water Management Plan, water supplies can continue to meet the City’s imported water needs until the year 2030.” The final EIR should inform the reader what happens after the year 2030, particularly with 31,000 additional residents at the proposed General Plan buildout.

The DEIR continues and states “(t)he Groundwater Replenishment System (“GRS”), a joint venture by OCWD and the Orange County Sanitation District (“OCSD”), will help to reduce Orange County and Newport Beach’s reliance on imported *surface water* by taking treated wastewater and injecting it into the groundwater basin. GRS will be online by 2007, and will produce approximately 70,000 acre-feet of water per year.” The final EIR should inform the reader what percentage of the blended water will be wastewater and what percentage will be basin water, and whether or not there will be a time when it will be 100 percent treated wastewater.

The DEIR informs the reader with Table 4.14-2 of the Water Supply Reliability, which shows drought and dry years. It goes on to say that during short-term periods (of drought and /or dry conditions) the City would implement its *water shortage contingency plan*. The final EIR should provide a full discussion of the City of Newport Beach water shortage contingency plan.

(b) Solid Waste

Solid Waste Haulers footnote ¹²⁵ denotes that no trash is taken out of the County; however, some is going to the Burner/Incinerator in Long Beach, which is an alternative that may need to be added to the list of sites for trash since this is a 20 year plan



The Refuse division of the City of Newport Beach picks up residential trash from single family homes with the exception of Newport Coast. Bonita Canyon and Santa Ana Heights need to be added to make the statement factual.

84

The DEIR neglects to mention and inform the reader that like the landfills, the California Integrated Waste Management Board, Title 14, and LEA regulate and permit Transfer Stations and the tonnages that each Transfer Station is allowed. The DEIR neglects to mention what the current tonnages are, what cities use them, the total daily tonnage available, and what tonnage might be necessary to meet future waste tonnages. The final EIR should provide this information, analyze any potential impacts and recommend any necessary mitigation.

85

The DEIR also neglects to inform the reader as to whether or not the Transfer Station owned and operated by the City of Newport Beach would need to have its tonnage increased and by how much. The final EIR should state whether the City of Newport Beach needs a new permit to meet the increasing tonnages of more growth.

86

The final EIR should inform the reader whether these facilities also have to be licensed and permitted, and whether or not they have limits as to how much material they can take.

The final EIR should identify the impacts of the surrounding cities on the few landfills and transfer stations that are available. Tonnages for places like Rancho Mission Viejo, Rancho Santa Margarita and IBC in Irvine, among others, should be included in the final EIR so the reader can have a thorough understanding of total County tonnages.

87

C. Conclusion:

We appreciate the opportunity to comment on the DEIR for this important project. We hope that these comments will assist the City in the final EIR and the proposed General Plan Update.

■ Response to Comment Letter EQ

Letter from Environmental Quality Affairs Citizens Advisory Committee—Newport Beach, received June 5, 2006

EQ-1

Section 423 of the Newport Beach Charter, commonly known as “Measure S,” is a publicly available document published in numerous locations, one of which being online at the following location: <http://municipalcodes.lexisnexis.com/codes/newportb/>. The public nature of this document allows interested individuals easy access to the document for review.

EQ-2

Comment acknowledged. Many of the guidelines identified in ARB’s “Air Quality and Land Use Handbook: A Community Health Perspective” are reflected in the proposed General Plan Update. Refer to page 4.2-19 through 4.2-23 of the Draft EIR. It should also be noted that the EIR analyzes the proposed General Plan Update as stated. It is not the responsibility of the EIR to revise the goals and policies of the General Plan Update but to analyze them for their effectiveness in reducing the environmental impacts of development and growth within the City limits.

EQ-3

A formal traffic study was prepared as part of the Draft EIR and is included as Appendix D. This traffic study did assess the potential growth within the Balboa Peninsula area, including the development at Balboa Village, as well as the remainder of the City.

EQ-4

The commenter requests that the term “officially designated” be deleted from the Draft EIR. As provided in response to comment EQ-5, the section of the Pacific Coast Highway that passes through the City is “eligible” and is not “officially designated” as a scenic highway by the California Department of Transportation. The scenic highway designation provides “the goal of the California Scenic Highway Program is to preserve and enhance the natural beauty of California.” After a highway has been identified as eligible for designation as scenic, the local jurisdiction, with support of its citizens, must adopt a program to protect the scenic corridor. The agency must also adopt ordinances to preserve the scenic quality of the corridor or document such regulations that already exist in various portions of local codes. These ordinances make up the scenic corridor protection program.

EQ-5

Highway 1 (Pacific Coast Highway) is not designated as a scenic highway by the California Department of Transportation, and the City has not applied for such designation. No change to the EIR is necessary.

EQ-6

It is acknowledged that there are a number of lighting techniques that can be employed to minimize lighting impacts. However, these techniques are largely successful at reducing impacts to less than

significant in areas where some night lighting or moderate urbanization exists. In areas such as Banning Ranch that are largely undeveloped, these techniques minimize impacts, although the presence of night lighting in areas where none previously existed results in a substantial change.

EQ-7

A correction to Figure 4.1-3 (and to Figure NR3 in the Draft General Plan) to show MacArthur Boulevard from San Joaquin Hills Road to Coast Highway as a Coastal View Road, consistent with the lists on page 4.1-9 of the Draft EIR and page 10-36 of the Draft General Plan, is provided as a text change. This figure is reprinted in Chapter 9 (Text Changes) in the Final EIR.

EQ-8

Comment noted. All of the available information from the Costa Mesa monitoring station was summarized in Table 4.2-1. However, it should be noted that the environmental effects and project-specific details of development within the City have been analyzed in the EIR at a programmatic level, consistent with available information and CEQA requirements. See Master Response E. A more detailed analysis would be prepared for any proposed development within the City limits area consistent with CEQA once a specific design concept for a specific development has been articulated. During the project-specific review, a Health Risk Assessment (HRA), which will take into account such things as lead (Pb) particulates, would be prepared in accordance with state and federal requirements.

EQ-9

Comment noted. Refer to response to comment EQ-8 for an explanation of when an HRA will be performed for projects within the City limits.

EQ-10

Comment noted. Refer to response to comment EQ-8 for an explanation of when an HRA that would assess potential impacts related to lead and small diameter particulates will be performed for projects within the City limits. The URBEMIS model is a planning model used to assess increases in criteria air pollutants, which differ from toxic air contaminants. Criteria air pollutants are subject to different standards and thresholds of significance. Refer to pages 4.2-10 and 4.2-11 of the Draft EIR for a listing of SCAQMD's criteria air pollutant thresholds of significance during construction and operation of any project.

EQ-11

Comment noted. In order to accurately quantify the level of criteria air pollutants within the City limits, the number of daily trips was separated into several different categories, including home-based work, home-based school, and home-based other. Appendix B of the EIR has been amended to reflect which categories apply to which URBEMIS output sheets.

With respect to the difference between ROG and VOC, the two terms are often used interchangeably. VOC was originally defined in the Federal Register by the USEPA. The California Air Resources Board defined the same category of compounds slightly differently as Reactive Organic Gases (ROG). Both

terms, ROG and VOC refer to compounds often used in painting, plastics, and paving. For further clarification the commenter is referred to the following ARB website which defines ROG and VOC (http://www.arb.ca.gov/ei/speciate/ROG_DFN_9_04.pdf).

EQ-12

Comment noted. Refer to responses to comments EQ-8 and EQ-10 for an explanation of when an HRA will be performed for projects within the City limits and the difference between a criteria air pollutant and a toxic air contaminant.

EQ-13

Comment noted. The Draft EIR did consider such an alternative that would not result in an exceedance of SCAG's projections. Refer to Alternative 1 in Chapter 5 (Alternatives). However, the currently proposed General Plan population projections would exceed SCAG projections and result in a significant and unavoidable impact with respect to Impact 4.2-1. Therefore, no additional response is required.

EQ-14

Comment noted. The ability to reduce construction emissions beyond the policies suggested in the Draft General Plan is limited to a project-specific analysis due to project-specific conditions and is at the discretion of the developer/City to take certain actions, such as extending the length of construction or reducing the number of pieces of construction equipment in operation on a given day. The inclusion of such mitigation is not feasible in a programmatic analysis, however during any development project's project-level analysis, such measures/design features will be taken into consideration by the City. Further, this comment addresses the goals and policies of the Draft General Plan and is not on the Draft EIR. Therefore, no further response is required.

EQ-15

Comment acknowledged. While the discussion of Impact 4.2-3 may be encouraging, the discussion also acknowledges that, on a year-by-year basis, it is not possible to predict the level of development that will occur within the City under the proposed General Plan Update, as development will be directed by economic trends and market demand. As such, and to provide a conservative level of analysis that would allow for some variation of development under the proposed General Plan Update, it was determined that a potentially significant impact would occur.

EQ-16

Comment acknowledged. The first paragraph on page 4.3-2 has been modified, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

The Planning Area is located within the boundaries of four watersheds, each of which contain an interconnected system of surface water resources that feed into the underlying groundwater aquifer or drain into the ocean. ~~The main tributaries and groundwater resources located within the Planning Area are discussed in detail below.~~ The watersheds within the Planning Area include the Newport Bay, Newport Coast, Talbert, and San Diego Creek watersheds. Both the Newport Bay and Newport Coast watersheds cover most of the Planning Area, with the remaining smaller portions covered by

the Talbert and San Diego Creek watersheds. Section 4.7 (Hydrology and Water Quality) of this EIR contains detailed descriptions of these four watersheds.

EQ-17

With respect to Figure 4.3-1, duplication of the base map of the City resulted in State highways being shown in the same color as giant kelp beds. The same figure in the Draft General Plan (NR1) shows different shades for these two items. Nonetheless, Figure 4.3-1 on page 4.3-11 of the Draft EIR will be amended to clarify the location of the giant kelp beds. The legend in this figure also will be amended to indicate just “City Boundary” and not “County Boundary.” This figure is reprinted in Chapter 9 (Text Changes) in the Final EIR.

EQ-18

The sentence in question on page 4.3-24 has been amended, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

~~This~~ Policy 6.4.11 would preclude most sites within Banning Ranch containing riparian habitats from being developed under the proposed General Plan update.

EQ-19

Comment acknowledged. The last paragraph on page 4.3-30 has been modified, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

The Natural Resources Element of the proposed General Plan Update includes policies that would address issues related to biological resources within the City of Newport Beach. ~~The policies that are applicable to the project are included below.~~ The policies that are applicable to the project are included below. Policies identified below that are also contained in the Harbor and Bay Element are denoted with an “HB.”

EQ-20

The Banning Ranch contains plant species and animal habitats that are not listed by state and/or federal agencies and do not warrant protection. The commenter suggests that “all” habitats should be protected and this is not legally required, nor practical. Policy NR 10.4 requires that “...a site specific survey and analysis prepared by a qualified biologist [be conducted] as a filing requirement for any development permit applications where development would occur within or contiguous to areas identified as an ESA.” Banning Ranch is designated on Figure NR2 as an “ESA.” Further, Policies NR 10.5, NR 10.6, NR 10.7, and NR 10.8 provide for protections of the resources that are considered by state and federal agencies as rare, endangered, or otherwise significant. These policies are supplemented by Land Use Element Policy LU 6.5.6 that requires coordination with state and federal agencies in the “...identification of wetlands and habitats to be preserved and/or restored and those on which development will be permitted,” which would occur through the agencies’ permitting processes, as well as LU 6.5.4 that establishes criteria for the location and design of development to protect the site’s resources.

EQ-21

Comment acknowledged. The Southern California Eelgrass Mitigation Policy, which was adopted by the City on July 31, 1991, was originally developed by the Federal and State resource agencies (National Marine Fisheries Service, U.S. Fish and Wildlife Services, and the California Department of Fish and Game.)

EQ-22

Pages 4.4-5 and 4.4-6, Section 4.4 (Cultural Resources), describe the City's criteria for selecting potentially historic properties.

The proposed General Plan update does not propose any changes to the City's method or criteria for selecting potentially historic properties, and the existing criteria need not be analyzed in the EIR.

EQ-23

The commenter is correct that future building will be required to comply with all safety and earthquake standards, including those related to soil stability. The EIR relies on compliance with regulations associated with reducing environmental impacts.

EQ-24

Pages 4.7-2 through 4.7-8, Section 4.7 (Hydrology and Water Quality), describe the major drainage courses found Corona del Mar and Newport Coast, as this is the main environmental section evaluating hydrological impacts as well as water quality. Section 4.3 (Biological Resources) and Section 4.5 (Geology and Soils) include some portions of this discussion as necessary.

EQ-25

The analysis requested by the commenter is provided on page 4.7-20, Section 4.7 (Hydrology and Water Quality), and page 4.3-17, Section 4.3 (Biological Resources). These sections have thresholds that pertain to the *Clean Water Act*, and, accordingly, contain the analysis of Act requirements with regard to the project. The Geology, Soils, and Mineral Resources section does not have a threshold that addresses the Clean Water Act requirements.

EQ-26

Impact 4.5-3 has been identified as less than significant, which means that the project would not result in significant impacts with respect to soil erosion and loss of topsoil. The standards that would be used are described on pages 4.5-10 and 4.5-11.

EQ-27

The commenter is correct that compliance with existing regulations and with proposed General Plan policies would reduce all identified potentially significant impacts, and that the document has been prepared as a program EIR. Pages 4.6-10 through 4.6-16 describe the major hazards and hazardous materials regulations and associated agencies/departments that would enforce the regulations. The

commenter's request for a timeline, response time, and checklist for enforcement of the regulations would usually be the components of a mitigation monitoring and reporting program (MMRP). For this project, as no mitigation is required (for less than significant impacts) or as no feasible mitigation has been identified (for significant unavoidable impacts), a MMRP would not be a part of the Final EIR and is not required for enforcement of hazards and hazardous materials regulations. However, if mitigation were required as the result of the environmental analysis conducted for future project-specific development projects, an MMRP would be prepared and adopted as part of that environmental document.

EQ-28

As described on pages 1-1 and 1-2, the General Plan Update is the only project evaluated in this EIR. However, it should be noted that a more detailed analysis would be prepared for any proposed development within the City limits area consistent with CEQA once a specific design concept for a specific development has been articulated.

EQ-29

Refer to Master Response B for a description of the scope of the cumulative impact analysis for each resource area analyzed in the EIR.

EQ-30

The upgrades mentioned by the commenter are part of the City's Storm Drain Management Plan, which was approved pursuant to a separate planning process. Storm drain improvements are included in the City's Five-Year Capital Improvement Program and annual capital budget.

EQ-31

All of the cumulative impact analyses for water quality, groundwater, storm drainage, and flood hazards identify the laws, regulations, and/or ordinances that would be required to ensure that a less than significant impact occurs. Further, as laws, regulations, or ordinances, they are not discretionary requirements; rather, they must be implemented. With respect to implementation of the Storm Drain Management Plan, please refer to response to comment EQ-30.

EQ-32

As described on page 3-9, all land use regulations, capital improvements and other City actions pertaining to the physical development of the City must be consistent with the adopted General Plan. Therefore, in the same way that these General Plan policies reduce potential impacts related to land use incompatibilities, the physical development allowed under the General Plan would reduce potential impacts related to land use incompatibilities. Further, the General Plan Implementation Program (specifically, Implementation Program 2.1) requires that the City must amend the zoning code to achieve consistency with the General Plan Update, if adopted.

EQ-33

Page 4.8-9 of the Draft EIR describes mixed-use structures that are vertically and/or horizontally distributed mixed use buildings that could effectively transition from commercial to residential uses. Examples of these structures include, and are described in the first paragraph of page 4.8-9, vertical mixed use, with retail and other pedestrian-active uses on the ground floor, with the upper floors used for residential units; horizontally distributed mix of uses, which may include commercial, offices, visitor-serving and marine-related uses along with multi-family residential units; and commercial development on or near the bay to encourage coastal-related uses and allow for integrated development of residential uses. The following policies provide additional means of buffering uses: Policies LU 5.2.2, LU 5.3.1, N 1.3, N 1.6, and N 1.7.

EQ-34

Pages 4.8-8 through 4.8-16 describe potential impacts related to land use incompatibilities. As these conflicts have been described as less than significant, no further methods are required to address potential impacts. Refer also to response to comment EQ-32 for a discussion of the manner in which General Plan policies and implementation would reduce land use incompatibilities.

EQ-35

This comment pertains to the adequacy of the Draft General Plan policies in the Land Use Section, and not the analysis or findings of the Draft EIR. Potential impacts related to existing and future air quality, odors, noise, vibration, aesthetics, and other impacts of industrial uses on adjoining residential areas are mitigated by federal, state, and local laws. These regulations are identified in individual sections of the Draft EIR pertaining to aesthetics, air quality, noise, and hazards and hazardous materials. For example, chapters 10.26 and 10.28 of the City's Municipal Code regulates noise levels, and policies identified in the Air Quality section of the Draft EIR (e.g. NR 7.2 and 7.3) mitigate stationary air pollutants. The Aesthetics Section also addresses the visual quality and character of a site and its surroundings. Thus, the issues identified in this comment are sufficiently addressed through the combined policies and regulations found in the above-mentioned sections of the Draft EIR.

Further, the comment pertains to the Draft General Plan policy, not the analyses or findings of the Draft EIR. The air quality, odor, noise, vibration, and other impacts of industrial uses on adjoining residential areas are controlled by the City's Municipal Code; however, the following Policy 5.5.1 is added to prevent potential impacts:

LU 5.5.1**Site Planning and Building Design**

Require that new and renovated industrial properties and structures be designed to exhibit a high quality of design and maintenance characterized by the following:

- Incorporation of extensive on-site landscaping
- Incorporation of landscape, decorative walls, and other elements that visually screen areas used for outdoor storage, processing, and other industrial operations from public places

- Architectural treatment of all building elevations
- Consistent and well-designed signage
- Control of on-site lighting, noise, odors, vibrations, toxic materials, truck access, and other elements that may impact adjoining non-industrial land uses (Imp 2.1, 12.1)

EQ-36

The commenter is correct that there are manufactured and mobile homes on the Lido Peninsula. There are also single-family and multi-family homes.

EQ-37

The commenter is correct that while John Wayne Airport is not shown on Figures 4.9-2, 4.9-4, 4.9-5, and 4.9-7, the legend contains the gray screen for John Wayne Airport.

EQ-38

Table 4.9-9, page 4.9-34, provides numerical noise levels for typical construction equipment. Impact 4.9-4, pages 4.9-33 through 4.9-35, provides an analysis of the potential impact related to construction noise.

EQ-39

The reference to tables N2 and N3 on page 4.9-36 of the EIR is a reference to General Plan Update tables provided in the Noise Element. The General Plan Update was circulated separately from, and in advance of, the distribution of the EIR and was available at the same locations and during the same hours as the EIR.

EQ-40

The commenter's request for demographic information does not raise issues related to the adequacy of the EIR. Further, the EIR has overestimated the future population (and any resultant environmental impacts) in that a projection of 2.19 persons per unit was assumed for all units, and it is recognized that senior housing would likely have a lower person-to-unit ratio. No further information is necessary to respond to this comment.

EQ-41

The vacancy rate was used for informational purposes only and does not affect the environmental analysis or its conclusions. With respect to the accuracy of the vacancy rate, there is a consistent vacancy rate trend in the City of Newport Beach, according to the U.S. Census, which showed a vacancy rate of 10.1 percent in 1980, 11.5 percent in 1990, and 11.3 percent in 2000. The current vacancy rate cited by the Department of Finance, (and reflected in the EIR) is 10.9 percent, which is consistent with the U.S. Census data.

EQ-42

As stated on page 4.11-7, and as evaluated under Impact 4.11.1-1, pages 4.11-9 through 4.11-12, the Nbfd service goals are based on accepted service levels which are not directly correlated to population increases, and are more a function of the geographic distribution of structures. Because the proposed GPU requires that adequate infrastructure be provided as new development occurs and because the Nbfd has planned for future growth, potential impacts related to fire service are less than significant. The provision of fire services in the IBC would likely be expanded because of the increase in the type of development (e.g., new residential uses and high-rise buildings) and not strictly because of the amount of development. Refer to the response above also for potential impacts to fire service. Impact 4.11.1-1, pages 4.11-9 through 4.11-12, evaluates the demand for fire protection services in Newport Beach as well as within the service area. As described on page 4.11-8, the Nbfd is conducting an in-house operational research study using various programs to optimize station locations based upon growth in geographic areas.

EQ-43

Impact 4.11.1-1, page 4.11-9 through 4.11-12, evaluates the demand for fire protection services in Newport Beach as well as within the service area.

EQ-44

The commenter asked for an analysis of the environmental impacts resulting from construction of a new fire station; however, such analysis cannot be completed unless or until a new fire station is proposed. If a new fire station is required and proposed, a detailed project-specific environmental analysis would be completed, consistent with the requirements of CEQA.

With respect to the proposed project, as identified on page 4.11-10, compliance with applicable regulations and policies contained in the proposed General Plan Update would ensure that impacts remain less than significant. In addition, as described above in response to comment EQ-42, the Nbfd has already planned for future growth to accommodate any necessary increases in service.

EQ-45

Impact 4.11.1-1, page 4.11-9 through 4.11-12, evaluates the demand for fire protection services in Newport Coast, as well as within the service area. However, worth noting, there is no new development planned under the General Plan Update compared to the existing General Plan for the Newport Coast area.

EQ-46

Emergency access is addressed in Section 4.13 (Transportation/Traffic), Impact 4.13-6, page 4.13-44, as well as in Section 4.6 (Hazards and Hazardous Materials), Impact 4.6-8 on page 4.6-29.

EQ-47

The comment is correct. Page 4.11-1 last partial paragraph, third sentence is revised, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

The Newport Beach Fire Department (NBFD) and the Orange County Fire Authority provide fire protection services for the City and Planning Area. The NBFD provides fire protection services for the entire City. Most of the Banning Ranch is ~~not~~ now served by the Orange County Fire Authority (OCFA), an agency ~~which~~ that provides regional fire protection and emergency services to unincorporated portions of Orange County and nineteen city jurisdictions. If Banning Ranch is annexed into the City, potential increases in the need for fire protection services provided by the OCFA and the CMFD would not be required. Instead, all additional need for fire protection services would be assumed by NBFD.

EQ-48

The comment identifies a discrepancy. Page 4.11-13 last partial paragraph, second sentence is revised, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

All emergency calls for police, fire, and paramedic services are initially answered by one of the 14 full-time or three part-time dispatchers at the Dispatch Center. While the number of calls received varies with the season, an average of 20,000 emergency calls is received per month, with an average answer time of just five seconds. ...

EQ-49

The commenter correctly notes that page 4.11-24 identifies the need for new schools due to projected growth in number of students as a result of the General Plan Update. However, the EIR also acknowledges that any impacts associated with school development would be addressed by a detailed project-specific environmental analysis, consistent with the requirements of CEQA.

EQ-50

The comment pertains to the Draft General Plan policy, not the analyses or findings of the Draft EIR. Policy R 9.5 on page 4.12-23 of the Draft EIR is intended to protect coastal access for nonresidents, and is revised, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

R 9.5**Private/Gated Communities**

Protect public access to coastal resources from encroachment from private/gated communities. (Imp 2.1, 12.3)

EQ-51

Intersection Capacity Utilization (ICU) is calculated based on all of the intersection volumes, taking into account the number of lanes. Each intersection is analyzed individually. In the case of these two intersections, volumes on Coast Highway between the intersections are generally consistent, but the minor street volumes are much higher on Marguerite Avenue than on Poppy Avenue. Marguerite Avenue is a longer street, providing more connectivity in the roadway system (by intersecting with San Joaquin Hills Road and Coast Highway). The additional traffic interacting with Marguerite Avenue across Coast Highway and to the west of this stretch of the Highway increases the ICU.

EQ-52

For new development to occur, it will be required to satisfy the requirements of the parking code. Therefore, new development is expected to provide adequate parking and no further impacts to parking conditions are anticipated in the Draft EIR.

EQ-53

The Traffic Phasing Ordinance (Chapter 15.40 of the Municipal Code) applies to individual development projects, not to a comprehensive General Plan update. Requirements of this ordinance must be met prior to the issuance of a building, grading or related permit. The General Plan does not authorize the issuance of any permits.

EQ-54

CEQA requires an environmental impact report to analyze the impacts of the project proposed. Other than the requirement to analyze feasible alternatives to the proposed project, the EIR is not required to speculate on a different project description. The commenter proposes different level of service standard than the City has ever considered, or is considering as part of the proposed project, and, therefore, it is not addressed in this EIR.

EQ-55

The Draft EIR includes traffic related to all potential land use allowed in the General Plan. There are many areas of the City (for instance, Corona Del Mar), where areas zoned as R-2 are allowed to construct single family detached housing units on a single lot. These same areas are generally developed with a mix of either one unit per lot or two units per lot, and the current trend is to maintain or even reduce the number of housing units. Therefore, it could be argued that the Draft EIR is overly conservative in assuming that all R-2 lots will be developed with 2 housing units.

Actual traffic count data is in fact considered in the Draft EIR, representing shoulder season conditions. The fact that and reasons why shoulder season traffic is used in the Draft EIR is specifically discussed in the Draft EIR and supporting traffic study reports (see page 1-1 of the traffic study report).

EQ-56

Daily traffic volume comparisons as suggested in this comment are included in Tables 4-5, 5-6, and 5-7 of the traffic study report.

EQ-57

Existing conditions analysis is performed using actual count data.

EQ-58

The General Plan Transportation Study Section 2.10 (starting on page 2-35) discusses the Traffic Source Analysis (actual existing conditions). As stated on page 2-35, the data was obtained using car following

survey techniques of actual traffic entering the City at key points such as Coast Highway and MacArthur Boulevard.

EQ-59

On page 4.13-25, the discussion states that “The proposed General Plan Update itself would generate approximately 44 percent of the total increase in traffic or a 13 percent increase from existing (2002) traffic volumes”. The 13 percent traffic increase is approximately 44 percent of the increase that would occur if the growth in the remainder of the region were included in this particular scenario. Another way to state these facts is “The proposed General Plan land uses would cause an increase in traffic of 13 percent over existing traffic volumes and represent 44 percent of the total anticipated growth when regional traffic growth is also included.”

EQ-60

The topic of discussion in the Draft EIR is emergency access, not emergency evacuation. The Draft EIR analysis of the City’s emergency management plan is on page 4.6-29, Section 4.6 Hazards and Hazardous Materials. Level of service calculations are used to evaluate peak hour conditions. In an evacuation, traffic flows would be traveling in one direction (away from the hazard) under emergency procedures that would be in place to allow traffic flows on both sides of the street. The proposed General Plan Update does not include plans to close or reduce in size any road that would be needed to evacuate the City. Refer to response to comment SA-82 for additional information.

EQ-61

All parking analysis has as its basis the requirements for on-site parking in the Newport Beach Municipal Code. The City augments these basic requirements with both area-wide studies (such as on the Balboa Peninsula) and project-specific studies at the time of the evaluation of a development proposal. Recommendations are implemented as provided for in both the Municipal Code and implementation of specific projects. This results in a less than significant impact on parking supply.

The proposed General Plan Update also includes policies in the Circulation Element (CE 7.1.1 through CE 7.1.13, and CE 7.2.1 through CE 7.2.3) that specifically address providing adequate and convenient parking throughout the city. Policies include encouraging shared parking, developing parking management programs, and collecting/using in-lieu fees to develop additional parking. Also, as indicated in the Draft EIR discussion on Impact 4.13-7, all projects are required to comply with the parking requirements in the Municipal Code.

EQ-62

The General Plan provides the policy basis (CE 7.1.1 through 7.1.13) for future actions and implementing programs. Because the Draft EIR is a program-level analysis, it cannot anticipate the exact form of future proposals to implement these policies. Because of this, the specifics of the location, size or design of proposals to address parking supply problems cannot be included at this time, but would be subject subsequent environmental review at the time of implementation. Also, as indicated in the Draft EIR

discussion on Impact 4.13-7, all projects are required to comply with the parking requirements in the Municipal Code.

EQ-63

As identified in response to comment B-30, the last paragraph on page 4.13-21 states:

The threshold used in this EIR for intersections is based on the existing General Plan Circulation Element, which provides for the construction of intersection improvements to ensure service levels as close to LOS D as possible.

Policy 1 refers to intersections that are predicted to function above LOS-D (i.e., at a higher intersection capacity utilization), and states, "... this Element represents a conscious decision to accept levels of service in the airport area that have been forecast by (sic) and focus efforts to improve service levels on those portions of our system less affected by regional traffic." Policy 2 also refers to "service levels as close to LOS-D as possible."

Lists and analyses discussing intersections operating at LOS E or worse provide information consistent with the LOS D threshold in the City of Newport Beach (i.e. LOS E or worse does not satisfy the LOS D threshold). A change in the criteria to allow LOS E at certain locations is recommended in the General Plan Circulation Element.

EQ-64

As identified in response to comment B-30 and EQ-63, the last paragraph on page 4.13-21 states:

The threshold used in this EIR for intersections is based on the existing General Plan Circulation Element, which provides for the construction of intersection improvements to ensure service levels as close to LOS D as possible.

Policy 1 refers to intersections that are predicted to function above LOS-D (i.e., at a higher intersection capacity utilization), and states, "... this Element represents a conscious decision to accept levels of service in the airport area that have been forecast by (sic) and focus efforts to improve service levels on those portions of our system less affected by regional traffic." Policy 2 also refers to "service levels as close to LOS-D as possible."

The threshold question deals with capacity, not volume. Although the Draft Circulation Element proposes LOS E at some locations, there is a reduction in LOS E intersections from the adopted plan (18 intersections), and from the existing conditions (six intersections). The existing plus project scenario results indicated that LOS D was achievable with feasible improvements at all intersections if the region outside the City of Newport Beach does not develop to planned levels. As this is impossible for the City to control, regional growth has been included in the analysis to provide improvements for the City of Newport Beach General Plan. With the regional growth, additional improvements are required to achieve LOS D, some of which are infeasible/undesirable and LOS E is the proposed standard at some study area locations. Compliance with the City of Newport Beach Transportation Phasing Ordinance will be required by future development projects. A change in the criteria to allow LOS E at certain locations is recommended in the General Plan Circulation Element. Also, the current General Plan language indicates that the City will "strive to maintain" LOS D. However, the analysis and recommended improvements in the currently adopted General Plan would result in 18 intersections that would operate

at LOS E or LOS F, while the proposed General Plan would only result in five intersections operating at LOS E and none operating at LOS F. It should be noted that, during public hearings on the General Plan, the City Council has added improvements, which were analyzed in the traffic study but not included in the Draft element, to two intersections: Coast Highway/Riverside and Campus /Bristol. With the addition of these improvements, the City Council also revised Policy 2.1.1 to set the City's level of service standard as D for all but five intersections.

EQ-65

Page 4.13-46 states that “these are conceptual improvements, and alternative improvements that would achieve acceptable operations could be substituted.” The improvements are considered conceptual only in that detailed engineering plans have not been prepared, nor should they be prepared at this stage in the planning process. The statement on page 4.13-46 also acknowledges the fact that after a project has been approved, and while it is being developed or carried out, changes in conditions could occur that would render improvements impracticable, unworkable, or infeasible, and alternative improvements might be more appropriate. A substitution of improvement measures is entirely appropriate if it achieves the same performance standard, which, in the case of the traffic analysis, is achieving the identified level of service and if it does not cause any new or substantially more severe environmental impacts.

EQ-66

The purpose of the policy to amend the Traffic Phasing Ordinance is to maintain consistency between the General Plan and City ordinances.

EQ-67

Neither the proposed General Plan Update nor the Draft EIR state that the current Circulation Element requires LOS D or better. The proposed General Plan Update does not discuss the existing Circulation Element at all, because it is a comprehensive revision of the General Plan. Page 4.13-21 of the Draft EIR states, “The threshold used in this EIR for intersections is based on the existing General Plan Circulation Element, which provides for the construction of intersection improvements to ensure service levels as close to LOS D as possible. Although LOS D is not a specific standard in the existing Circulation Element, intersections that operate at LOS E or F have been regarded as deficient” [emphasis added]. Policy CE 2.1.1 in the Draft Circulation Element does make it clear that LOS D is the City's standard, with the exception of five intersections in Newport Beach and five intersections in the Airport Area shared with the City of Irvine , for which LOS E is the standard. It should be noted that, during public hearings on the proposed General Plan Update, the City Council has added improvements, which were analyzed in the traffic study but not included in the Draft element, to two intersections: Coast Highway/Riverside and Campus /Bristol. With the addition of these improvements, the City Council also revised Policy 2.1.1 to set the City's level of service standard as D for all but three intersections in Newport Beach and five intersections in the Airport Area shared with the City of Irvine, for which LOS E is the standard.

EQ-68

This is a comment on the Plan, not the EIR; the comment will be forwarded to the Planning Commission and City Council.

EQ-69

Policy CE 7.1.5 recognizes that the Avon Street parking lot is not located well to serve Mariners' Mile businesses, and directs the City to consider relocation that would better serve these uses. The policy does not suggest alternative sites, and it would be speculative for the EIR to do so. The Avon Street lot has 125 spaces, and the policy in question does not suggest reducing that number.

EQ-70

The specific areas that would be affected by this policy cannot be identified without further study as to which areas have substantial walk-in business and public parking availability. Likewise, the specific revisions to parking requirements cannot be known without the areas identified and studies of the areas' characteristics completed. Implementation of this policy will require further environmental review when more information is available.

EQ-71

Future project or proposals for these facilities are not known at this time, so it is not possible to identify locations for parking to serve them. However, marinas have specific parking requirements in the Municipal Code, which are considered adequate to provide for both marina users and persons servicing vessels in the marinas. Where specific supply issues are identified, solutions will be identified through the implementing actions of the General Plan policies regarding parking. Environmental analysis can only be conducted at the time a project is proposed.

EQ-72

An update of parking requirements would result in amendments to the Newport Beach Municipal Code, which would then be applicable to all new development and the conversion of uses in existing building to uses with a higher parking requirement. Existing uses would then be considered as "legal, but non-conforming", a status which limits the amount of additions or renovations of the existing development. This is how the Municipal Code works today, and no changes are proposed as part of the General Plan Update.

EQ-73

The policy cited does not call for shared parking facilities, but for shared valet parking programs. It is possible that a program could include a shared facility for customers to drop off and pick up their cars, or to board a shuttle to a central parking facility (either existing or future). When a program is designed, environmental review will be required if there is the potential for environmental impacts.

EQ-74

The policy is referring to the City's responsibility to accommodate its "fair share" of regional housing needs allocation (RHNA) as defined by SCAG. Programs and policies to meet the City's RHNA allocation are fully discussed in the General Plan Housing Element. The City's 1998-2008 RHNA allocation (extended from June 30, 2005 by the State Department of Housing and Community Development) is 476 housing units with 945 units identified for the Newport Coast area annexed to the City in 2002.

EQ-75

New streets connecting the proposed residential areas would be local streets and not arterial roadways. The location of street crossings referenced by the commenter will be defined through the subsequent preparation of the regulatory plans required by Policy 6.15.14 for each Residential Village in the Airport Area. While potential locations are depicted on Figure LU23, these, as well as the location of the Residential Villages, are only conceptual. Precise locations of the pedestrian corridors and crossings of MacArthur Boulevard cannot be determined until the specific locations and configurations of the Villages have been ascertained. Any specific project coming forward for consideration would be required to explicitly confirm this finding as part of the required analysis.

EQ-76

Comment noted. The comment repeats the EIR analysis.

EQ-77

The Draft EIR erroneously used the amounts identified in the 1999 Water Master Plan. Note that page 4.14-7 states that OCWD anticipates that there would be sufficient groundwater supplies to meet projected future demand requirements in Newport Beach.

Page 4.14-7 is revised to reflect the 2005 Urban Water Management Plan, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

Currently, ~~75~~⁶⁴ percent of the water supplied by the City's service area is supplied by groundwater from the Orange County Groundwater Basin, and the remaining ~~25~~³⁶ percent of water supply is provided by MWD, which delivers water imported from the Colorado River and State Water Project. The groundwater supply for the City's water system is extracted from two well sites, as discussed above, established in Fountain Valley.²

² Newport Beach, City of. ~~1999~~²⁰⁰⁵. ~~Water Master Plan~~^{Urban Water Management Plan}. Prepared by Brown and Caldwell, December.

EQ-78

Detailed information regarding water supply during dry years is contained in the City of Newport Beach's 2005 Urban Water Management Plan (UWMP), which was one of the primary reference documents used in this EIR. The UWMP states that water supplies can continue to meet the City's imported water needs until the year 2030. Further, pages 4.14-8 through 4.14-14 describe current and projected water supplies and water supply reliability for MWDOC and OCWD, and, specifically, Table 4.14-2 identifies water

supply during normal years, a single dry year, and multiple dry years. Impact 4.14.1-2, pages 4.14-18 through 4.14-22 also describe potential impacts related to water supply. No potentially significant impacts have been identified and, therefore, no mitigation has been identified.

EQ-79

This comment does not raise issues related to the adequacy of the EIR analysis. The water shortage contingency plan referenced in the comment is available in the City's 2005 Urban Water Management Plan.

EQ-80

The General Plan buildout year is 20 years from 2006, or about 2026, which is prior to the buildout year of 2030 for the City's 2005 Urban Water Management Plan. Therefore, all growth from the General Plan Update is included within the 2005 UWMP forecasts.

EQ-81

This comment does not raise issues related to the adequacy of the EIR analysis. When, and if, the groundwater basin were to become 10 percent treated wastewater would depend on the amount of recharge to the aquifer in any given year.

EQ-82

This comment does not raise issues related to the adequacy of the EIR analysis. The water shortage contingency plan referenced in the comment is available in the City's 2005 Urban Water Management Plan.

EQ-83

This comment does not raise issues related to the adequacy of the EIR analysis. Page 4.14-37 states that solid waste haulers are prohibited from transporting waste outside of County limits. The City does not send municipal waste to Long Beach SERFF. Waste Management, one of the commercial haulers that provides commercial waste disposal services to the City, sends some of their waste to Long Beach. However, per the City's General Services Director, Mark Harmon, no residential solid waste collected by the City leaves the County.

EQ-84

This comment is correct, and the EIR is amended to add Bonita Canyon and Santa Ana Heights to the areas where the City does not collect trash from single family homes.

On page 4.14-37 of the Draft EIR, the following text has been added, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

The Refuse Division of the City General Services Department collects refuse from single-family homes and some multi-family complexes within the City, with the exception of Newport Coast, Bonita Canyon, and Santa Ana Heights.¹²⁶ ...

EQ-85

As discussed on page 4.14-44, landfill capacity available to the City is more than adequate to serve projected future demand. Therefore, no further analysis regarding the capacity of the City's transfer station is required or necessary

EQ-86

In order to provide more information regarding the current daily usage and maximum daily capacity at the transfer stations which serve the City, the following information regarding transfer station capacity has been added to page 4.14-38 of Section 4.14 (Utilities), as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

Transfer stations are facilities where trash is sorted from recyclable materials, and the residue is then transported to landfills that serve the residents of the County of Orange. There are six active, large volume transfer processing facilities that serve the City. All are sorting and recycling facilities, with the exception of the City of Newport Beach Transfer Station, and ~~include the following~~ are listed in Table 4.14-12a:

- Stanton Transfer and Recycling Center #8 11232 Knott Avenue, Stanton, CA 90680
- Rainbow Recycling/Transfer Station 17121 Nichols Street, Huntington Beach, CA 92647
- Consolidated Volume Transporters 1131 Blue Gum Street, Anaheim, CA 92806
- Sunset Environmental Inc. Transfer Station and Resource Recycling Facility 16122 Construction Circle West, Irvine, CA 92606
- Waste Management of Orange (Owner of the Sunset Environmental Transfer Station) 2050 North Glassell, Orange, CA 92865
- City of Newport Beach Transfer Station 592 Superior Avenue, Newport Beach, CA 92663

Table 4.14-12a Transfer Station Capacity

<u>Transfer Station Location</u>	<u>Average Daily Load (Tons)</u>	<u>Maximum Daily Capacity (Tons)</u>
<u>Stanton Transfer and Recycling Center #8 11232 Knott Avenue, Stanton, CA 90680</u>	<u>25.26</u>	<u>No Maximum Capacity</u>
<u>Rainbow Recycling/Transfer Station 17121 Nichols Street, Huntington Beach, CA 92647</u>	<u>1,700</u>	<u>2,800</u>
<u>Consolidated Volume Transporters 1131 Blue Gum Street, Anaheim, CA 92806</u>	<u>Varies (Typically does not hit max capacity except for after holidays)</u>	<u>6,000</u>
<u>Sunset Environmental Inc. Transfer Station and Resource Recycling Facility 16122 Construction Circle West, Irvine, CA 92606</u>	<u>Varies (Typically does not hit max capacity except for after holidays)</u>	<u>3,000</u>
<u>Waste Management of Orange 2050 North Glassell, Orange, CA 92865</u>	<u>1,200</u>	<u>1,500</u>
<u>City of Newport Beach Transfer Station 592 Superior Avenue, Newport Beach, CA 92663</u>	<u>140</u>	<u>300</u>

SOURCES: Personal Communication. CR&R. Fernando Sanchez. 6/26/2006
Personal Communication. Rainbow Disposal. 6/26/2006
Personal Communication. Consolidated Volume Transporters. Stewart Lee. 6/26/2006
Personal Communication. Waste Management of Orange County. 6/26/2006
Personal Communication. City of Newport Beach General Services. 6/26/2006

Table 4.14-12a Transfer Station Capacity

<i>Transfer Station Location</i>	<i>Average Daily Load (Tons)</i>	<i>Maximum Daily Capacity (Tons)</i>
----------------------------------	--------------------------------------	--

In addition, the following information has been added to the impact discussion for Impact 4.14.3-1 on page 4.14-43, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

Currently, the City of Newport Beach is serviced by six solid waste transfer stations operated by a number of service providers as shown in Existing Conditions of this section. As a result of the General Plan Update, the City is expecting to increase the number of residential units in the City by approximately 4.96 percent and will reduce the square feet of office, commercial, and industrial space by approximately 12.2 percent. This overall reduction in the land use intensity within the city will reduce the daily demand on the transfer stations which serve the City. Each of the transfer stations currently have sufficient remaining capacity to handle the solid waste load from Newport Beach as shown in Table 4.14-12a and these transfer stations are expected to have sufficient future capacity after implementation of the General Plan Update and all associated growth based on this net decrease in land use intensity.

EQ-87

As discussed on page 4.14-44, landfill capacity available to the City is more than adequate to serve projected future demand. Therefore, no further analysis is required or necessary.

GREENLIGHT
PO Box 3362
Newport Beach, CA 92659
(949) 721-1272

May 30, 2006

Ms. Patty Temple
Planning Director
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

G1

VIA EMAIL AND HAND DELIVERY

Ref: City of Newport Beach Draft Environmental Impact Report, General Plan Update dated April 2006

Dear Ms. Temple:

This letter is a formal request for an extension of the cutoff date for comments on the referenced Draft Environmental Impact Report (DEIR) being developed for the proposed City General Plan Update. We request that the current plan for a 45-day review ending June 8 be extended to July 23, 2006, the full review period of 90 days allowed under CEQA.

We have tried to work through these voluminous documents by this Memorial Day Weekend and because of their length and complexity and the unavailability of all the data over weekend and holiday periods have been unable to complete our analysis and comments on some major aspects of the DEIR.

The following three points are unusual circumstances under normal CEQA procedures and are our reasons for requesting this extension of the date for comments:

1. The complexity of the project that will affect the entire city for decades to come. It requires and deserves a comprehensive analysis unrestricted by an abbreviated time period.
2. The fact that, according to page 1-2 of the DEIR, the requirements of CEQA are intended to be satisfied by BOTH the DEIR document and the Technical Background Report (TBR) together. The TBR is not widely available. According to the DEIR, the TBR is available only at City Hall and the Central Library, during normal working hours and not on holidays or some evenings when we would have some free time to study it. This very restricted availability of this key document has made it virtually impossible for us to conduct an adequate review in the short time frame of 45 days allocated by the city.
3. This is not a project for which speedy permitting would be an issue, since this does not address a specific development involving major financial commitments/risk. There is no reason to restrict the time available for the public to study and comment on the referenced DEIR.

Thanking you in advance for your recognition of the need to extend this unnecessarily restricted schedule and your service to the city,

(Original Signed)
Philip L. Arst
Greenlight

CC: Newport Beach City Council
Mrs. Robin Clauson, City Attorney

■ Response to Comment Letter G1

Letter from Greenlight, received May 30, 2006

G1-1

The commenter requests an extension of the public review period for the Draft Environmental Impact Report (Draft EIR) prepared for the General Plan Update currently in public review. The commenter requested that the public review period be extended to July 23, 2006, allowing for a 90 day review period. The City will not grant such an extension. The review period is established by the CEQA Guidelines at 45 days, as indicated in Section 15105(a) (attached). Additionally, Section 15105(c) states that the review period shall be that established by the State Clearinghouse which, for this Draft EIR, is 45 days (the standard review period) and is not a shortened time period. The State CEQA Guidelines, while indicating that a longer period of 60 days may be established, they also provide for the possibility of shorter review periods of 30 days. The City did not seek a shortened review period from the State Clearinghouse. However, because the City Council held its final public hearing on the Draft EIR on June 13, 2006, the City extended the period for accepting written comments until that time.

The commenter indicated in the letter a rationale for extension of the review period based on the complexity of the General Plan Update, and the commenter's difficulties in reviewing the Technical Background Report (TBR). The TBR has been available for public review since June, 2004. This has given all interested parties two full years to review the information contained in it. Additionally, the TBR was clearly referenced in the NOP issued for the General Plan Update EIR on January 27, 2006, which was also a notice for interested parties to review the information contained in it. The Greenlight group was mailed a copy of the NOP directly when it was published. The State CEQA Guidelines also provide guidance to lead agencies on how to make copies of a Draft EIR available to the public. Section 15087(g) states:

“To make copies of EIRs available to the public, Lead Agencies should furnish copies of draft EIRs to public library systems serving the area involved. Copies should also be available in offices of the Lead Agency.”

Also, Section 15087(c)(5) clearly states that documents should be available during the normal business hours of the lead agency. The City has fulfilled all its responsibilities in making copies of the Draft EIR and the Technical Background Report available for public review.

JUN 13 2006

AM PM
7 8 9 10 11 12 1 2 3 4 5 6

Greenlight
PO Box 3362
Newport Beach, CA 92659
newportgreenlight@cox.net

June 13, 2006

G2

Gregg B. Ramirez
City of Newport Beach
(949) 644-3219
3300 Newport Boulevard
Newport Beach, CA 92685-8915

Subject: DEIR (SCH#2006011119), CNB General Plan Update

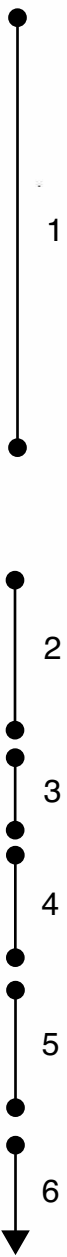
This is to confirm support of the comments on the referenced DEIR by Sandra Genis and Dr. Jan Vandersloot.

Of significant concern is the city's approach to the EIR that covers the environmental impacts of considerably larger density and traffic allowance for Newport Beach. While the full extent of the studied increases will not be implemented as a part of the referenced General Plan Update, it will pave the way for even greater growth in the future by having previously studied and ostensibly mitigated the impacts.

This approach would provide the city with a strong argument for using Negative Declarations in the future, thereby bypassing the important additional EIR cycle that would have fully informed the public.

A partial listing of major omissions of the DEIR/GPU as extracted from the Comments of Sandra Genis and Dr. Jan Vandersloot follow:

1. Failure to address other cumulative development outside Newport Beach, including GPAs in Costa Mesa, Irvine and Huntington Beach. The city was well aware of these, since they commented on projects in Costa Mesa and Irvine, at least. Since they involved GPAs they are not included in OCTAM.
2. Failure to address impacts outside the city limits, including but not limited to impacts on traffic and park facilities
3. Failure to consult with all public agencies providing services within the planning area, including Santa Ana Unified School District and Mesa Consolidated Water.
4. Failure to consider a reasonable alternative requested by adjacent communities and others, specifically deletion of the 19th Street Banning Bridge from circulation plans.
5. Magic wand approach to project mitigation, e.g. we will somehow provide adequate parkland for future development by getting in lieu fees without



identifying adequate sites.

6


There are also lots of subtle changes, in addition to what the DEIR/GPU highlight for specific areas. These include:

1. Dropping the buildable acreage concept, so slopes are no longer eliminated when calculating density.
2. Designating numerous intersections as acceptable at LOS E, and proposing amendment of the TPO to allow more congestion.
3. Dropping flexible FARs that vary with the traffic generating characteristics of a use and using a flat FAR max for all uses that generally reflects the maximum now allowed only for low generating uses.
4. Creating new, extremely dense, residential density categories.
5. Dropping the prohibition on subdivisions that would create new dwelling units in previously developed areas.
6. Allowing density bonuses, above the basic GP level, for at least a half a dozen different reasons, well beyond what would be required by state density bonus law.
7. Providing sites for development of over ten times the number of residential units remaining to be provided under the Regional Housing Needs Assessment (RHNA), thereby giving the lie to the argument that the increased units are necessary to meet the RHNA.
8. Renaming Environmentally Sensitive Areas (ESA) to Environmental Study Areas. While deceitfully retaining the same ESA designation, this approach renders invalid many, if not all of the current environmental protections that are the basis of the existence of Newport Beach as an environmentally protective beach/bay city protecting the high quality residential sector via accompanying environmentally sensitive areas.

7
8
9
10
11
12
13
14

Greenlight supports the conclusion in the Sandra Genis comments on the DEIR that as currently presented, the DEIR is thoroughly flawed in almost every facet imaginable and utterly fails to fulfill the purposes of CEQA. The document is so fundamentally and basically inadequate and conclusionary in nature that meaningful public review and comment were precluded and the document must be revised and recirculated in accordance with Section 15088.5(a)(4) of the CEQA Guidelines.

Yours truly,
Greenlight



Philip L. Arst

■ Response to Comment Letter G2

Letter from Greenlight, received June 13, 2006

G2-1

This comment is noted. The Draft EIR analyzes impacts based on the referenced General Plan, which density and traffic figures are considered for reduction by the City. However, locations for future growth and development in the City will be subject to the adopted General Plan land use designations and density allowances. Future development projects will also be separately reviewed under CEQA according to the thresholds determined by State law for all impact analysis, as is the case under the Draft EIR. State law contains thresholds by which projects are subject to CEQA, which will not change regardless of the level of analysis performed in the Draft EIR.

G2-2

Please note that as these comments are extracted from the letters of Ms. Genis and Mr. Vandersloot, full responses to these issues are provided with those comment letters.

Refer to Master Response D regarding analysis of impacts beyond the City's boundaries.

G2-3

Refer to Master Response D and response to comment SA-133 regarding analysis of impacts beyond the City's boundaries.

G2-4

Page 4.14-19 and following documents consultation with Robert McVicker of Mesa Consolidated Water District on April 5, 2006. Also, as described in response to comment B-16 and B-19 (regulatory framework) although the SAUSD did not respond to telephone and other inquiries and the City was unable to obtain the current capacity of the SAUSD, the EIR reflects a conservative analysis regarding potential impacts to SAUSD schools within the City limits. As stated on page 4.11-23 of the EIR, "because the current capacity of the SAUSD is unknown, it is possible that this potential increase in students may exceed" SAUSD's capacity. Further, it should be noted that during the project-specific environmental review of any development project within SAUSD jurisdiction, potential impacts to schools and the need for additional school facilities (to increase capacity) will be evaluated in conformance with Item XIII.a) of Appendix G of the CEQA Guidelines.

G2-5

Refer to Master Response A regarding inclusion of the 19th Street bridge in the EIR analysis.

G2-6

As described in response to comment SA-21, proposed park and recreation facilities are illustrated on Figure 4.12-2, following page 4.12-4.

G2-7

This comment does not raise a question with regard to the Draft EIR. Refer to response to comment SA-5 for a discussion of buildable acreage.

G2-8

This comment focuses on changes to the LOS standards for the City of Newport Beach and changes to the Traffic Phasing Ordinance, and does not raise a question with regard to the Draft EIR. The existing Circulation Element does not set a LOS standard; rather, Policies 1 and 2 refer to “service levels as close to level of service D as possible.” The existing Element projects that some intersections, particularly in the Airport Area, will exceed LOS D because of regional traffic, and states that the “Element represents a conscious decision to accept [these] levels of service.” Policy 2.1.1 in the proposed Circulation Element establishes level of service standards. For the vast majority of intersections, the standard is LOS D. The policy sets the standard of LOS E for five intersections in Newport Beach and five intersections in the Airport Area shared with the City of Irvine, whose standard in the area is LOS E. In public hearings on the General Plan, the City Council has directed that two improvements analyzed in the traffic study be added to the Circulation Element. With these improvements, the number of intersections in Newport Beach for which the standard would be LOS E is reduced to three. The purpose of the policy to amend the Traffic Phasing Ordinance is to maintain consistency between the General Plan and City ordinances. The comment focuses on changes to the LOS standards for the City of Newport Beach and changes to the Transportation Phasing Ordinance. The TPO will need to be modified to allow LOS E at certain locations, consistent with the General Plan Circulation Element. These modifications are permissible and reflect the current needs of development within the City of Newport Beach.

G2-9

This comment does not raise a question with regard to the Draft EIR. Refer to response to comment SA-4.

G2-10

This comment does not raise a question with regard to the Draft EIR. The residential density categories in the proposed General Plan reflect the densities allowed by the existing General Plan and the densities of residential development currently existing. The one exception is the density of up to 50 units per acre for residential development proposed in the Airport Area. In public hearings on the General Plan, the City Council has directed that the Land Use Map, Figures LU 1 through 15, be revised to replace the land use system of density ranges with a system that designates the type of housing product (e.g., single unit attached, single unit detached, two unit, multiple unit), with either density or number of units reflecting the currently existing development indicated on the map for each residential area in the City. The City Council directed that in addition to this mapping system, a policy prohibiting additional residential subdivisions in developed areas, be added to the Land Use Element to prevent unintended increases in residential density.

G2-11

This comment does not raise a question with regard to the Draft EIR. As noted in the response to comment G2-10, in public hearings on the General Plan, the City Council has directed that this policy be added to the Land Use Element.

G2-12

This comment does not raise a question with regard to the Draft EIR. It is unknown where the proposed General Plan or Draft EIR make the statements referenced in this comment. The proposed Housing Element, like the existing one, provides for density bonuses or other incentives as required by State law, as follows:

Housing Program 3.1.2 When a residential developer agrees to construct housing for persons and families of low and moderate income above mandated requirements, the City shall either (1) grant a density bonus as required by state law, or (2) provide other incentives of equivalent financial value.

Housing Program 3.1.3 Review and consider in accordance with State law, the waiver of planning and park fees, and modification of development standards, (e.g., setbacks, lot coverage, etc.) at the discretion of City Council and Planning Commission for developments containing low- and moderate-income housing in proportion to the number of low- and moderate-income units in each entire project.

Refer to response to comment SA-6 for a discussion of density bonuses.

G2-13

This comment does not raise a question with regard to the Draft EIR. Neither the Draft EIR nor the proposed General Plan Update states that the only reason the proposed General Plan Update provides additional housing opportunities is to meet Newport Beach's RHNA goals. For example, Policy LU 3.2 states, in part, "Changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach's share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs ..." In addition, it should be noted that RHNA goals are established by the Southern California Association of Governments (SCAG) for five-year planning periods, whereas the proposed General Plan Update is a plan for a period of 20 to 25 years. If the current RHNA goals for Newport Beach are projected 25 years in the future, the number of new residential units to meet those goals could be as high as 7,105.

G2-14

This comment does not raise a question with regard to the Draft EIR. As described in JA-2, the current Recreation and Open Space Element states that "Environmentally Sensitive Areas are those passive open space areas possessing unique environmental value which may warrant some form of protection or preservation." Therefore, it is incorrect to state that some form of special protective status is afforded to areas identified as "" or "ESAs" in the current General Plan.

All of the areas identified as “environmentally sensitive areas” or “ESAs” in the current General Plan are located within the geographic boundaries of the Environmental Study Areas listed in the proposed Natural Resources Element. The environmental study areas are relatively large, undeveloped areas that may support species and habitats that are sensitive and rare within the region or may function as a migration corridor for wildlife. Policy NR 10.4 requires a site-specific survey and analysis prepared by a qualified biologist as a filing requirement for any development permit applications where development would occur within or contiguous to areas identified as Environmental Study Areas. Policy NR 10.3 prohibits development in nature preserves, conservation areas, and designated open space areas in order to minimize urban impacts upon resources in identified Environmental Study Areas. These proposed policies provide greater protection to the sensitive habitats and species located within these areas than Recreation and Open Space Policy 9.1 in the current General Plan, discussed in response JA-3.



One Hoag Drive PO Box 6100
 Newport Beach CA 92658-6100
 949/764-HOAG (4624)
 www.hoaghospital.org

Peter M. Foulke
 Executive Vice President
 Corporate Services
 949/764-8250
 Fax: 949/764-5746

June 5, 2006

HO

RECEIVED BY
 PLANNING DEPARTMENT
 CITY OF NEWPORT BEACH

JUN 06 2006
 AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

Gregg Ramirez
 Planning Department
 City of Newport Beach
 3300 Newport Boulevard
 Newport Beach, CA 92658-8915

RE: City of Newport Beach General Plan Update

Dear Mr. Ramirez:

Hoag Hospital has reviewed the City's draft General Plan Update. As part of that review, two questions have arisen to which we would appreciate responses:

1. The January 2006 Notice of Preparation/Initial Study for the General Plan Update includes Table 3, "City of Newport Beach General Plan Update Existing and Proposed Land Use". For the West Newport Mesa, the special study subarea which contains Hoag Hospital, the land uses are identified as follows:

Existing	351 beds
Current GP	1,265 beds
Proposed	1,265 beds

Hoag Hospital currently has 417 available beds and 511 licensed beds. Although internal master planning efforts will identify the final bed count, at this time it is projected that there will be around 500 beds, based on build-out of its Master Plan that was approved by the City in August 1992. An EIR is currently being prepared by the City for a Master Plan update for Hoag Hospital. The draft traffic study in support of that Master Plan update EIR is based on square footage, not beds, and is as follows:

Existing	886,270 square feet
Current Master Plan	1,343,238 square feet
Proposed Master Plan	1,373,045 square feet

Please reconcile these numbers to ensure that Hoag Hospital is accurately reflected in the City's General Plan Update and EIR.

2. Figure LU13, Statistical Area Map J, of the draft Land Use Element, refers the reader to the "anomaly table". This table, defined as Table A2, "Anomaly Locations", in Appendix A to the General Plan Update, identifies the following anomalies, which correspond to Hoag Hospital's Upper (anomaly # 62) and Lower Campuses (anomaly # 63) as follows:

1
2



Gregg Ramirez
June 1, 2006

Anomaly #62 = 765,349 square feet
Anomaly # 63 = 577,889 square feet

These two anomalies reflect the total square footage currently entitled for Hoag's Upper and Lower Campuses (i.e., 1,343,238 square feet), but does not reflect the Hoag Master Plan Update EIR (i.e., 1,373,045 square feet) contained in the March 2005 Notice of Preparation of for the Hoag Master Plan Update.

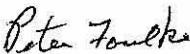
Hoag requests, therefore, that the City's General Plan reflect the Hoag Master Plan Update by doing two things:

- A. Include the square footage totals for build-out included in Hoag Hospital's Master Plan Update (the 1,373,045 square feet). It should be noted that the traffic study prepared by the City's environmental consultant for the Hoag Master Plan Update EIR does not identify significant traffic impacts associated with the 1,373,045 square feet of Hospital development.
- B. Eliminate the artificial dividing line between Hoag Hospital's Upper and Lower Campuses, by pooling the total allowable square footage on the Hospital campus. The elimination of this artificial dividing line is consistent with the Hoag Master Plan Update. It will also allow Hoag Hospital to more readily respond to health care requirements of the community, thereby complying with Policy LU 6.1.5 of the draft Land Use Element, which states, in part "support Hoag Hospital in its mission to provide adequate facilities to meet the needs of area residents".

To ensure that additional environmental impacts would not be created on the adjoining residential development, Hoag Hospital recommends that as part of the elimination of the artificial dividing line between its Upper and Lower Campuses that the Land Use Element clearly state that Hoag Hospital could not exceed its existing entitlement on the Lower Campus, i.e., 557,889 square feet.

We appreciate your addressing these issues as part of the General Plan Update. If you have any questions on this letter, please contact me at (949) 764-8250.

Sincerely,


Peter Foulke
Executive Vice President
Hoag Memorial Hospital Presbyterian

c. Patty Temple

■ Response to Comment Letter HO

Letter from HOAG Hospital, received June 5, 2006

HO-1

The project description on the Notice of Preparation identified land use quantities which are represented in the Newport Beach Traffic Model (NBTM). Unusual land uses, such as hospitals, are identified based on trip generation categories (such as beds, in this case) which most accurately estimates current and future traffic generation. These are called “surrogate quantities.” This does not alter the actual development limits in the General Plan, which are the square footage amounts reflected in the comment. The anomaly table reflects these quantities, which will be contained within the updated General Plan.

HO-2

This comment asks that a General Plan Amendment currently being processed in association with the Hoag Master Plan amendment be incorporated into the General Plan Update. The decision to make this request was made many months ago to keep the hospital’s project on a common track. If the General Plan Amendment request is approved as a part of the Master Plan consideration, the New General Plan will be changed to reflect it.

HO-3

It is true that currently pending amendments to the master plan for Hoag Hospital would, if approved, allow the transfer of development between the upper and lower campuses of Hoag Hospital, subject to certain limitations. However, the lower campus is wholly within the Coastal Zone, while the upper campus is completely outside the Coastal Zone. Connecting the two areas as single unit would then create the need to do likewise in the City’s certified Coastal Land Use Plan, even though the upper campus does not impact coastal resources. For this reason, maintenance of this division within the Anomaly Table should be maintained.



THE IRVINE COMPANY

T

June 12, 2006

RECEIVED
PLANNING DEPARTMENT
CITY OF NEWPORT BEACH

JUN 13 2006
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

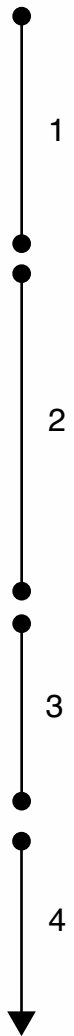
City of Newport Beach
Attn: Gregg B. Ramirez
3300 Newport Boulevard
Newport Beach, CA 92685-8915

Re: City of Newport Beach General Plan Update Draft Environmental Impact Report

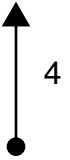
Dear Mr. Ramirez,

The Irvine Company respectfully submits the following comments regarding the Newport Beach General Plan Update Draft Environmental Impact Report.

1. Relative to the discussion of "Other Land Use Changes" discussed on Page 2-3, it seems this discussion should also include a brief discussion of two other categories of "land use changes" that arose during the public hearing process: A) the areas where reductions in allowed land use levels were proposed within the Mac Arthur Corridor and B) the other areas in town outside of the initially identified 12 Sub-Areas where reductions to the ultimate build-out projections were identified.
2. The discussion of "existing conditions" is stated to be based on conditions from 2002. Several changes have occurred since 2002, primarily in the down-coast portion of the City annexed since 2002. Because much discussion has focused on the projected traffic growth from "existing conditions", it seems important that the growth that has already occurred be discounted from statements of future growth. This issue has been partially addressed through an assessment of the trip generation, but it seems important to also specifically discuss what has been found in the recent actual traffic counts and how these findings in conjunction with the updated trip generation information combine to impact the findings associated with the remaining increment of growth anticipated in the City.
3. The Congestion Management discussion on Page 4.13-19 does not clearly identify the specific intersections within the City that are to be monitored. Neither does it clarify that these facilities are judged against a different capacity criteria by the CMP program (Level of Service E) and what that means relative to the City's policy for these facilities.
4. The methodology utilized for the freeway ramp capacity analysis discussed on Pages 4.13-24, 4.13-32 and 4.13-40-42 is different than that utilized by other cities within the county. The methodology currently reflected in the study tends to result in identifying capacity deficiencies for ramps. The methodology used by other lead



agencies would interpret the same data and instead identify mainline freeway capacity as the deficiency. It would seem that the methodology commonly used throughout the County should be applied.



If you have any questions regarding our comments, please contact Steve Letterly at (949) 720-2860.

Sincerely,

Handwritten signature of Robyn Uptegraff in black ink.

Robyn Uptegraff
Senior Vice President,
Entitlement and Environmental Affairs

■ Response to Comment Letter T

Letter from The Irvine Company, received June 12, 2006

T-1

The land use changes referenced in this comment in fact arose during the public hearings on the proposed General Plan and after publication of the Draft EIR. The project described in the Draft EIR is the draft General Plan dated March 27, 2005, and does not include these land use changes. The Draft EIR analyzes a worst case scenario, with development levels greater than the City Council has directed to include in the final General Plan, including the changes referenced in this comment.

T-2

Refer to Master Response C regarding use of 2002 baseline. Table ES-1 in Appendix D of the Draft EIR includes information on the number of trips generated by development in the City, including Newport Coast, as of 2005. The 2005 data is presented as additional information for the public and decision makers, but the traffic analysis was based on 2002 data.

T-3

A map and brief description of the Congestion Management Program (CMP) will be inserted at the end of Chapter 1. The Orange County CMP requires level of service E at CMP intersections. The City of Newport Beach standard meets or exceeds this requirement, so no further analysis is necessary. There are three CMP intersections in Newport Beach: MacArthur Boulevard (NS) at Jamboree Road (NS), Coast Highway (EW) and Coast Highway (EW) at Newport Boulevard (NS). CMP roadway segments include SR-73 Freeway, SR-55 Freeway, Jamboree Road, MacArthur Boulevard, Newport Boulevard, and Coast Highway.

Page 4.13-19 is revised to include the specific intersections, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

Orange County Congestion Management Plan

The Congestion Management Plan (CMP) requires that a traffic impact analysis be conducted for any project generating 2,400 or more daily trips, or 1,600 or more daily trips for projects that directly access the CMP Highway System (HS). Per the CMP guidelines, this number is based on the desire to analyze any impacts that will be three percent or more of the existing CMP highway system facilities' capacity. The CMPHS includes specific roadways, which include State Highways and Super Streets, which are now known as Smart Streets, and CMP arterial monitoring locations/intersections. Therefore, the CMP traffic impact analysis (TIA) requirements relate to the potential impacts only on the specified CMPHS. The CMP system consists of the following:

- MacArthur Boulevard (Jamboree Road to Coast Highway)
- Jamboree Road (between city limit and MacArthur Boulevard)
- Coast Highway (throughout)
- Newport Blvd (from north city limit to Coast Highway)

There are three CMP intersections in Newport Beach:

- MacArthur Boulevard (NS) at Jamboree Road (NS)

- MacArthur Boulevard (NS) at Coast Highway (EW)
- Coast Highway (EW) at Newport Boulevard (NS)

T-4

The freeway analysis is consistent with Caltrans standards.

Newport Banning Ranch LLC

June 2, 2006

N

RECEIVED BY
PLANNING DEPARTMENT
CITY OF NEWPORT BEACH

Gregg Ramirez, Senior Planner
City of Newport Beach Planning Department
P. O. Box 1768
Newport Beach, CA 92658-8915

JUN 06 2006
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

Re: Comments of Newport Banning Ranch LLC on the Draft Environmental Impact Report for the General Plan 2006 Update

Dear Mr. Ramirez:

On behalf of the owners of the Banning Ranch property, we wish to submit the following comments on the City's Draft Environmental Impact Report ("DEIR") on the General Plan 2006 Update.

1. **Project Description.**

Two options for the future use and development of Banning Ranch are described in the DEIR based upon the goals and policies in the City's proposed General Plan Update. One is a development option that proposes the development of 1,375 market rate residential units; 75,000 square feet of commercial; and a 75 room hotel (the "Reduced Entitlement"). The second option, which is identified as being prioritized under the General Plan, is the acquisition of Banning Ranch so that it can be retained in perpetuity through a deed restriction or conservation easement as open space.

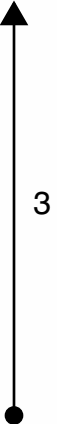
In order to more clearly define the relationship between these two options and the processing of development entitlements for the Banning Ranch property, we suggest the following clarifications be incorporated into the DEIR's Project Description at DEIR page 3-15. Similar changes should also be made to the City's Draft General Plan. We do not believe that these requested revisions would substantially change the proposed project or result in any new or different impacts from the project described in the DEIR, but are simply clarifications that more accurately reflect the City's goals and objectives with respect to the Banning Ranch property.

First, we would suggest that the term "retention" in the first line of the Banning Ranch paragraph be replaced by the word, "acquisition." This would clarify that any permanent retention of open space on Banning Ranch would be as a result of a public agency or independent third party, such as a land conservancy, purchasing the site from the current owners.

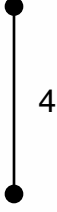
Second, the DEIR implies that the two options would occur sequentially, not concurrently. The second sentence of the Banning Ranch paragraph implies that if the property is not acquired, only then would the possible development of the site for residential and commercial uses be entertained. We believe the Project Description should clarify that the

MP615302 - 1

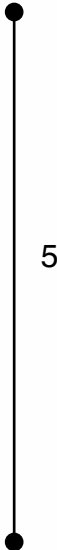
landowners may process development entitlements consistent with the proposed General Plan concurrently with efforts undertaken by others to acquire the property, and that the open space acquisition option would be subject to termination following notice and opportunity to close the purchase if: (i) the City, through initiative or otherwise, adopts or approves any law requiring further electoral approval prior to development of Banning Ranch in accordance with the Reduced Entitlement; (ii) Newport Banning Ranch LLC determines that it is unlikely that it will be able to negotiate and have timely finalized (a) with the City a satisfactory pre-annexation and development agreement (“PADA”), or (b) with the California Coastal Commission and other relevant government agencies requisite permits for the development of Banning Ranch for the Reduced Entitlement; or (iii) Newport Banning Ranch LLC secures all requisite entitlements and permits for development of the Reduced Entitlements or otherwise (the "Option Term").



Third, the Project Description should indicate that the majority of the Banning Ranch property is within the jurisdiction of the County of Orange, not the City of Newport Beach, and that any entitlement of the property through the City must also include the annexation process which is subject to approval by the Local Agency Formation Commission. The DEIR should also address how the proposed General Plan affects the City’s Sphere of Influence.

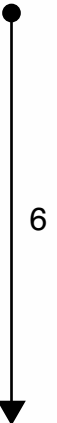


Finally, as a comment on the City’s proposed General Plan, we would suggest that General Plan Policy LU 3.4 be revised to clarify that the landowner may process entitlements for a residential village consisting of 1,375 market rate residential units while acquisition of the site is being pursued, and that if acquisition is not completed prior to expiration of the Option Term as defined above, the option to retain the entirety of Banning Ranch as open space would terminate. We would further suggest that General Plan Goal 6.4, which provides for development of the Banning Ranch property if “acquisition for open space is not successful,” should also be revised consistent with the suggestion described above for General Plan Policy LU 3.4. Additionally, both General Plan Policy LU 3.4 and General Plan Goal 6.4 should be revised to reflect the provisions of the Memorandum of Understanding that is being contemplated between the City and Newport Banning Ranch LLC that specifies the terms and conditions of the two development options. So that the Project Description in the DEIR accurately reflect the proposed project, i.e., the City’s draft General Plan, all references in the DEIR to General Plan Policy LU 3.4 and General Plan Goal 6.4 should be revised to reflect the changes suggested above.



2. **Aesthetics.**

We note that DEIR concludes that the development of Banning Ranch would introduce new sources of nighttime lighting, and that the increased light effects would be significant and unavoidable. This impact would, in fact, be the only significant and unavoidable aesthetic impact identified in the DEIR. We disagree with this finding. Policy LU 6.5.5 requires that development be located and designed to prevent residences on the property from dominating public views of the bluff faces from Coast Highway, the ocean, wetlands and surrounding open spaces. By virtue of concentrating development in areas that are less visible from these public areas, lighting impacts will be minimized. Moreover, there are a number of different lighting techniques such as shielding street lights, directing lights from sensitive resource areas, and minimizing outdoor lighting in residential areas (e.g., regulating “uplighting” of landscaping)



that can be imposed when more specific development plans are available to mitigate light impacts to less than significant. Lighting plans for coastal projects such as Marblehead and Bolsa Chica have been found to be less than significant by local jurisdictions and the California Coastal Commission and to fully mitigate potential night lighting impacts on sensitive habitat and wildlife as well as adjacent residential uses. We believe that implementation of these and other similar measures can reduce the impact of night lighting from Banning Ranch to less than significant.

6

We request that the General Plan policies regarding Banning Ranch be modified to require the development of a detailed lighting plan when development plans are submitted to the City which would minimize night lighting impacts by incorporating the light minimization techniques listed above as well as other design measures. There are several policies in the General Plan that address these issues and could be modified to reflect this concept. We suggest the following modifications:

Policy LU 6.4.11 which addresses Comprehensive Site Planning and Design for Banning Ranch should be modified by adding the following sentence at the end of the policy: *The master development or specific plan shall include a lighting plan and a landscape plan that includes light minimization measures including, but not limited to, incorporating landscaping to soften views of the project site visible from publicly owned areas and public view points, and requiring exterior lighting to be designed and located to minimize light trespass.*

7

Policy LU 6.5.4 which addresses the Relationship of Development to Environmental Resources should be modified by adding the following sentence at the end of the policy: *Development shall be implemented pursuant to a master development or specific plan that sets forth design standards which address urban/open space interface, including standards to minimize light trespass from developed areas onto the bluffs, riparian habitat arroyos, and lowland habitat areas.*

As modified, the proposed General Plan would reduce potential nighttime lighting impacts to less than significant. Absent a footprint of development showing setbacks, and a landscape and lighting plan that incorporates light minimization measures, we believe that it is entirely premature for the City's DEIR to reach a conclusion that lighting cannot be mitigated.

3. Cultural Resources.

The Cultural Resources impact analysis on page 4.4-18 presumes that excavation during construction activities on Banning Ranch has the potential to disturb Native American burials. A Phase 1 cultural resource survey was previously prepared for Banning Ranch which identifies relatively few recorded cultural resource sites. There is nothing to suggest from the prior cultural resource evaluations of the site that Banning Ranch is considered a potential burial site. We would suggest that the first paragraph in Impact 4.4-4 be revised to indicate that the potential for undiscovered human burials exist anywhere there is a site that has not been subject to substantial development or substantial subsurface excavation work. There are many areas of the City that have not been subjected to substantial excavation – even if developed—and more extensive subsurface excavations have the potential to yield undiscovered human remains. This is true for

8

many areas of the City, not just Banning Ranch. Further, before presuming that human burials may occur at Banning Ranch, we would suggest that the City’s consultants review the archaeological reports prepared for Banning Ranch and which are on file at the Regional Information Center, and reiterate the finding of those reports in the DEIR that there is nothing to indicate that the cultural resource deposits at the site would yield human remains.

8

In this regard, we would request that General Plan Policy HR 2.1 and Policy NR 18.1 be revised to clarify that where permanent protection and preservation is not feasible, landowners and developers can mitigate potential impacts to cultural resources through data recovery. Although this finding is somewhat implicit in the statement of this Policy, the Policy speaks primarily to preservation and avoidance which, in many cases, is not feasible given competing requirements to avoid and minimize impacts to sensitive resources, and limit development in certain areas of the property, e.g., adjacent to bluff faces. Our suggested revision is as follows:

9

NR 18.1 New Development

Through planning policies and permit conditions, ensure the preservation and protection of significant archaeological and paleontological resources *where feasible* and require that the impact caused by any development be mitigated in accordance with CEQA. *Preservation and protection of cultural resources can be accomplished by a variety of techniques including in situ preservation, capping, data recovery excavations and curation.*

4. Biological Resources.

Clarification needs to be provided in the City’s DEIR with respect to the mapping of ESAs. We question the mapping of ESAs on Banning Ranch depicted in Figure 4.3-2. We note that the majority of the Banning Ranch property is designated as ESA – without regard to the fact that extensive areas of the property are currently developed for oil operations and do not support any habitat or environmentally sensitive plant communities. At a minimum, those areas of the site which are developed with existing oil extraction facilities, including cleared roads and pads, should not be depicted or designated ESA. It is also important for the DEIR and General Plan to note that there are many areas between the roads and pads that are traversed by subsurface pipelines and other oil production infrastructure which will require remediation and removal in the future to clean up the site.

10

Second, we are concerned with the very broad interpretation that could be applied to General Plan Policies NR 10.3 and NR 10.6 because of the lack of clarity between an ESA and an ESHA. Our suggested changes would help clarify the significant differences between these two designations – one of which represents an area requiring further study and the other represents an area subject to specific regulation under the Coastal Act. As the City is aware, the Banning Ranch property is currently an operating oil production facility. Much of the undeveloped areas of the site has been disturbed from past oil activities and much of the site is degraded. The fact that the Banning Ranch ESA is disturbed and degraded is not reflected in the policies as drafted. We suggest the following modifications to better clarify the relationship between the ESA and ESHA designations, and to distinguish between the actual resources that may be present in an ESA from areas that have been disturbed or developed.

11

Policy NR 10.3 Development in Environmental Study Areas

Protect, and prohibit development in nature preserves, conservation areas, and designated open space areas in order to minimize urban impacts upon resources in identified Environmental Study Areas (ESAs). *For all properties designated ESA, require that prior to development a biological assessment be prepared that delineates sensitive and rare habitat and wildlife corridors so that development is sited to minimize impacts upon these delineated habitat areas, and where impacts cannot be avoided require on- or off-site habitat mitigation.*

Policy NR 10.6 Development in Areas Containing Significant or Rare Biological Resources

Limit uses within an area *designated as ESHA under the Coastal Act* to only those uses that are dependent on such resources except where application of such a limitation would result in a taking of private property. . . .

Policy NR 10.10 Development on Banning Ranch

Protect the sensitive and rare resources that occur on Banning Ranch. *Require that prior to development, a biological assessment be prepared that delineates sensitive and rare habitat, coastal bluffs and wildlife corridors so that development is sited to minimize impacts upon these delineated habitat areas, and structures are designed to not be intrusive on the surrounding landscape. Require the ~~restoration~~ mitigation (either on- or off-site) of any sensitive or rare habitat areas that are impacted by future development.*

5. **Parkland Development.**

Throughout the document, the DEIR contains references to the potential for development of an active park on Banning Ranch that may utilize nighttime lighting (see, e.g., DEIR at 4.8-12). On page 4.12-10, the DEIR states that “an active community park (possibly lighted) is planned in Banning Ranch, regardless of the ultimate development of the site, to accommodate the service area and Citywide needs for active sports fields.” First, because nighttime lighting was identified as a potentially significant impact which may be unmitigable, we would suggest that if any active parks are developed on Banning Ranch that no night lighting be permitted to mitigate potential nighttime lighting impacts. Second, the DEIR should also note that under either option, the development, improvement, and maintenance of such an active community park will be the obligation of the City, not the private developer. Third, General Plan Policy LU 6.5.2 (see DEIR at page 4.8-29) should be revised to reflect the Memorandum of Understanding currently being considered by the City and Newport Banning Ranch LLC.

Given the number of residential units proposed under the Reduced Entitlement, we believe the DEIR should reflect the actual impact development of the Banning Ranch property would have on recreation. The DEIR repeatedly references the potential for 30 acres of active park on Banning Ranch. This statement implies that the proposed development triggers the need for 30 acres of park in order to mitigate its recreation impacts. In fact, 30 acres of parkland on Banning Ranch far exceed the amount of park acreage that would be required under the Quimby Act and proposed General Plan Policies R1.1 and R1.2 for a development of this size. Although



11

12

13

14

15

the environmental impacts of the Reduced Entitlement will be subject to separate environmental review, it is possible at this point in time, to estimate the park and recreation impacts of the Reduced Entitlement. Using the Quimby Act measure of 5 acres of park per 1,000 persons, the Reduced Entitlement proposal would require approximately 14-15 acres of park, and therefore, the allocation of 30 acres of the property to active park uses is greatly in excess of the Reduced Entitlement's actual impacts on recreation. The DEIR should distinguish between the Reduced Entitlement's recreation impacts and the City's park goals.

15

Moreover, it is highly likely that the Reduced Entitlement development would include trails and other recreation areas – all of which should be taken into consideration in terms of the project's contribution to park and recreational facilities. It is also important for the City to note that any unit reductions that may occur as more specific development plans are prepared would also reduce the project's park obligations.

16

We also request that Policy LU 6.5.2 be modified to provide flexibility in the event environmental or other constraints substantially reduce the developable areas on the Banning Ranch property. As drafted, the policy requires a minimum of 30 acres be developed on Banning Ranch. If the developable acreage on Banning Ranch is substantially reduced, a minimum 30 acre park may no longer be feasible. Therefore, we suggest that Policy LU 6.5.2 be revised to read:

17

Policy LU 6.5.2 Active Community Park

Accommodate a community park of *no more than an aggregate of 30 acres* that contains active playfields that may be lighted and is of sufficient acreage to serve adjoining neighborhoods and, if developed, residents of Banning Ranch.

6. Analysis of Recreation and Open Space Issues.

We note that although the DEIR includes an extensive analysis of recreation issues, Section 4.12 does not include any discussion about the open space potential offered in the event that the entirety of Banning Ranch is not purchased for open space purposes, namely that Newport Banning Ranch LLC ("NBR") has expressed a willingness as an element of its development (i) to cause the preservation of up to 51% of Banning Ranch, through, at NBR's option, either dedicating such land, including the areas that have the highest habitat value as open space, or to create an open space mitigation bank, in either case, at NBR's option, by deed restrictions or conservation easements; and (ii) in full satisfaction of NBR's obligation to provide land and/or funding for public facilities, as part of and included within such open space, to dedicate one or more sites of no more than an aggregate of 30 acres for park(s). The potential for augmenting the City's open space areas under both options should be discussed and the environmental impacts and benefits of both of those options should be taken into consideration.

18

7. Transportation/Traffic Impacts.

Finally, we note that the DEIR's Transportation/Traffic section concludes that, "With improvements included in the proposed Circulation Element, build out of the proposed General Plan Update alone, without growth in the region, would not cause any intersection to fail to meet the City's standard LOS D." We believe that this statement should be corrected to reflect the LOS E standard that the DEIR's traffic study would allow for certain designated intersections. It is our reading of the DEIR traffic study -- and request City confirmation -- that the City will

19

determine and find that certain intersections will be allowed to operate at LOS E without a finding of a significant unmitigable impact, and that as future projects are submitted for consideration, they will be permitted to analyze traffic against a standard of LOS E for those designated intersections.

19

Clarification is also requested in the Final EIR regarding which intersection improvements are technically and legally feasible. We are specifically concerned regarding the proposed improvements to the University/Irvine intersection. Although a series of long range improvements are identified (see Tables 6 and 5-10 in the Traffic Study), the DEIR does not discuss the feasibility of the various improvements. Many intersections have multiple alternatives, each of which seems to be ruled out. For these reasons, we believe that the traffic study and the DEIR's traffic analysis do not accurately reflect traffic conditions that are expected to occur in the future and do not accurately describe conditions that support a finding that all intersections will operate at LOS D or better. We suggest that the DEIR be revised to clearly identify which long range improvements have been determined by the City to be physically and legally feasible and therefore incorporated into the proposed Circulation Element and which of the improvements have been rejected because of environmental, right-of-way, or community issues.

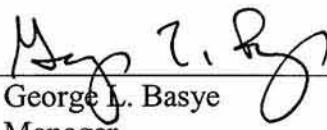
20

8. **Conclusion.**

In conclusion, we would request that our suggested modifications to the General Plan policies be incorporated into the revised General Plan by the City. None of the recommended modifications would result in either substantial changes to the project or the identification of new significant impacts. In fact, our suggested revision would help reduce lighting and aesthetic impacts to a level of less than significant, and clarify the recreational impacts that could arise from development of Banning Ranch. If you have any questions regarding these comments, please contact me.

Very truly yours,

NEWPORT BANNING RANCH LLC

By: 
George L. Basye
Manager

GLB:mep

■ Response to Comment Letter N

Letter from Newport Banning Ranch LLC, received June 6, 2006

N-1

This comment is noted. No response is required.

N-2

Page 3-13, third paragraph is revised, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR. The same change will be made to the proposed General Plan:

The updated General Plan prioritizes the ~~retention~~ acquisition of the Banning Ranch property as open space, consolidating existing oil operations, restoring wetlands and habitat, and development of a community park with active playfields to serve adjoining neighborhoods. ...

Strategy LU 6.3.2 in the Land Use Element of the General Plan supports acquisition as a means to achieve the retention of Banning Ranch as open space, but leaves open the means for achieving this goal. The General Plan is a policy document that provides guidance for future action within the City and is intended to be flexible in its implementation.

N-3

The paragraph regarding Banning Ranch on page 3-15 does not indicate whether the two options would occur sequentially or concurrently. For clarity, Policy 6.4.1 will be revised to read:

LU 6.4.1

Alternative Use

If not acquired for open space ~~in a timely manner~~ within a time period and pursuant to terms agreed to by the City and property owner, the site may be developed as a residential village, containing a mix of housing types, limited supporting retail, visitor accommodations, school, and active community parklands, with a majority of the property preserved as open space. The property owner may pursue entitlement and permits for a residential village during the time allowed for acquisition as open space. (Imp 2.1, 12.1)

Because the General Plan does not include the detail regarding open space acquisition and development entitlements contained in this comment, it is not appropriate for the EIR to discuss such detail.

N-4

As stated on page 3-1 of the project description:

Approximately 53 acres of the area known as Banning Ranch is within the City boundaries, with another 361 acres of this property in the City's SOI, subject to Orange County jurisdiction.

Per State statute, the General Plan indicates the City's intentions regarding use and conservation of this property should it be annexed. It does not specify a pro-active strategy on behalf of the City for annexation. Any annexation procedures would be initiated by the property owner and processed

according to LAFCO requirements. The proposed General Plan has no effect on the Sphere of Influence, except on development guidelines should the annexation occur.

N-5

Refer to response to comment N-3. It is not appropriate for the Draft EIR to discuss details of any agreement that is “being contemplated” and is not part of the proposed General Plan Update that is the project analyzed in the Draft EIR.

N-6

Evaluation of impacts to aesthetics is often subjective. As indicated by this comment, Policy LU 6.5.5 would minimize lighting impacts by concentrating development on the Banning Ranch property. However, as indicated in the analysis of Impact 4.1-3, Banning Ranch is currently underdeveloped, and the increase in lighting would be substantial. Further, Banning Ranch is the only location considered by the GPU that currently exists as a vast 414-acre primarily undeveloped area. Existing sources of night lighting from the site are limited to those associated with remnant oil production facilities, and are extremely minimal. No habitable structures are presently located on the site. Further, the site is visible from adjacent residential areas as well as nearby roadways. As such, while Policy LU 6.5.5 would serve to minimize the effect of light, the change in the lighting characteristic of the site as an undeveloped and dark area to one with clustered development with lighting from 1,375 residential exteriors as well as access roadways would be a new source of substantial light in the area. It should also be noted that for clarification purposes, two General Plan policies have been amended for clarification purposes.

On page 4.1-31, Policy LU 6.5.4 has been amended, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

Policy LU 6.5.4 Relationship of Development to Environmental Resources

Development should be located and designed to preserve and/or mitigate for the loss of wetlands and drainage course habitat. It shall be located to be contiguous and compatible with existing and planned development along its eastern property line, preserving the connectivity of wildlife corridors, and set back from the bluff faces, along which shall be located a linear park to provide public views of the ocean, wetlands, and surrounding open spaces. Exterior lighting shall be located and designed to minimize light trespass from developed areas onto the bluffs, riparian habitat, arroyos, and lowland habitat areas.

On page 4.5-33, Policy LU 6.4.11 has been clarified, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

Policy LU 6.4.11 Comprehensive Site Planning and Design

Require the preparation of a master development or specific plan for any development on the Banning Ranch specifying lands to be developed, preserved, and restored, land uses to be permitted, parcelization, roadway and infrastructure improvements, landscape and streetscape improvements,

development regulations, architectural design and landscape guidelines, exterior lighting guidelines, processes for oil operations consolidation, habitat preservation and restoration plan, sustainability practices plan, financial implementation, and other appropriate elements.

It is acknowledged that there are a number of lighting techniques that can be employed to minimize lighting impacts. However, these techniques are largely successful at reducing impacts to less than significant in areas where some night lighting or moderate urbanization exists. In areas such as Banning Ranch that are largely undeveloped, these techniques minimize impacts, although the presence of night lighting in areas where none previously existed results in a substantial change. A comparison to lighting plans in other jurisdictions is not appropriate here, as each location presents unique environmental factors for consideration.

N-7

This comment suggests including the requirement of a lighting plan and landscaping plan to mitigate potential impacts due to new sources of light and glare that would be created in the Banning Ranch subarea by new developments under the proposed General Plan. This would include the development of an active community park, which if developed with night lights, as stated as a potential option, could have potentially significant impacts. While the Draft EIR states that no feasible mitigation measures are available for implementation under the General Plan, state and local regulations are in place that would require environmental analysis of future development plans for Banning Ranch that would address potential night lighting impacts, light trespass, and obstruction of views from developed areas onto public viewpoints (e.g. natural resources). Planning for development of Banning Ranch pursuant to Policy LU 6.4.11 will require a separate project-level environmental impact analysis, which would address the impacts of nighttime lighting, light trespass, and impacts to views. It is not the intent of the General Plan to mitigate for all potential project-level impacts resulting from potential future development projects, as these will be addressed at the time development plans are submitted. But the Draft EIR must also not overlook the potential that environmental analysis of development in the future could find views. As such, the language currently contained in the General Plan is sufficient to ensure, by requirement of a master development or specific plan for any development of Banning Ranch, full environmental impact analysis of any development of the property. This impact analysis would address potential impacts of light and glare that could be created by new development in the Banning Ranch subarea.

N-8

Impact 4.4-4 does not presume that Native American burials are present on the Banning Ranch property. Rather, the impact analysis indicates that human burials have been discovered in the City in the past, and those areas with the highest *potential* for discovery of these materials are primarily undeveloped areas, such as the Banning Ranch property. Banning Ranch is the largest and most notable underdeveloped parcel of land within the City, and therefore relevant to cite as an example of an area where the potential for discovery of Native American remains exists. The text acknowledges that this is not the only location for the potential discovery of human remains within the City or SOI. It is understood that surface survey has not provided indication that Native American burials exist on the property. However, it is often the

case that these burials are discovered in areas where there is no surface indication of their presence, as by definition, burials are located below ground.

N-9

The language in Policy NR 18.1, as presented in the draft General Plan, “preservation and protection,” includes the techniques that the comment suggests be added to the policy.

N-10

With respect to Figure 4.3-2, there are numerous areas within Area 14 (Banning Ranch) that are not designated as an Environmental Study Area (ESA). The blank/white portions of the Banning Ranch area correspond to the currently developed land that is used for various uses, including oil operations. The designation of the area was based on biological surveys performed of the Banning Ranch area and reflects the biological conditions on the surface. The need for subsurface remediation will be evaluated as necessary and any disturbance of undeveloped land within an ESA will be required to undergo a more detailed biological assessment.

N-11

Proposed Natural Resources Element NR 10.4 requires a site-specific survey and analysis prepared by a qualified biologist as a filing requirement for any development permit applications where development would occur within or contiguous to areas identified as an ESA. Therefore, the suggested modification to NR 10.3 is not necessary. However, to provide additional specificity and policy guidance to assist the decisionmakers to ensure that development would be designed to preserve coastal bluffs, Policy NR 10.10 has been added to the proposed General Plan and EIR. Refer to response to comment SA-45 for additional clarification, as well as the language for Policy NR 10.10.

N-12

This comment is noted. The City is aware that the introduction of residential and commercial development (including an active park with nighttime lighting) would present potentially significant impacts to the Banning Ranch area. The area is currently underdeveloped and adjacent to sensitive residential uses, and any new development would contribute a significant increase in lighting. The City’s proposed policy, as expressed in the draft General Plan, is to maintain the possibility of an active park with nighttime lighting. As such, the potential for significant impacts remains and no further mitigation measures are considered feasible at this time.

N-13

As noted in this comment, development, improvement, and maintenance of an active community park dedicated to the City would be the responsibility of the City. This would be consistent with the City’s responsibility to maintain all land dedicated to the City. The EIR makes no assertion otherwise.

N-14

It is not appropriate for the Draft EIR to discuss details of any agreement that is “being considered” and is not part of the draft General Plan that is the project analyzed in the Draft EIR.

N-15

This EIR is a Program EIR that discusses impacts from implementation of the General Plan Update as a whole. As such, where certain parcels in the City provide noteworthy examples of how or where impacts could occur, these are identified. However, the purpose of this EIR is not to provide a project specific analysis of the any proposal currently under consideration for the Banning Ranch property, such as that referred to as the Reduced Entitlement Alternative. After the receipt and processing of a development application for the Banning Ranch property, project-specific analysis would be conducted to determine the precise demands and contributions that a development project on the Banning Ranch property would have.

The reference to provision of 30 acres of parkland on the Banning Ranch site appears twice in the EIR, both within proposed General Plan policies.

Policy LU 6.5.2, identified on page 4.8-29 of the Draft EIR states: “Accommodate a community park of a minimum of 30 acres that contains active playfields that may be lighted and is of sufficient acreage to serve adjoining neighborhoods and, if developed, residents of Banning Ranch.”

Policy R.1.10, identified on page 4.12-20 of the Draft EIR states: “...In the Banning ranch area develop an active community park of 20 to 30 acres with consideration of night lighting”

Neither policy states nor references that provision of this park is related to *Quimby Act* requirements for a development project on the site.

N-16

Refer to response to comment N-15. The EIR does not prescribe an amount of parkland that would be required as a result of development on Banning Ranch in order to offset demands on recreation, as that would be considered during project-specific analysis. It is anticipated that the specific parkland requirements resulting from any development on Banning Ranch would be met by dedication of parkland on-site. Specific requirements for parkland dedication (i.e., active parkland or open space with trails) would be determined at the time a specific development application for the property is developed, and would be consistent with City requirements for new development.

N-17

In the General Plan Update, Policy LU 6.5.2 has been changed to be consistent with Policy R 1.10, and reads as follows:

LU 6.5.2**Active Community Park**

~~Parks a~~Accommodate a community park of a ~~minimum of 20 to 30~~ acres that contains active playfields that may be lighted and is of sufficient acreage to

serve adjoining neighborhoods and, ~~if developed~~, residents of Banning Ranch, if developed.

N-18

Regardless of the development outcome on Banning Ranch, the property would contribute open space/parkland to the City if it is annexed. NBRL's willingness to preserve and/or fund open space and parkland, in addition to Quimby Act requirements, is not analyzed in EIR, because no specific proposals for development of the property have been presented or analyzed.

N-19

LOS E has been deemed acceptable in the context of cumulative development (including regional growth) at some study area locations. It is the intent and recommendation of the Transportation Study and Draft EIR that LOS E will be the adopted standard at specified intersections only.

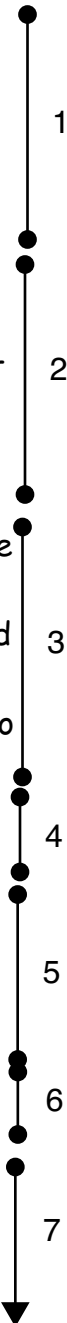
N-20

Page 3-18, Table 3-4, identifies transportation improvements under the proposed General Plan Update. Every intersection improvement recommended in either Exhibit CE-3 of the General Plan Circulation Element or Table ES-9 of the General Plan Transportation Study has been reviewed by the project team, including the City Traffic Engineer, and been deemed most feasible of the evaluated improvements. Infeasible improvements have been discussed and removed from further consideration, resulting in the revised LOS standard (LOS E) at certain City intersections. It is also recognized, however, that future conditions may vary from the projections in the traffic study. Therefore, the recommended Circulation Element policies specifically allow for alternate improvements, as long as the resulting LOS conforms to the recommended City standards.

From: Bettencourt, Philip by L Meadows [mailto:Lisa@bettencourtplans.com]
Sent: Thursday, June 08, 2006 5:22 PM
To: Ramirez, Gregg
Cc: Temple, Patty; Woodie Tescher; Wood, Sharon; Selich, Edward
Subject: City of Newport Beach: Draft EIR SCH #200601119

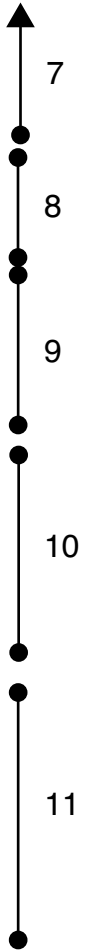
Gregg, I am writing in response to the invitation to the public to provide comments and raise questions regarding the subject DEIR as it relates to the **General Plan 2006 Update**:

- **Table 3.3.** The DEIR contemplates a mix of **687 MFR** units and **688 SFR (A)** units and ancillary structures at the Banning Ranch. What are the implications from a General Plan consistency standpoint if the ultimate zoning document and Local Coastal Plan determine that a different mix is appropriate?
- **Table 3.3.** The DEIR contemplates **4,300 MFR** units for the Airport Area, but the City Council has already provisionally selected a lesser number for the final land use document. Could it be that some mitigation measures and some public facility areas, such as parks, are now excessive given the reduction of permitted intensity?
- **Table 3.3.** The Table contemplates a growth of commercial square footage in the Airport Area from **871,500** to **888,620** square feet. The Industrial entitlement of **551,930**, however, is slashed to zero. What happens to holders of existing unutilized Commercial and/or Industrial entitlement who are not yet ready to switch to the mixed-use opportunity?
- **Figure 4.1-1.** Please cite the statutory reference for the Shoreline Zone.
- **Figure 4.1-1.** The text defines a "coastal view road" for much of Mariner's Mile, but none of the other beach street end vistas. Is that an environmental issue? Why don't the nondesignated vistas also qualify?
- **Figure 4.1-13.** The text suggests the adoption of a coast view roads standard, but does not discuss the standards for eligibility.
- **Figure 4.1-33.** The text discusses the number and size of residential villages and a mandate for **four (4)** mixed-use villages and a minimum neighborhood size of **ten** acres. Is this policy still relevant with the recent slashing of opportunities in the Airport



Area? Wouldn't it be possible to still create a cohesive, mixed-use neighborhood and achieve desired community planning objectives on a smaller parcel?

- Finally, why do the aesthetics and visual quality of the neighborhood mandate a minimum parcel size in the Airport Area, but not on the West Newport Mesa, for instance?
- **Figure 4.1-37.** Open space dedication or preservation. Please discuss further the environmental values of safe public access to coastal bluffs, particularly if such bluffs include environmentally sensitive habitat areas where access is discouraged.
- **Figure 4.8-28.** Relocation and clustering of oil operations is suggested if acquisition for open space is not successful. Can one then assume that relocation and clustering is not necessary or desirable if the public acquires the area, and plans active parks and trails?
- **Figure 4.1-29.** What are the environmental impacts and objective standard for the selection of a community park of a minimum of 30 acres? Even assuming full build out at the residential density now under study, such a park would be twice as large as required by the City's existing Park exaction standard applicable to all other properties.



Thank you for your courtesy and for your attention.

B. Stouffer for

Philip Bettencourt

Bettencourt and Associates

110 Newport Center Drive, Suite 150

Newport Beach, Ca 92660

949-720-0970

Fax 949-721-9921

www.bettencourtplans.com

■ Response to Comment Letter P

Letter from Philip Bettencourt, received June 8, 2006

P-1

The Draft General Plan establishes a maximum limit of 1,375 residential units on Banning Ranch (Table LU1) and does not disaggregate these into single and multi-family units. Policy LU 6.4.2 requires that the development of housing on the property would "... consist of a mix of single-family detached, attached, and multi-family units to provide a range of choices and prices for residents" and does not quantify the number of units within each category. The housing types specified by the Draft EIR represent an assumed mix and is not regulatory. Thus, deviations from this mix by subsequent zoning and/or Local Coastal Plan designations would not affect their consistency with the adopted General Plan. However, it is likely that additional CEQA analysis would be required.

P-2

As the proposed General Plan Update is undergoing refinement through a series of Planning Commission and City Council public hearings, the City Council has directed that the maximum number of residential units in the Airport Area be reduced to 2,200. In concert with this change, all the proposed policies governing residential development in the Airport Area will be revised to be consistent with the reduced number. These revisions may reduce impacts below those identified in the Draft EIR. The project evaluated in the EIR represents an umbrella, or worst-case scenario, of potential impacts that could be identified with implementation of the proposed General Plan Update. It should be noted that the Draft EIR does not include any mitigation measures.

P-3

The Mixed Use B2 land use category allows commercial office and industrial use, as well as residential. It does not force property owners to change to the residential use that is also allowed.

Draft EIR Table 3.3 indicates the maximum amount of change that could occur if the Project Description land uses are fully implemented. It should be noted, that the Draft General Plan permits the area to be fully developed according to the existing General Plan land use designations and conversion of industrial or other uses for housing or other uses is defined as a permissive policy option for development applicants. Thus, entitlements for industrial uses could still be processed in accordance with the existing General Plan and zoning requirements.

P-4

The Shoreline Height Limitation Zone is established in Ordinance 92-3, and is referenced in Section 20.56.040 of the Zoning Code.

P-5

While not all of the City's many coastal viewpoints are identified and called out in the text, the City's most prominent coastal viewing locations are identified and protected by policies in the General Plan and

in the City's Local Coastal Program. Figures 4.1-1 through 4.1-3 and page 4.1-9 of the Draft EIR identify the City's significant public coastal view points and view roads, and the City's Coastal Land Use Plan Policies 4.4.1-1 through 10 protect highly scenic areas. Impact 4.1-1 on page 4.1-16 of the Draft EIR also lists other regulations and protective policies in the General Plan to ensure that new development does not significantly impact public viewpoints or scenic vistas.

P-6

This comment refers to Figure 4.1-13 in the Draft EIR, which does not exist; it is assumed that the commenter is referring to Figures 4.1-1 through 3. The legend on this figure refers to the Coastal View Roads that are identified on the map; it does not suggest the adoption of standards.

P-7

Figure 4.1-33 does not appear in the Draft EIR, and the figure to which this comment is referring is unclear. However, it is assumed that this is a comment on Figure LU 23 and the policies related to residential development in the Airport Area. As the proposed General Plan Update is undergoing refinement through a series of Planning Commission and City Council public hearings, the City Council has directed that the maximum number of residential units in the Airport Area be reduced to 2,200. In concert with this change, all the proposed policies governing residential development in the Airport Area will be revised to be consistent with the reduced number.

P-8

This is a comment on the Draft General Plan, rather than on the Draft EIR.

P-9

Figure 4.1-37 does not appear in the Draft EIR, and the figure to which this comment is referring is unclear. It is not possible to respond to this comment.

P-10

Figure 4.8-28 does not appear in the Draft EIR, and the figure to which this comment is referring is unclear. However, Land Use Policy 6.5.1, which states, "Relocate and cluster oil operations," pertains to both land use options (Draft General Plan page 3-72).

P-11

Figure 4.1-29 does not appear in the Draft EIR, and the figure to which this comment is referring is unclear. However, with respect to parkland dedication on Banning Ranch, the EIR does not prescribe an amount of parkland that would be required in order to offset demands on recreation, as that would be considered during project-specific analysis. It is anticipated that the specific parkland requirements resulting from any development on Banning Ranch would be met by dedication of parkland on-site. Specific requirements for parkland dedication (i.e., active parkland or open space with trails) would be determined at the time a specific development application for the property is developed, and would be consistent with City requirements for new development.

June 13, 2006

SA

RECEIVED BY
PLANNING DEPARTMENT
CITY OF NEWPORT BEACH

JUN 13 2006

AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

Gregg B. Ramirez
City of Newport Beach
(949) 644-3219
3300 Newport Boulevard
Newport Beach, CA 92685-8915

Subject: DEIR (SCH#2006011119), CNB General Plan Update

Dear Mr. Ramirez,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the City of Newport Beach General Plan 2006 Update in Orange County, Ca. (SCH#2006011119) These comments are submitted on behalf of Stop Polluting Our Newport, Greenlight, and myself.

We appreciate the five day extension of time granted by the City for commenting on the DEIR, but note that some members of the public had difficulty accessing the Technical Background Reports at realistic times for working people. We note further that appendices to the DEIR Traffic Study were not posted on-line at nbvision2025.com as the DEIR stated they were, nor were they in the Newport Beach public library, but were made available only after repeated requests. Likewise, numerous other documents referenced in the DEIR as providing important information, such as stormwater plans, were not readily available. We therefore find it reasonable for the City to continue to take comments on the DEIR beyond today's deadline.

The City is reminded that:

The EIR is also intended to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action. Since the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. The EIR process protects not only the environment but also informed self-government. *County of Amador v. El Dorado County Water Agency* (76 Cal.App.4th 933)

The DEIR

The DEIR is a program EIR intended to address the effects of the major amendment/update of the Newport Beach General Plan. In conjunction with the Technical Background Report, the DEIR document is intended to fulfill the requirements of the California Environmental Quality Act (CEQA) for the project.

The amendment includes changes in land use designations for specific areas as well as changes in citywide policies. However, the DEIR identifies only the new land use designations, providing no map or description of existing designations. Likewise, citywide policy changes are not identified. A strikeout/underline presentation of new and deleted land use designations and mapping as well as new policies, deleted policies and altered policies is essential if decision makers are to make a complete and meaningful assessment of the proposed project. In order to prevent the document from becoming too unwieldy, this could be provided in an appendix.

2

As presented, members of the general public must ferret out many of the changes on their own. This is contrary to the purposes of CEQA (*Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 357 [182 Cal.Rptr. 317]; *Planning and Conservation League v. Department of Water Resources and Central Coast Water Authority*, 84 Cal.App.4th 315A, [100 Cal.Rptr.2d 173]). While each section of the analysis presents a list of relevant policies, the DEIR does not indicate if the policies are new policies, old policies, or new versions of old policies.

Even the DEIR itself falls prey to the difficulty presented by the lack of a clear identification of policy changes. For example, the DEIR indicates that policies in the Natural Resources Element will provide new protections not previously provided for resources outside the Coastal Zone. However, the policies in question echo those that have been part of the Land Use Element and Recreation and Open Space Element for decades.

3

The DEIR must provide a stable, complete, and accurate project description.

A stable, complete, and accurate project description is the most basic and important factor in preparing a lawful EIR. It is the denominator of the document and, thus, of the public's and decision-maker's review. It is critical that the project description be as clear and complete as possible so that the issuing agency and other responsible agencies may make informed decisions regarding a proposed project. Without a clear definition of the activities to be undertaken, the EIR becomes useless.

As noted above, citywide policy changes are not identified. The Project Description (DEIR Section 3) merely provides general, one-size-fits-all descriptions of the function of each general plan element.

4

Some of the policy changes proposed for the General Plan Update could have major consequences for future development. For example, the proposed general plan would abandon the concept of flexible floor area ratios, (FARs) linking allowable floor area to traffic generation by a use. This allowed coordination of land use and circulation planning. Where the proposed

general plan specifies a range of allowable FARs, as stated in Policy LU 4.1:

The densities/Intensities of development are intended to convey maximum and, in some cases, minimums that may be permitted on any parcel within the designation...

The policy makes no reference traffic generation related to allowable floor area, but applies the same maximum FAR in a given area across the board. In most cases, the maximums in the update reflect the maximum FAR that would have been permitted for only low traffic generating uses under the adopted general plan. The DEIR fails to identify this change.

The existing general plan prohibits subdivision of individual lots such that additional units would be provided for numerous areas of the city, including but not limited to Newport Heights, Cliff Haven, Eastbluff, Cameo Shores, Harbor View Hills, Spyglass Hill, and others. Based on the density levels proposed for such areas, some of the largest individual lots in these areas could be subdivided to provide new units or two adjacent, large lots could be combined to allow three units. The DEIR fails to identify this change or identify any additional units to be provided. This change is of particular concern because the proposed general plan abandons the concept of "buildable acreage" which excluded steep slopes from density calculations, another change the DEIR fails to identify.

The general plan update provides for density bonuses for affordable housing, construction of green buildings, consolidation of small lots, provision of marine support services, relocation of marine uses, and provision of usable open space accessible to the public. In addition, state law provides for density bonuses for senior housing and transit oriented development.

The DEIR fails to address, or even identify, the additional development that would be provided through density bonus. It is noted that the draft housing element fails to quantify how many dwelling units at what affordability levels will be provided through density bonuses, also. The draft general plan indicates that density bonuses would only be provided for developments exceeding a basic twenty percent inclusionary standard. However, as stated in Section 65915 of the California Government Code, a density bonus of twenty to thirty-five percent or equivalent concessions or incentives is to be provided. Is the City prepared to offer concessions and incentives in-lieu of the required density bonus? If so, these must be identified and discussed in the DEIR.

While the DEIR calls out nine areas for specific discussion, the DEIR also indicates that "other areas" may be subject to land use changes, but changes in these areas are not quantified. Further, although a table is presented which quantifies changes for the nine specific areas, the sum of the parts adds up to more development than the total presented in the DEIR. For example, Table 3-3 indicates that multi-family residential will increase from 30,159 units citywide under the existing general plan to 33,992 units citywide under the proposed plan, an increase of 3,833 units. Yet, when increases in each of the nine individual areas are added together, the total increase in multi-family units would be 5,796, not including any changes in allowable units elsewhere in the city.

Similarly, Table 3-3 shows that allowable office development city wide will decrease by 1.7



million square feet, dropping from 14,576, 930 square feet to 12,867,500 square feet. This is important because the DEIR indicates elsewhere that some impacts created by the increase in residential development would be offset by decreases in office use. However, when the changes in office development presented for each of the nine areas are added together, the decrease in office use totals only 1.4 million square feet.

7

Further, the numbers in Table 3-3 do not fully reflect the changes in land use designations. For example, the existing general plan allows office uses in the Hoag Hospital area to develop at a base FAR of .5 with a FAR of .75 allowed for low traffic generating uses. The proposed update would allow a FAR of 1.25, more than double the base FAR and two thirds greater than the allowable FAR for low traffic generating uses, yet the DEIR projects only about a thirty percent increase in square footage beyond that shown to be permitted under the exiting general plan.

8

As stated in *McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (202 Cal.App.3d 1136, 1143; 249 Cal.Rptr. 439), “An accurate project description is necessary for an intelligent evaluation of potential environmental effects of a proposed activity”. In setting aside the approval of an EIR by the City of Los Angeles for water development facilities in Inyo County, the court stated: “An accurate, stable and finite project description is the most basic and important factor in preparing a lawful EIR” (*County of Inyo v. City of Los Angeles* (71 Cal.App. 3d 193) [139 Cal.Rptr. 401]).

A vague or ambiguous project description will render all further analyses and determinations ineffectual. Thus, the EIR must be revised to reflect a stable, accurate and complete description of the proposed project with analyses reworked accordingly and recirculated.

The DEIR must use a stable baseline.

Section 15125 (a) of the Guidelines for Implementation of the California Environmental Quality Act (CEQA) provides that:

- (a) An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant...

9

Use of the term “normally” may be considered to provide discretion for the lead agency. Although the Notice of Preparation for the DEIR was issued January 2006, in this case the city has chosen to utilize a baseline of 2002 to represent the existing setting. However, the use of the baseline is not entirely consistent. The discussion of police services, for example, considers a 2005 staffing baseline. Parkland needs are based on 2005 figures.

Use of the 2002 retrospective baseline has created some degree of confusion for the preparers, complicated by the annexation of the Newport Coast area in 2002. An example would be Section 4.10, Population and Housing, which uses a housing baseline consisting of all housing existing in the planning area in 2002, whether or not the units were within the incorporated city at the time, but uses a population baseline of only those persons residing within the city boundary.

To calculate the population increase at general plan buildout, the DEIR multiplied the increase in housing units times persons per households. The increase in units is quite reasonably based on the 40,179 units existing in the entire planning area in 2002, although, as reported in State Department of Finance (DOF) Table E-5, Population and Housing Estimates, only 38,009 of these units were then located within the city limits. At that time, DOF estimated that 72,622 persons resided in the 38,009 units within the city.

The remainder of the 40,179 units existing in the planning area in 2002 (2,170 units) were within the unincorporated Newport Coast. This area was annexed in 2002. Accordingly, Table E-5 shows dwelling units within the city increasing substantially, to 41,590 with population increasing to 81,433.

Unfortunately, to calculate total future population, the DEIR does not consider the population residing in the 2,170 dwelling units existing in Newport Coast in 2002. Instead, the DEIR adds the population which would reside in the increase in housing units above the 40,179 existing within the 2002 city boundaries and Newport Coast to the 2002 population residing within the 2002 city boundaries alone. This eliminates the people residing in Newport Coast in 2002 from the population total for the planning area, now and in the future. Based on the 2.19 persons per unit figure used in the DEIR, this equates to approximately 4,750 people. This population underestimate affects other areas of analysis in the DEIR, particularly public services and utility use.

The DEIR must examine impacts outside the Newport Beach city boundary.

The DEIR presents only analyses of impacts within the City of Newport Beach. Although the Intersection Capacity Utilization (ICU) at Hospital Road and Newport Boulevard would increase by .29 and .26 in the am and pm peak hours respectively, no analysis is presented for intersections to the north along Newport Boulevard, including the highly congested intersection of Newport Boulevard and Seventeenth Street. Although the proposed plan calls for the construction of a bridge over the Santa Ana River at Nineteenth Street, the DEIR fails to even mention impacts on the cities of Costa Mesa or Huntington Beach, where the bridge and approaches would be located. Consideration of air pollution hot spots stops at the city border. Although the draft general plan document identifies a shortage of parkland in Newport Beach, a shortage which would be exacerbated by the large increase in population contemplated by the plan, no consideration is given to impacts on recreational facilities in other communities.

The city is reminded that “Effects of environmental abuse are not contained by political lines” (Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 118 Cal.Rptr. 249, 529 P.2d 1017). As stated in *Environmental Defense Fund, Inc. v. Coastside County Water Dist.*, 27 Cal.App.3d 695, 704--705, 104 Cal.Rptr. 197 :

'The preparation of the EIR demands thoughtful consideration of public interests transcending such necessary elements as always have been present... Those who prepare the EIR may not limit their vision by the boundaries of the district...

The DEIR must be revised to address impacts on the communities of Costa Mesa, Huntington Beach, and Irvine due to traffic, noise, air emissions, public service demand and other issues that may affect those communities.

The DEIR must consider cumulative growth outside the city boundary.

As stated in Section 15130 (b) in the Guidelines for the Implementation of CEQA:

The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:

(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or

(B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

The DEIR indicates that it relied on adopted areawide plans for assessment of cumulative impacts where such is provided. However, since the 2002 baseline, surrounding communities have approved development beyond that contained in planning programs in place in 2002. These include the Westside Revitalization Plan and 1901 Newport Boulevard projects in Costa Mesa, Pacific City in Huntington Beach, and increased development in the Irvine Business Complex. The City of Newport Beach was aware of and commented on several of these. In any case, very little information is provided regarding regional or areawide conditions nor is a location for review of relevant documents identified.

The DEIR improperly takes a comparative/ratio approach rather than a combined/compound approach to cumulative impacts.

In some cases the DEIR limits consideration of cumulative impacts to only the planning area, but in others, the DEIR considers the county as a whole or even the entire Southern California Association of Governments (SCAG) region. The DEIR dismisses the significance of cumulative impacts in a number of cases, such as increased runoff and population growth, on the basis that the City would make only a very small contribution to the cumulative impact, since "Newport Beach represents less than one percent of total population growth." However, this comparative/ratio approach is clearly not consistent with either the letter or the spirit of Section 21083(b), which states:

a project may have a "significant effect on the environment" if any of the following conditions exist...

(2) The possible effects of a project are individually limited but cumulatively considerable. As used in this paragraph, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

11

12

As stated in Section 15355(b) of the Guidelines for the Implementation of CEQA, cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

The rationale for considering cumulative impacts in combination is well summed up in *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692. In *Kings County*:

The EIR's analysis uses the magnitude of the current ozone problem in the air basin in order to trivialize the project's impact. In simple terms, the EIR reasons the air is already bad, so even though emissions from the project will make it worse, the impact is insignificant.

The point is not that, in terms of ozone levels, the proposed Hanford project will result in the ultimate collapse of the environment into which it is to be placed. The significance of an activity depends upon the setting. (Guidelines, § 15064, subd. (b).) The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin...

Appellants... contend in assessing significance the EIR focuses upon the ratio between the project's impacts and the overall problem, **contrary to the intent of CEQA.** [emphasis added]

12

The court then quoted Selmi's *Judicial Development of CEQA* as follows:

"One of the most important environmental lessons evident from past experience is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant, assuming threatening dimensions only when considered in light of the other sources with which they interact... This judicial concern often is reinforced by the results of cumulative environmental analysis; the outcome may appear startling once the nature of the cumulative impact problem has been grasped." (*Selmi, Judicial Development of CEQA* (1984) 18 U.C. Davis L.Rev. 197, 244, fn. omitted.)

The court continued:

We agree with the foregoing assessment of a cumulative impacts analysis. We find the analysis used in the EIR and urged by GWF avoids analyzing the severity of the problem... Under GWF's "ratio" theory, the greater the overall problem, the less significance a project has in a cumulative impacts analysis. We conclude the standard for a cumulative impacts analysis is defined by the use of the term "collectively significant" in Guidelines section 15355 and the analysis must assess the collective or combined effect of ... development.

Likewise in *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019 the court stated:

... the relevant issue to be addressed... is not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered significant in light of the serious nature of the traffic noise problem already existing

It is not enough that impacts are minimized in an individual project or plan. Even if the impacts of a project or plan have been mitigated to a level of insignificance, a significant cumulative effect may still occur. To assume otherwise is “at odds with the concept of cumulative effect”, as stated in *Environmental Protection Information Center, Inc. v. Johnson* (1985) 170 Cal.App.3d 604:

CDF ... stated that... operations in general had to substantially lessen significant adverse impacts on the environment, and closed with this comment: ‘To address the cumulative effect issue the Department has taken the tact [sic] that if the adverse effects are minimized to the maximum on each individual operation, then the total effect in the surrounding area will also be minimized to an acceptable level.’

This statement is at odds with the concept of cumulative effect, which assesses cumulative damage as a whole greater than the sum of its parts... Such impacts may be of past, present or future existence. (Ibid.)

The DEIR improperly concludes that future impacts will be fully mitigated due to future environmental documentation.

The DEIR asserts in many cases that no impacts will occur do to future development allowed or necessitated by the proposed plan because future environmental review would be required pursuant to CEQA. Examples are potentially significant impacts due to housing development and public service facilities. However, the City and preparers well know that preparation of an EIR provides not guarantee that all impacts will be avoided or mitigated to a level of insignificance. Page 1-7 of the DEIR acknowledges as much and explains the process for adoption of a Statement of Overriding Considerations in order to allow approval of a project which would create significant impacts.

In addition, there is no guarantee that additional environmental review would ever occur. In many circumstances, CEQA (Pubic Resources Code 21159.24) exempts infill residential projects from further environmental review if CEQA review was previously completed for a community-level plan.

Specific Flaws in the DEIR

In addition to the essential systemic flaws discussed above, we have the comments and questions below on how specific information in the DEIR is presented. Each of these items are themselves, though, so basic that each must be addressed in order for the DEIR to be considered legally adequate and to provide decision makers and the public with the information needed to evaluate the proposed project and its impacts

12

13

Project Description and Summary

1. Page 2-2 and 3-17 indicate that development outside the nine subareas would retain the “basic land use character” of existing uses” and remain “relatively unchanged”. “Relative” to what? The DEIR must identify all changes in land use provided under the proposed general plan update, including acreage affected, square footage involved, and maps showing proposed land uses. 14
2. What land use intensification would result “throughout the city” per Page 2-3? Where? How much? 15
3. How many units would be eliminated or added at the 15th street/ Irvine site? How many acres would be affected? 16
4. How much office space would be eliminated at the old Mariners Medical/Dover Drive site? How many dwelling units would be provided? How many acres would be affected? 17
5. How many acres is the Caltrans remnant at SR73 and MacArthur? How many square feet of commercial development would be accommodated? Can safe access be easily taken to this site? 18
6. How many dwelling units would be provided at the former child care site at San Miguel? 19
7. How many additional units, if any, would be provided at the senior housing/church site at Pacific View? 20
8. Table 2-1 indicates that an additional 120 acres of parks will be provided. Where will these be located? Where are they mapped? 21
9. How will the proposed general plan update, which allows massive new construction, provide effective means of complying with Charter Section 423, Protection from Traffic and Density? 22
10. What changes in state law is the update intended to address? Specifically where and how in the draft document are the changes addressed? 23
11. How are “underperforming” properties defined? 24
12. Table 3-2 presents citywide acreage of existing land uses. What will be the citywide acreage of uses under the adopted and proposed general plans? 25
13. As noted above, the numbers in Table 3-3 contain certain anomalies. All numbers in Table 3-3 must be verified and corrected or clarified. 26
14. Will changes in development outside the nine specific areas balance apparent anomalies? If so, the changes must be identified both as to specific location and square footage of use. 27
15. Increased development in other areas of the city, outside the nine areas discussed at length must be identified, by use, square footage and area. 28
16. How will the plan address properties rendered nonconforming by the proposed update? 29

17. As stated in Policy LU 4.1:

The densities/Intensities of development are intended to convey maximum and, in some cases, minimums that may be permitted on any parcel within the designation...

Does this mean that some property owners will be required to expand development which is under the minimum? Would permits be denied for buildings that are too small? How many additional square feet of mandatory minimum development would occur on properties that are not currently built to the minimum?

Aesthetics and Visual Quality

1. The maps of coastal views do not include the Newport Coast area. Views from this area must be mapped along with those for the rest of the City.

2. The following viewpoints have been included in previous City documents as important viewpoints, but are not identified in the DEIR as viewpoints:

- Constellation near Santiago
- N Street/channel Road
- Eastbluff Park
- Promontory Point East
- 10th Street beach
- 19th Street beach
- Promontory Bay at Harbor Island Drive
- Promontory Bay at Bayside Drive
- Entrance to Balboa Island
- Beach and bay street ends

Are these areas no longer considered scenic? Have views degraded?

3. Thresholds of significance should include shade and shadowing of surrounding areas. As increased building intensity and height is contemplated this issue is of increasing concern and must be addressed in the DEIR.

4. How can Policy NR 22.1 be said to protect views of the water when it specifically suggests amending the Shoreline Height Limitation Zone to allow increased height?

5. How would increased building height adjacent to the bluffs affect views of the bluffs?

6. How will the bluffs themselves be affected? Will they be modified? At what locations?

30

31

32

33

34

35

36

7. What part of Policy LU 6.19.9 requires that views be unobstructed? On the contrary, it appears to allow obstruction of major portions of views so long as “view corridors” are maintained. This is a significant impact that must be addressed. 37
8. What will be the minimum width for view corridors? On average, what percent of a lot would be maintained as a view corridor? How much view obstruction would be permitted? 38
9. The proposed land use intensities would most likely require the construction of parking structures in many areas. Unlike parking structures, surface parking often includes landscaped edges and interior tree wells/landscaping and can offer open space relief or opportunities for views across unoccupied spaces to scenic areas beyond. This is a potentially significant impact that must be addressed. 39
10. Is it the intention to replace “underperforming” residential development with McMansions? Page 4.1-17 seems to suggest this, which is a significant impact that must be addressed. 40
11. It appears that proposed policies for West Coast Highway would likely result in higher commercial intensities, construction of parking structures, placement of buildings away from the highway and closer to residences. Impacts on the residents must be addressed, including increased shade and shadow. 41
12. The DEIR must address the impact of increased numbers of structures along Newport Center Drive. How will a “walled off” feeling be avoided for those driving on the roadway? Will there be more parking structures at Newport Center? 42
13. The impact of increased building height in the Hoag Hospital area must be addressed, including scale, views, light, glare, and shadowing. 43
14. Will existing landscape setbacks and other open areas in the airport area be maintained or will they be converted to residential development or parking structures? How can open space in the area be maintained if development proceeds at the intensities proposed and with the provision of adequate parking? What building heights are contemplated? 44
15. Is the city committed to saving all the bluffs and landforms discussed in the DEIR? If not, the impacts of altering these landforms must be addressed. 45
16. What bluff setback will be required at Banning Ranch, if development eventually proceeds? 46
17. Policy 5.5.2 does not prohibit use of reflective surface materials as stated in the DEIR, only materials which would raise local temperatures or affect wind patterns. If the policy is not revised to prohibit use of reflective glass, then reflected glare could create a significant impact which must be addressed. This would include impacts on drivers on local roadways and impacts on avifauna in addition to purely aesthetic impacts. 47
18. While the DEIR indicates that certain policies will ensure a visually pleasing environment, the policies are, to a large extent, statements of aspiration as opposed to mandates for future action. The City of Newport Beach has no design review board. How will the City “encourage” the desired end stated in policies regarding visual character? 48

19. The visual affect of night lighting higher structures must be addressed both in terms of light spillage and overall aesthetic character of an area. Of particular concern would impacts in areas which do not now have streetlights and which have actively resisted installation of streetlights such as Newport Heights which could be negatively affected by night lighting in the Hag Hospital area as well as Mariners Mile.

49

20. The DEIR repeatedly notes the unique character and visual scale of Newport Beach, which is one of the things that makes the city highly desirable as a place to live and for tourists to visit as opposed to, say, Marina del Rey. How can the proposed intensification of uses in the beach and harbor areas at locations such as Mariners Mile and Cannery Village proceed without destroying that unique character?

50

Air Quality

1. The DEIR must address potential impacts outside the City of Newport Beach, particularly along major traffic corridors. The potential for carbon monoxide hot spots at locations along such corridors as Newport Boulevard in Costa Mesa and Campus Drive, Jamboree, and Macarthur in Irvine must be examined both in terms of the proposed project alone and its contribution to cumulative impacts in these areas.

51

2. Although air quality in Orange County is generally fairly good, air quality is somewhat degraded along some of the major data regional transportation corridors. Data maintained by the South Coast Air Quality Management District indicate that excess cancer risk due to air pollution is in the 1,250 to 1,500 range per one million population for the area where the Newport Freeway, San Diego Freeway, and San Joaquin Hills Transportation Corridor meet. The DEIR must examine how project generated traffic may contribute to the total, either on a project or cumulative basis with growth in other communities.

52

3. What other growth in the area not accounted for in AQMP projections would contribute to the cumulative impacts on air quality.

53

Biological Resources

1. Dune habitat is an important habitat that should be discussed as part of the environmental setting. In addition to dune habitat at Peninsula Point, the DEIR should identify dune habitat to be restored in West Newport under order of the California Coastal Commission.

54

2. The DEIR section on Cultural Resources (4.4) provides a listing of relevant Local Coastal Program policies as part of the local regulatory framework. Such a listing would be helpful in DEIR Section 4.3, Biological Resources.

55

3. It should be noted that the Local Coastal Program indicates that ESAs provide “preliminary mapping of areas containing potential ESHAs”. This does not exclude from consideration and review other, previously overlooked, areas that may contain sensitive resources. The impacts of using an alternate definition in the proposed general plan should be examined, specifically the implication that no investigation of potential resources would be pursued in other areas, even if evidence were submitted or a fair argument were made that resources might exist on a development site elsewhere.

56

4. Inasmuch as policy NR 10.3 protects resources only in “identified ESAs”, how would other, previously overlooked resources be protected and impacts mitigated? The general plan must not close the door to preservation of other potentially valuable resources. 57
5. The DEIR must address potential affects on other biological resources of potential value including but not limited to Cliff Drive Park west side (Avon Street Wetlands), Castaways Park wetlands along Dover Drive, Castaways Park CSS established as part of park restoration, Bayview Landing (now Back Bay View Park), Jamboree/MacArthur Intersection, Bonita Creek, and Newport Center Park. 58
6. Policies in the proposed general plan update would allow additional docks and other structures over open coastal waters (NR 14.5). The policy requires only that visual effects be addressed, not impacts on the marine environment. The DEIR must examine the impact of the additional docks and loss of open water, with special attention to loss of light. 59
7. The DEIR must examine the effect of even minor night lighting biological resources, including pelagic species. The preparers are referred to *Ecological Consequences of Artificial Night Lighting* by Travis Longcore and Catherine Rich. 60
8. Policies in the Safety Element would allow additional seawalls and protective devices. The DEIR must examine the impacts of the proposed structures as well as alternatives such as increased setbacks. It is suggested that policies limit shoreline protective devices to those needed to protect development existing at the effective date of the proposed Safety Element, should it be adopted. 61
9. The proposed general plan update would allow the placement of public buildings in public open space under certain conditions (NR 17.2). The impact of any such construction must be examined. 62
10. The DEIR indicates that development would be precluded on “most” sites containing riparian resources. Where would it not be precluded? With what impact? 63
11. It should be noted that resource protection policies are also contained in the adopted Land Use Element and Recreation and Open Space Element. Thus, noncoastal resources are not unprotected, as represented in the DEIR. 64
12. The threshold to be discussed Section 4.3-2 addresses riparian and “*other sensitive communities*”. However, the DEIR addresses only riparian communities. Potential impacts on other sensitive communities must be addressed. 65
13. Impacts on wetlands may occur due to sedimentation and polluted runoff. This must be addressed in the DEIR. 66
14. As noted in the DEIR: 67

Because rare natural communities do not need to be formally listed as threatened or endangered under any state or federal regulations to be considered ‘sensitive’, **the proposed General Plan Update and future**

projects within the County would not prohibit development within areas that contain sensitive natural communities. [emphasis added]

On this basis, how can it be concluded that no significant impacts to resources would occur?

- 15. The Technical Background Report discusses many aspects of habitat value, but then appears to assign habitat ranking purely on the basis of whether or not a permit would be required from resource agencies. The DEIR must discuss implications for species and habitat which has high value but no official status, possibly even because of the large backlog of species not yet reviewed. 68
- 16. As noted in the DEIR, wildlife species make considerable use of non-native grasslands for forage, due to the loss of most native grasslands. These areas are not protected under the proposed general plan update. Impacts of loss of grassland on wildlife must be addressed in the DEIR. 69
- 17. The DEIR must address impacts on biological resources in the area of the Nineteenth Street Bridge which the proposed general plan policies actively support. Resources include the wetlands restoration area adjacent to the Santa Ana River, *Salicornia* marsh/Belding’s savannah sparrow habitat existing in the proposed roadway alignment, willow habitat in the roadway area. The DEIR must also address the reduction in habitat value due to loss of connectivity between habitat areas north and south of the proposed roadway. 70
- 18. Under what criteria was it determined whether or not the project would make a “considerable” contribution to countywide impacts on biological resources? 71
- 19. The discussion of cumulative impacts makes vague reference to development in other areas of Orange County. What areas and what development does this address? 72
- 20. Based on the above, evidence does not exist to support a conclusion that no significant impacts to biological resources would occur. 73

Cultural Resources

The DEIR considers impacts on archaeological and paleontological resources to be less than significant with implementation of proposed general plan policy. However, unless proper curation and storage of artifacts is required, impacts may occur. This has proven to be a problem in Orange County. 74

Geology, Soils, and Mineral Resources

- 1. It would be helpful if the discussion of local faulting and ground rupture in the Hazards Assessment Study included in the Technical Background Report, were summarized in the text of Section 4.5. 75
- 2. The DEIR states that no impacts would occur under the following threshold:

Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake 76

Fault Zoning Map issues by the State Geologist for the area *or based on other substantial evidence of a known fault?*

76

The DEIR limits its discussion only to formal Alquist-Priolo special studies areas, ignoring other substantial evidence in its own Technical Background Report. As stated in the Hazards Assessment Study:

Converse Consultants (1994) found a small fault, the West Mesa fault, near the western terminus of West 16th Street... The West Mesa fault trends between 5 and 30 degrees west of north, and is interpreted to have moved in the last 11,000 years, making it active.... Earth Consultants International (1997) did find another small active fault about 600 feet to the south of the Converse study ... Further, in reviewing previous work in the Newport Mesa area, Earth Consultants International (1997) concluded that a narrow fault zone mapped by The Earth Technology Corporation (1986) was not conclusively shown to be inactive... several inches of ground offset could cause severe damage to overlying structures...

The DEIR must discuss the above threshold in the light of the above material.

3. The TBR goes on to recommend the following policy:

It is herein recommended that a “fault disclosure zone” be placed along the area between the mapped alignments of the North and South branches of the Newport-Inglewood fault, in the area where recent studies suggest that the recently active traces of the fault are located. The purpose of this fault disclosure zone is to make the public aware of the potential hazard.

77

Why was this policy not included in the Safety Element of the proposed general plan? The DEIR must address this proposal and implications of ignoring this recommendation.

4. The Hazards Assessment Study in the TBR recommends that the City conduct an inventory of potentially hazardous structures, such as concrete tilt-ups, pre 1971-reinforced masonry, soft-story buildings, and pre-1952 wood-frame buildings. As stated in the study:

78

Most damage in the City is expected to be to wood-frame residential structures, which amount to more than 57 percent of the building stock in the City. Two of the earthquake scenarios modeled for this study suggest that as much as 65 percent of the residential buildings in the City will experience at least some damage.

While the earthquake hazard mitigation improvements associated with the 1997 UBC address new construction, the retrofit and strengthening of existing structures requires the adoption of ordinances. The City of Newport Beach has adopted an ordinance aimed at retrofitting unreinforced masonry buildings (URMs). Similar ordinances can be adopted for the voluntary or mandatory strengthening of wood-frame residential buildings, pre-cast concrete buildings, and soft-story structures, among others. Although retrofitted

buildings may still incur severe damage during an earthquake, their mitigation results in a substantial reduction of casualties by preventing collapse.

In light of the above information, and the absence of the above recommendations in the proposed Safety Element or anywhere else in the proposed general plan, how can it be stated in the DEIR that people or structures would not be exposed to adverse effects involving strong seismic ground shaking?

5. On what basis can the DEIR make the statement that “Compliance with Policies S 4.4 and S 4.6 would ensure that development is not located on unstable soils or geologic units”, when Policies S 4.4 and S 4.6 apply only to essential facilities and no other development? 79
6. In light of the liquefaction hazards identified in the DEIR for the lowland areas adjacent to the Santa Ana River and the potential for ground rupture identified in the DEIR for the west part of the mesa, is construction of a bridge at Nineteenth Street a practical option? The DEIR must examine how construction of the proposed roadway could increase people’s exposure to geologic hazards. 80
7. Based on the above, evidence does not exist to support a conclusion that no significant impacts related to geology and soils would occur. 81

Hazards and Hazardous Material

The DEIR must address how increased traffic congestion, including additional intersection functioning at level of service E or worse, would affect emergency response. This would be of particular concern for areas with limited access, such as the Peninsula. Absent this information, evidence does not exist to support a conclusion that no significant impacts to biological resources would occur. 82

Hydrology and Water Quality

1. The DEIR indicates that deficiencies in the City’s storm drain facilities exist. These must be identified and mapped. 83
2. As stated in the Hazard Assessment:

Sea level rise due to climate warming is expected to amplify coastal hazards such as storm surges, beach erosion, loss of wetlands, and degradation of fresh water quality due to seawater intrusion. A sea level rise of as little as 15 cm (6 inches) could negatively impact the Newport Beach area by flooding and eroding the narrow beaches south of the jetty area, which would result in increased erosion of the bluffs...Based on the historical records from the two gauges closest to Newport Beach, in Los Angeles and San Diego, a 15-cm rise in sea level in the Newport Beach area may take anywhere between 70 and 180 years, assuming that global warming does not accelerate in the next few decades... sea level rise would lead to the permanent inundation of low-lying areas, with potentially significant changes in land use, so it is not too soon to develop longer-term strategies that can be implemented to cope with these changes...To better constrain the trend in relative sea level change and

84

predict sea level rise in the Newport Beach area, long-term sea-level gauges should be installed and operated on a continuous basis. These measuring devices should also measure tide variations, storm surges and other temporary changes in sea level that occur in response to weather conditions. All data recorded with these gauges should be archived in a format that can be easily retrieved for studies and monitoring of sea-level rise, and to evaluate the impact from storm surge and other coast flooding events. Better predictions of local sea level rise should be developed as these data are obtained.

84

The DEIR must examine hazards due to rising sea level. Further, the DEIR must address the absence of the above recommendation or other means of addressing rising sea levels in the proposed Safety Element and elsewhere in the proposed general plan.

2. The DEIR must examine how development under the proposed plan would affect the ability of the City to comply with adopted TMDLs. Issues to be examined include current pollution loads and sources and any increases.
3. Because Upper Newport Bay has been identified as an impaired water body, any increase in criteria pollutants would be considered significant. The DEIR lists a number of measures that can be taken as Best Management Practices (BMPs). However, none of the measures listed are one hundred percent effective in removing all pollutants. How, then, can the DEIR conclude that no impact will occur?
4. Mitigation must be required through the application of Best Available Technologies rather than BMPs. BATs are also less than one hundred percent effective, but are more effective than BMPs.
5. How will fertilizers and pesticides from development or parks at Banning Ranch be kept out of Semeniuk Slough?
6. The Orange County Groundwater Basin is subject to saltwater intrusion due to groundwater overdraft. How, then, can the DEIR state that groundwater supplies will meet projected demand? If county water users are already consuming more water than can be replaced, how can additional, water-consuming growth continue without impacts?
7. What level of continued annual groundwater pumping is sustainable for the basin over the long term?
8. How much groundwater is pumped annually in the basin?
9. How much will the demand for groundwater increase as a result of implementation of the proposed general plan?
10. Increased land use intensities could lead to greater lot coverage and less on-site open space. New impervious surfaces will be created by the construction of buildings, parking structures, and, in the airport area, new streets. The DEIR must examine how this could affect drainage and flooding.

85
86
87
88
89
90
91
92
93

11. The DEIR must quantify anticipated increases in storm drainage and examine the ability of drains and pumps to handle any increased runoff. 94
12. The DEIR must identify any need for expanded storm drainage facilities that would occur as a result of the proposed project alone or cumulatively with other development in the watershed. 95
13. To ensure that drainage impacts do not occur, it is suggested that the City adopt a maximum lot coverage standard for impervious surfaces. 96
14. Would additional water storage facilities be required in the city to serve new development? What hazard would such facilities present? 97
15. The discussion under Impact 4.7-9 appears intended to address the following threshold: Would the proposed project expose people or structures to a significant risk or loss, injury, or death involving flooding, including [but not limited to] flooding as a result of a levee or dam? DEIR limits discussion to levee or dam failure. The DEIR must examine impacts associated with other potential flooding identified in the TBR, including storm surges. 98
16. It is noted that, while maintaining storm drains is important, storm drains are of limited effectiveness in preventing flooding in low lying areas due to ocean related flood incidents such as storm surges or tsunamis. Storm drains flow to the ocean, so if flood hazards relate to rising water in the ocean, water in the storm drains will rise with the ocean. For this reason the storm drains are equipped with tidal gates. If they did not close, water would come up through the storm drains in addition to coming over sea walls and dunes. 99
17. What other new development is anticipated to occur in the watershed which would contribute to impacts on water quality? 100
18. The DEIR indicates that degradation of water quality would be minimized but not completely prevented. This being the case, and in light of the sensitive and already impaired nature of the bay, how can it be stated that no significant cumulative impact will occur? 101
19. What is the effectiveness, in percent of pollutants/contaminants removed, for the control measures cited? What concentration of pollutants/contaminants will remain? What is the cumulative load anticipated over the watershed? What quantified level of pollutant/contaminant is not significant? Will the measures cited result in pollution/contamination below that level? 102
20. The Orange County Water District has been pursuing a groundwater recharge program since the 1970s. This has included use of retention basins upstream for infiltration to groundwater and injection of treated wastewater into the water table. Yet, saltwater intrusion has increased over the years. On what basis is it then assumed that the GRS will be adequate to compensate for increased use of groundwater by the increased development permitted under the proposed plan? The DEIR must discuss and map saltwater intrusion levels over time, identify and quantify groundwater overdraft, and quantify any increased pumping by the proposed project and by other cumulative growth. 103

- 21. The DEIR must identify the capacity of regional/county storm drains serving the planning area; identify, quantify, and map any deficiencies; and quantify any increased contribution to runoff from development under the proposed general plan. Absent such an analysis, it is impossible to make any conclusions regarding significance of impacts. 104
- 22. The appropriate geographic areas for examining impacts on storm drainage would be the watershed/drainage basin, many of which are fairly small, not the entire county. 105
- 23. Based on the above, evidence does not exist to support a conclusion that no significant impacts related to hydrology and water quality would occur. 106

Land Use and Planning

- 1. Why is consolidation of commercial development in West Newport and Balboa encouraged in order to minimize conflicts while new areas of mixed use are encouraged elsewhere under the proposed plan? 107
- 2. The DEIR indicates that certain areas will be designated for single family residential uses, but the March 27 draft of the general plan currently out for review contains no such designation. This must be resolved. 108
- 3. In accordance with Section 15125(d) of the CEQA Guidelines:
 - The EIR shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans. 109

This section does not require that an EIR discuss consistencies or evaluate whether a project “generally”, on balance, is consistent with many, or even most, of the policies in a plan. The section mandates that *inconsistencies* be discussed. In that light, it must be found that an inconsistency exists between the proposed plan and the SCAG Regional Comprehensive Plan.

- 4. Without any investigation, the DEIR assumes that other communities will comply with all regional planning efforts, and therefore no cumulative impacts would occur. The city of Newport Beach intends to amend its general plan to significantly exceed growth anticipated in both the SCAG Regional Comprehensive Plan and SCAQMD planning. Why does it assume that other cities will not do the same? 110
- 5. Based on the above, evidence does not exist to support a conclusion that no significant impacts to land use would occur. 111

Noise

- 1. Do noise contours reflect any cumulative affects of traffic noise and aircraft noise combined? 112
- 2. The DEIR indicates that construction noise may reach levels over 100 dBA for an individual piece of construction equipment, but concludes that this level of noise would create no significant impact simply because construction noise is not regulated deuring normal construction hours. This is not rational. Noise levels of 90 and 100 dBA are clearly 113

disturbing and may even cause physical discomfort for some. Simply because levels of construction noise are not illegal, it does not mean that the noise will not result in very real and significant impacts on persons living and working nearby. The DEIR must address significance in terms of actual disturbance/discomfort for people living and working in the area.

113

The City of Newport Beach has gone to considerable trouble and expense to limit aircraft noise at John Wayne Airport, noise which is legally occurring. Does the City now maintain that any level of noise is acceptable if it is declared "legal". If noise levels of 150 dBA were declared legal would that make it less than significant?

3. Will dwelling units in the airport area have outdoor patios and/or balconies? The DEIR must discuss noise levels in outdoor living spaces.

114

4. The DEIR must examine increased noise on roadways outside the city which would sustain increased traffic from development under the proposed general plan.

115

5. Do noise levels on Dover Drive reflect any increase in traffic due to through trips to the proposed Nineteenth Street bridge via Dover to Mariners Drive/Seventeenth Street?

116

6. The DEIR must address impacts due to increased traffic on Nineteenth Street if the proposed bridge were to be built.

117

Population and Housing

1. As noted previously, the calculations of total future population fail to include persons residing in Newport Coast prior to annexation.

118

2. How will the proposed plan affect jobs housing balance both in terms of existing conditions and the adopted general plan?

119

3. The DEIR and general plan have emphasized the provision of mixed use to provide opportunities to reside close to employment. In that light, the DEIR must examine anticipated employment and income levels versus anticipated costs of the housing to be provided.

120

4. It is noted that future office development would be reduced from that anticipated under the existing general plan while retail commercial would increase. The DEIR must examine how that will affect work force demographics and income.

121

Public Services

1. The use of the thresholds listed in Appendix G to the CEQA Guidelines is by no means mandatory. In fact, the Office of Planning and Research (OPR) encourages the development of local thresholds reflecting local conditions and values. Be that as it may, the city has chosen to utilize the thresholds and standards provided as an example in Appendix G to the CEQA Guidelines. Among these is XIII a):

122

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need

for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Listed services include police protection, fire protection, and schools. The DEIR indicates that additional facilities will be needed.

The DEIR then disingenuously states that the new facilities will have no significant impacts because they would be subject to CEQA, even though Page 1-7 of the DEIR explains the process for adoption of a Statement of Overriding Considerations and for approval of a project which would create significant impacts. Thus, absent further analysis, it cannot be stated that impacts associated with provision of adequate fire, police and school services would be less than significant.

2. As stated in the DEIR, Nbfd's ability to support the needs of future growth is dependent on its ability to secure sites for construction and equipment for new fire stations in a timely manner. The DEIR then blithely concludes that there will be no problem in that regard because of general plan policies requiring coordination of growth and infrastructure. No sites for fire stations are identified, nor are criteria for a new site identified. We are simply assured that a site will be available. This is unacceptable. Absent a more specific identification of potential new fire services or a cap on development until such can be provided, impacts on fire services could be significant. 123
3. The DEIR indicates a need for additional police officers, creating a need for expanded police facilities. The DEIR then concludes that this is not a significant impact, even though it is not even known if the needed facilities can be accommodated on the existing police station site. Absent further analysis, it cannot be stated that impacts would be less than significant. 124
4. The DEIR must address how the proposed project would affect emergency response times, both in terms of increased demand and increased congestion. 125
5. The DEIR indicates that residential development in the Airport area would generate students in the Santa Ana Unified School District service area. The DEIR then states that "the enrollment capacity and operating conditions of SAUSD are unknown". Wasn't SAUSD contacted for this study? If there was no response to initial contacts what sort of follow up was made? 126
6. The DEIR indicates that new students generated to the Newport Mesa Unified School District could potentially exceed capacity and that capacity at SAUSD is unknown. The DEIR then nonchalantly concludes, without any further analysis, that no significant impacts to schools will occur because general plan policies will accommodate and allow new schools, although the city has identified no means by which any needed facilities would actually be provided nor has the DEIR even quantified potential deficiencies. Absent further analysis, there is no basis for a conclusion that impacts would be less than significant. 127

Recreation and Open Space

1. The DEIR states that the City’s park dedication ordinance requires dedication of parkland or payment of in-lieu fees in conjunction with the approval of new residential development. This misstates the ordinance, which is part of the City’s Subdivision Code. As currently posted on the Newport Beach web site, Section 19.52.020(a) indicates that it is applicable to residential subdivisions. Residential development which does not involve a subdivision, such as construction of apartments on a previously subdivided lot, would not be subject to park dedication requirements.
2. The DEIR notes an existing deficiency of 38.8 acres of parkland in the City if a five acres per thousand population standard is to be maintained. The existing ratio of parkland to population is thus less than five acres per thousand. In accordance with Section 66477(a)(2):

...the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide three acres of park area per 1,000 persons residing within a subdivision subject to this section, unless the amount of existing neighborhood and community park area, as calculated pursuant to this subdivision, exceeds that limit, in which case the legislative body may adopt the calculated amount as a higher standard...

Thus, if the park dedication requirement exceeds three acres of parkland per thousand population, a city may not require establish a higher standard for land dedication than is already being provided within that city. How then, does the City of Newport Beach propose to require dedication of five acres of parkland per thousand population when that is not currently provided?

2. The DEIR and proposed general plan update identify three sites for acquisition of additional parkland. The combined total appears to be barely adequate to meet existing deficiencies. The DEIR projects that population will increase by approximately 31,000 upon buildout of the proposed plan, generating a need for 155 acres of parkland, based on the five acre per thousand standard in the DEIR and general plan. Where will this be provided? Except for Banning Ranch, which has been identified as a potential site for a thirty acre park, the City of Newport Beach does not have 155 vacant acres. The park dedication ordinance does not require land dedication for development on smaller sites, so where will the land come from?
3. The DEIR indicates that new students to be generated to NMUSD could exceed capacity. Many school sites in NMUSD already contain portable buildings. The DEIR must examine the potential that additional portable classrooms will be needed, thereby reducing land available for recreation on school grounds.
4. The DEIR must examine how policies allowing park dedication credit for private open space would reduce the ratio of public park land to population and thereby reduce the allowable park dedication requirement in accordance with Government Code Section 66477.
5. Youth sports teams dominated by Newport Beach residents currently make heavy use of fields in Costa Mesa. The DEIR must examine how parks in neighboring cities will be affected by the large increase in population provided under the proposed plan.

- 6. The DEIR must address increased pressure to establish ball fields in existing nature oriented parks dedicated to passive recreation, such as Fairview Park in Costa Mesa. 134
- 7. The DEIR must address what proportion of new residential development will involve resubdivision, thereby generating park land dedication or fees versus the proportion of residential growth which will not involve subdivisions and generate no dedication or fees. 135
- 8. The DEIR indicates that park dedication fees can be used to upgrade existing parks in response to increased demand. How will this use of fees affect the City's ability to pay for more parkland? 136
- 9. The DEIR indicates that no significant impacts to parks will occur due to the requirement for dedication of land or payment of fees. However, the DEIR fails to identify the proportion of new residential development that will actually be required to pay the fee or identify even a small portion of the land that would be needed to serve over thirty thousand residents. Without this information, it is impossible to conclude that no significant impacts on parks would occur. 137

Transportation/Traffic

- 1. The DEIR fails to examine traffic impacts outside the city limits, despite large increased in Intersection Capacity Utilization (ICU) at intersections of streets leading to the city boundary. This is unacceptable. The DEIR must examine impacts on all affected intersections, whether or not they are located within the City. 138
- 2. The DEIR must examine impacts on potentially affected freeway ramps, whether or not they are located within the City. This would include ramps to access the I 405 at MacArthur. 139
- 3. Considering the presence of sensitive biological resources, geotechnical constraints, huge cost, engineering constraints due to the short distance between the high top of the levee and Brookhurst Street, opposition of neighboring cities holding the right of way, and the need to gain approval of numerous public agencies, including the Army Corps of Engineers which owns the river channel, how can construction of a bridge at Nineteenth Street not be deemed uncertain? 140
- 4. Alternate means of providing acceptable levels of traffic flow have been identified as part of the Santa Ana River Crossings Study (SARX). How would adoption of the proposed plan affect the ability to implement this alternate strategy in an effective manner? 141
- 5. What is the margin of error of field studies conducted? 142
- 6. What is the margin of error for traffic analysis and modeling. 143
- 7. The text of DEIR Section 4.13 presents optimistic conclusions regarding reduction of traffic generation due to mixed use. However, Appendix U to the Traffic Study contained in Appendix D to the DEIR, titled Mixed Use Trip Generation Information, an Institute of Traffic Engineers (ITE) study which examined a number of mixed use developments, states the following: 144

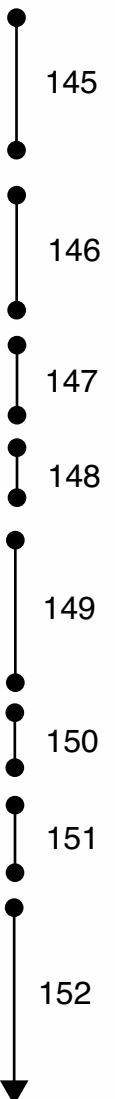
Internal or captured trips can be a significant factor in the travel patterns at multi-use developments; however, very few studies have been conducted to quantify this phenomenon. Because of the very limited data base, it is not reasonable to draw conclusions regarding the specific value of capture rates or allowable reductions in trips to account for internal trips.

The document, an ITE study, states further:

Use of existing ITE trip rates or equations to calculate the base on which to derive capture rates is inherently incorrect. The assumption is made that the individual land uses within the site being studied are “average,” and thus the ITE rates of equations accurately calculate the individual land use trips. The correct way to develop a capture rate is to actually count the individual land use trips and compare them with a count of external trips at the site.

Based on the above, the mixed use “capture” rates utilized in traffic modeling for the DEIR appear not conservative, as represented in the DEIR, but possibly reckless. The DEIR must present results of traffic modeling without trip reductions assumed for mixed use facilities.

8. The DEIR also indicates that reduced trip rates were utilized for “high rise” residential, based on projects elsewhere. Where were these projects located? Was well developed mass transit available? Were these projects in mixed use developments where some of the reduction could be attributed to mixed use instead?
9. Where was the reduced “high rise” residential trip generation rate applied? How high would the future high rises be? Have any areas “double dipped” in reductions of trip generation rates for mixed use and high rise construction?
10. The DEIR must present results of traffic modeling with trip generation rates typically used and verified for high density residential uses in the area.
11. Did modeling in the DEIR assume any trip reduction due to implementation of TDMs? Where? Were TDMs included in existing conditions?
12. The DEIR indicates that although growth will result in failure of numerous intersections, impacts are insignificant, because roadways can be expanded to accommodate the additional traffic. Why, then, is it suggested that the Traffic Phasing Ordinance be amended to allow development to cause intersections to function at less than Level of Service D?
13. What is the anticipated cost of the listed circulation improvements needed? How will it be financed?
14. Would additional rights of way be required to implement any of the listed improvements? With what impacts on land use?
15. The DEIR concludes that increased traffic will not impede emergency access because the city has an emergency management plan and it will pass out information about emergency planning. How does this mitigate an identified LOS of .96 at Hospital Road and Newport Boulevard, a primary access to Hoag Hospital? How does this mitigate an identified LOS of

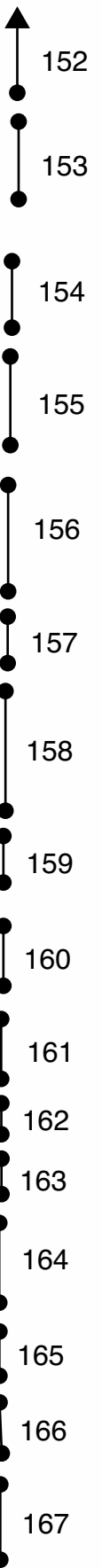


.91 at Newport Boulevard and 32nd Street for people attempting to leave the Peninsula and reach medical services up the hill at Hoag?

16. Based on the above, evidence does not exist to support a conclusion that no significant impacts related to traffic and circulation would occur.

Utilities and Services

1. The DEIR indicates that water supplies can meet the City's water through the year 2030. What level of development is assumed at that time?
2. The DEIR seems to imply that whatever water is needed can be provided until 2030, regardless of how much. What will happen in 2030 to reduce available water? Will other agencies be using a greater portion of their water entitlements?
3. Approximately two thirds of water from the different purveyors would come from groundwater. The amount to be provided appears to be based purely on demand, not supply. Has a moratorium or reduction in groundwater pumping ever been required in order to deal with groundwater overdrafts?
4. What water consumption rates were used to calculate anticipated water use?
5. The DEIR indicates that additional water consumption would total 1,326.6 acre feet per year (998 AFY City, 270 AFY RIWD and 58.6 AFY Mesa). This equates to approximately 1,184,322 gallons per day. Wastewater generation, based on generation factors in the City's Master Plan of Sewers is calculated at 4,123,173 gallons per day. How is this possible?
6. Are city water suppliers utilizing their full entitlements to water? If not what portion of the entitlements remains?
7. Are any city water suppliers utilizing more water than their entitlements? Are any suppliers at risk of facing water reductions as other water users make greater use of their entitlements?
8. What is the basis of the conclusion by Mesa Consolidated Water and the DEIR that supplies are adequate to serve the additional development contemplated in its service area?
9. Where are the identified sewer deficiencies located?
10. What are peak flows at the affected sewage treatment plants?
11. The DEIR indicated that one of the sewage treatment plants would be returning to full capacity upon addition of a clarifier. How often is functional capacity reduced below design capacity and, typically, by how much?
12. Do peak flows ever approach or exceed functional capacity? Design capacity?
13. The DEIR must quantify cumulative flows in light of actual functional capacity of the wastewater treatment plants.
14. How would increased wastewater generated by the proposed plan affect the ability of Orange County Sanitation District to achieve full secondary treatment?



- 15. How would the increased wastewater generated by the proposed plan and ultimately released into the ocean affect local water quality? 168
- 16. Would the waste generated by growth under the proposed plan shorten the useful life span of any sanitary landfill on an individual or cumulative basis? By how much? 169
- 17. What is the anticipated peak and annual electricity consumption by growth under the proposed plan? 170
- 18. Are local elements of the grid adequate to supply the demand? 171
- 19. The DEIR states that electricity demands by the new development proposed would be met “most of the year” and that constraints “could be addressed through rolling blackouts”. Yet the DEIR concludes that no significant impacts would occur. What *would* be a significant impact? 172
- 20. The DEIR must address how increased electricity usage could create demand to extend the life of the antiquated AES plant in nearby Huntington Beach, including affects on water quality due to the once through cooling process utilized by AES. 173
- 21. What is the anticipated peak and annual natural gas consumption by growth permitted under the proposed plan? 174
- 22. Are local facilities adequate to transport that volume of natural gas? 175
- 23. How will growth under the proposed plan increase demand for an LNG terminal at Long Beach or other location in the region on an individual and cumulative basis? 176

Alternatives

The DEIR should include a transportation alternative deleting the Nineteenth Street bridge in favor of alternate improvements identified under SARX. This may require a reduction in planned intensities, closer to the existing general plan, in order for traffic to flow adequately. 177

Significant Unavoidable Adverse Impacts

The DEIR failed to demonstrate that no significant unavoidable impacts would occur in relation to biological resources, geology and soils, hydrology and water quality, land use and planning, public services, recreation and open space, and utilities. 178

Population Growth

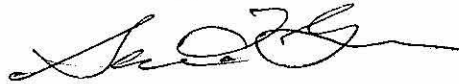
As noted previously, buildout population fails to include residents in units existing in Newport Coast prior to annexation. 179

Conclusion

As currently presented, the DEIR is thoroughly flawed in almost every facet imaginable and utterly fails to fulfill the purposes of CEQA. The document is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded and the document must be revised and recirculated in accordance with Section 15088.5(a)(4) of the CEQA Guidelines.

We look forward to reviewing additional documentation as it becomes available. Thank you for the opportunity to comment.

Yours Truly,

A handwritten signature in black ink, appearing to read 'Sandra L. Genis', with a stylized flourish at the end.

Sandra L. Genis

■ Response to Comment Letter SA

Letter from Sandra Genis, received June 13, 2006

SA-1

All of the documents used to prepare the Draft EIR have been available to any interested parties as they were completed, and many have been posted on the City's special website for the General Plan update, which is linked to the City's normal website. The Technical Background Report has been available in the Newport Beach Planning Department and the Newport Beach Central Library since June of 2004. Since it has been available at the Central Library, it has been available in a location with both night and weekend hours. The Draft EIR's reference to the availability of the Technical Appendices of the Traffic Study was in error. However, they were available in the Newport Beach Planning Department during the whole review period. All other background reports were available on request.

SA-2

The provisions of CEQA require that the impacts of a proposed project be compared to baseline on-the-ground conditions that exist at the time the NOP is published, or at the time the analysis is commenced (CEQA Guidelines, Section 15125(a)). As required, the EIR analyzes impacts of the Proposed Project relative to existing, on-ground conditions. That is, the proposed project (the newly updated General Plan EIR) is compared to baseline conditions, not the future buildout that would occur under the currently adopted General Plan. Therefore, the EIR provides information on the Existing General Plan for information purposes for reference where appropriate, such as Table 3-3 potential development scenario. However, in keeping with the intent of CEQA Guidelines 15142 and 15140, an EIR should not be unwieldy in length and should be user-friendly. Thus, the relevant information is the baseline condition of actual development, not the existing General Plan, and current on-the-ground conditions are the focus of the information presented for the environmental baseline.

SA-3

Existing General Plan policies regarding resource protection are vague and incomplete. The Recreation and Open Space Element has only one policy regarding the alteration of natural landforms, which is to be regulated through changes to the City's Zoning Code. General Plan Policy D, however, does not preclude development in any area if it would eliminate development on a site. The existing Land Use Element also has one policy in this area that covers a wide variety of potentially sensitive areas, but allows the Planning Commission to determine if the area is environmentally sensitive, without a biological study. This policy also states that development in sensitive areas can occur if the project's benefits outweigh the loss of a sensitive or riparian area, or the impacts can be mitigated. The proposed General Plan has a far more comprehensive set of policies specific to each resource, including water supply, water quality, air quality, open space resources, cultural resources, mineral resources, visual resources and energy conservation. These policies reflect the current standards for resource protection and impact analysis and mitigation strategies, with specific references to relevant local, regional, state and federal law. A more complete discussion of the existing Recreation and Open Space and Land Use Elements is contained in the response to comment JV-3.

SA-4

The proposed General Plan Update provides the whole of the action considered in this EIR. It would be ineffective and wasteful to reprint the entire General Plan Update as the project description as Chapter 3 of the EIR; instead, the General Plan Update document is intended as a companion to the EIR. In order to provide a synopsis of the General Plan most clearly, Chapter 3 identifies and describes the most relevant changes to the General Plan Update. In particular, Table 3-3 of the Draft EIR summarizes total buildout that could occur under the General Plan Update. Individual policies are provided with the discussion of each resource area where those policies are relevant. In this manner, the policies are identified along with the resources they affect and can be reviewed in this context. The total buildout by type of land use and subarea and the General Plan policies provide the foundational elements of the proposed project.

While the City is not proposing the concept of flexible floor area ratios in this General Plan Update, the environmental document is adequate in that it evaluates the maximum intensity that could be developed under the General Plan Update and, as such, it provides a worst-case analysis of potential environmental impacts.

SA-5

This comment notes the omission of a policy similar to the existing plan regarding the prohibition of subdivisions in certain areas of the City. This was noted by the City as well, and a similar policy will be proposed for inclusion in the updated Land Use Element prior to its adoption. With the reinstatement of the prohibition of subdivisions, combined with the fact that there are few areas with slopes or submerged lands, the “buildable acreage” concept is not necessary. Those areas where it might have been applicable, such as Banning Ranch, will have dwelling unit caps as opposed to an identification of dwelling units per acre.

SA-6

It is speculative to quantify how many future residential projects would qualify for density bonuses or other incentives required by state law, and it would be speculative to estimate the number of dwelling units that might be developed as a result of density bonuses. It would be even more speculative to determine the potential locations of such units and, therefore, estimate their potential impacts, especially on traffic. No bonus density dwelling units have been entitled or constructed in the City during the past five years.

Section 65915 of the Government Code requires local governments to provide density bonuses or incentives of equivalent financial value, when a developer agrees to provide housing that is affordable to lower income households. When affordable housing is provided to meet a requirement in the city’s housing element, the density bonus or other incentives are not required. The City’s policies, as stated in Housing Programs 3.1.1 and 3.1.2, are to comply with state law by granting either a density bonus or other incentives of equivalent financial value. Whether other incentives would be granted, and what those incentives would be, cannot be known without a specific project proposal, and their impacts cannot be evaluated in a program EIR.

SA-7

The increase in multi-family dwelling units in subareas, shown in Table 3-3, is higher than the increase citywide due to reductions in the number of dwelling units allowed outside the subareas in the proposed General Plan Update. The largest component of this difference is the correction of a coding error, which overstated the multi-family residential potential in the Newport North area by over 1,300 units for the existing General Plan. Reductions also occur because the proposed General Plan Update reflects the actual number of units developed at One Ford Road and Sailhouse, nearly 250 fewer than allowed in the existing General Plan. Finally, there are reductions in the number of units allowed on Lido Isle and at Bayside Village in the proposed General Plan Update. The difference of 300,000 square feet in office development between the subarea and citywide numbers is accounted for by the proposed land use change from Administrative, Professional and Financial to Mixed Use for the area along Dover Drive described on page 3-17 of the Draft EIR. Table 3-3 has been revised to include a column showing land use changes for the remainder of the City, which reflects the changes proposed in the “other land use areas” described on page 3-17. Table 3-3 is reprinted here.

Table 3-3 City of Newport Beach General Plan Update Existing and Proposed Land Use

		Citywide	Subareas									Remainder of City
			West Newport Mesa	Mariners' Mile	Newport Center/ Fashion Island	Airport Area	Banning Ranch	Balboa Village	Balboa Peninsula	West Newport Highway	Old Newport Boulevard	
Office (sf)												
Existing		12,616,827	453,530	266,270	3,592,080	5,513,429	0	22,920	305,540		97,740	<u>2,365,318</u>
Current GP		14,576,930	784,280	466,190	3,635,670	5,873,012	235,600	89,260	375,390		147,020	<u>2,970,508</u>
Proposed		12,867,500	1,025,865	294,725	3,675,670	4,911,197	0	12,000	80,656		185,696	<u>2,681,691</u>
Residential (du)												
Existing	MFR	21,477	2,472	188	245	0	0	178	8	292	8	<u>18,086</u>
	SFR(A)	18,702	108	820			0	1,191	257		384	<u>15,942</u>
Total Units		40,179	2,580	1,008	245	0	0	1,369	265	292	392	<u>34,028</u>
Current GP	MFR	30,159	2,649	188	245	0	2,510	242	8	293	8	<u>24,016</u>
	SFR(A)	19,570	98	837			225	1,190	352		584	<u>16,284</u>
Total Units		49,729	2,747	1,025	245	0	2,735	1,432	360	293	592	<u>40,300</u>
Proposed	MFR	33,992	3,542	625	845	4,300	687	512	823	361	244	<u>22,053</u>
	SFR(A)	20,402	98	837			688	1,196	291		579	<u>16,713</u>
Total Units		54,394	3,640	1,462	845	4,300	1,375	1,708	1,114	361	823	<u>38,766</u>
Commercial (sf)												
Existing		5,539,388	72,170	633,950	1,556,320	665,019	0	203,360	643,020	35,350	48,700	<u>1,681,499</u>
Current GP		7,412,132	72,170	779,800	1,861,980	871,500	50,000	217,340	669,110	50,030	66,380	<u>2,773,822</u>
Proposed		7,685,030	50,910	853,208	1,986,980	880,620	75,000	192,503	745,320	57,935	92,848	<u>2,749,706</u>
Visitor Serving (hotel-motel rooms)												
Existing		3,365		177	925	974	0	34	41	90	23	<u>1,101</u>
Current GP		5,676		204	1,110	984	0	34	41	90	53	<u>3,160</u>
Proposed		6,549		204	1,175	1,213	75	265	240	90	53	<u>3,234</u>
Industrial (sf)												
Existing		1,569,229	678,530			508,759	0		58,950		300	<u>322,690</u>
Current GP		2,234,242	1,191,722			551,930	164,400		0		0	<u>326,190</u>
Proposed		1,163,460	837,270			0	0		0		0	<u>326,190</u>

Table 3-3 City of Newport Beach General Plan Update Existing and Proposed Land Use

	Citywide	Subareas									
		West Newport Mesa	Mariners' Mile	Newport Center/ Fashion Island	Airport Area	Banning Ranch	Balboa Village	Balboa Peninsula	West Newport Highway	Old Newport Boulevard	Remainder of City
Institutional (sf)											
Existing	694,820	886,270	99,410	100,000	86,096			21,710			<u>-498,666</u>
Current GP	893,213	1,235,797	105,260	105,000	97,000			32,010			<u>-681,854</u>
Proposed	853,413	1,235,797	105,260	105,000	96,996			96,710			<u>-786,350</u>
Parks (acres)											
Existing	133.5	0.2				0					<u>133.3</u>
Current GP	178.8	0.2				0					<u>178.6</u>
Proposed	254.7	1				30					<u>223.7</u>

SA-8

The Medical Commercial Office land use category, which applies to the Hoag Hospital area, provides for a range of floor area ratios (FAR) from 0.35 FAR to 1.25 FAR, with a resulting overall increase in medical commercial office uses of approximately 241,585 square feet. The range in FAR reflects the fact that certain existing medical commercial office uses with lower FARs could remain, and new development at higher FARs could be developed. However, the City Council has directed that the maximum FAR be reduced to 0.75, in order to achieve daily trip neutrality in this subarea.

SA-9

A discussion of the rationale for the use of 2002 as the baseline year is provided in Master Response C.

The calculations of total future population for the City in 2030, as shown in Table 4.10-2 on page 4.10-2 of the Draft EIR, were based on population and household forecasts prepared by SCAG in 2004, which include persons residing in Newport Coast, which was annexed in 2002.

SA-10

Refer to Master Response D for a discussion of the geographic context of the project-related impact analysis, and refer to Master Response A for a discussion of the inclusion of the 19th Street bridge over the Santa Ana River in the traffic analysis.

With regard to the consideration of noise impacts outside of the City, the noise analysis relies upon the data provided in the traffic analysis; therefore, the geographic scope of the traffic analysis is the same as the noise analysis. Please refer to the immediately preceding discussion regarding the geographic scope of the traffic analysis.

With regard to consideration of air pollution hot spots, impact 4.2-4 indicates that impacts on CO concentrations within the study area would be less than significant. Therefore, it is reasonable to conclude at locations further from the study area, where project traffic would become more dispersed, the project contribution to potential CO hotspots would be even less, and would remain less than significant.

It is anticipated that users of recreational facilities commonly use those facilities located closest to them, which are primarily located within their own City. The EIR does not analyze impacts to recreational facilities within the City that would result from individuals residing in other jurisdictions because it considers this effect to be negligible. Similarly, the EIR considers impacts on recreational facilities outside of the City boundaries to be negligible. Also refer to response to comment SA-133.

With regard to potential public service impacts to areas outside of the City, all of the City's public services are provided entirely within the City, and, as such, there are no impacts outside of the City. For example, the Newport Beach Police Department and the Newport Beach Fire Department provides police and fire protection services associated with calls that occur within the City's boundaries. The City does not rely on outside police departments or fire departments for routine calls and the Departments' response to the City's calls has no affect on surrounding jurisdictions. Similarly, with schools, students

that reside in the City attend public schools within the Newport-Mesa or Santa Ana Unified School Districts, which are the districts that are intended to serve the City of Newport Beach. There is no impact on other school districts.

SA-11

The scope of the cumulative impact analysis is dictated by the resource under consideration. For instance, for Hydrology impacts, it is relevant to consider the surrounding watershed as a whole. Conversely, for Noise impacts, it is relevant to consider those projects that would be located in proximity to the proposed project, where noise impacts could accumulate. Therefore, the geographic context of the cumulative impact analysis varies according to resource, and the context is clearly stated in each cumulative impact section. Refer also to Master Response B for a discussion of the cumulative impact analysis methodology.

SA-12

Refer to Master Response B for a discussion of the cumulative impact analysis methodology.

SA-13

It is unclear what impact is referred to in this comment where it states “...impacts due to housing development.” The population and housing section of the EIR makes no mention of future CEQA review. As such, this response addresses the comment as it relates to the references to future CEQA review cited in the public services section. The response here is illustrative of the concepts used in the EIR analysis and is also applicable to other resource sections where future CEQA review is discussed. The analysis of public services impacts on page 4.11-10 and 4.11-16 identifies that future CEQA review would occur. However, the conclusion of a less than significant impact to public services does not rely solely upon the assumption that future CEQA review would mitigate impacts. Rather, the fact that future review would occur is cited as one means to enforce the mechanisms in place—primarily General Plan policies—that would reduce impacts to less than significant. A more careful reading of Impacts 4.11.1-1 and 4.11.2-1 indicates that it is the implementation of these General Plan policies and compliance with the regulatory environment, not future CEQA review, that would ensure impacts would be less than significant.

It is expected that in instances where CEQA exempts infill projects from environmental review, environmental impacts would be determined to be less than significant. As stated in CEQA Section 21084 and 15300, the Guidelines are required “to include a list of classes of projects which have been determined not to have a significant effect on the environment” and which shall, therefore, be exempt from the provisions of CEQA. Further, the Secretary of the Resources Agency makes a finding that the listed classes of projects, including infill development projects identified in Guidelines Section 15332, do not have a significant effect on the environment. Thus, where no additional environmental review would occur, this results from a finding of less than significant impacts.

SA-14

Comments on the Project Description and Summary included as items 1 through 17 and coded as comments SA-14 through SA-30 identify specific questions related to the Project Description. Many of these questions are answered in the General Plan document itself. As indicated in response to comment SA-4, Chapter 3 identifies and describes the most relevant changes to the General Plan Update, such that not each and every specific change is listed in Chapter 3 of the EIR.

The referenced sections of the Summary and Project Description explain that significant land use changes were considered and proposed only for the nine subareas (districts and corridors) listed on page 2-3. For the remainder of the City, no change or relatively little change (relative to the greater changes or greater areas of change in the subareas) is proposed. The section entitled “Other Land Use Changes” on page 3-17 describes the changes proposed in these other, smaller areas of the City. The quantities of these land uses (dwelling units and square feet of non-residential development potential) are included in the Citywide column in Table 3-3 and in all the quantitative analyses in the Draft EIR.

Refer also to response to comment SA-7 for a discussion of how previous development in other areas in the City affect the numbers presented in Table 3-3.

SA-15

The land use intensification that would occur throughout the City is the difference between the “Existing” and “Proposed” rows in Table 3-3. For the majority of the City not included in the subareas studied in detail in the General Plan update, the amount of development is what is allowed by the existing General Plan.

SA-16

Build-out of the proposed General Plan update in the Irvine Avenue multi-family area would result in 189 residential units. Because the existing development exceeds both the existing and proposed General Plan density, this would be a reduction of 16 units from the existing development.

SA-17

As noted in the response to comment SA-7, the proposed change from Administrative, Professional and Financial to Mixed Use for the area on Dover Drive reduces the potential office development in that area by approximately 300,000 square feet and adds the potential for 212 dwelling units. The acreage shown for mixed use is 7.95 acres.

SA-18

This Caltrans remnant site is approximately 5.3 acres. At the proposed FAR of 0.5, this site would have the potential for 115,434 sf of commercial development. Site access cannot be studied in detail without a specific development proposal, but preliminary analysis by the City Public Works Department concluded that safe access from MacArthur Boulevard at Fairchild Drive is possible.

SA-19

Up to fifteen dwelling units would be allowed at the former child care site at San Miguel Drive at the proposed density of twenty dwelling units per acre.

SA-20

No additional units would be allowed at the senior housing/church site at Pacific View Drive.

SA-21

Proposed Park and Recreation Facilities are illustrated on Figure 4.12-2, following page 4.12-4.

SA-22

Charter Section 423 requires that amendments to the General Plan that exceed one of three thresholds be approved by the voters. The proposed Land Use Element provides detail on the quantities of development that would be allowed, and is structured in a way that will enable the City to determine whether the proposed General Plan update, as well as any future amendments to the General Plan, would require a vote. Examples include Figures LU1 through LU15, and Tables LU1, A1, and A2.

SA-23

The General Plan Update is intended to make the City's General Plan elements (and all policies contained therein) consistent with all state law that has changed or been enacted since 1988, which is the date of adoption of the existing General Plan. As an example, the existing Safety Element does not meet State requirements for wildland and urban fire, peak-load water supply requirements, and minimum road widths and clearances around structures, as those items relate to fire and geologic hazards. Additionally, while the element does include the required mapping of soil conditions and geologic hazards, the information is based on technical reports prepared in 1974, which may not meet current standards for such reports. These changes are reflected in the proposed Safety Element.

The Conservation of Natural Resources Element does not include references to today's standards for resource protection and mitigation standards; nor does it reflect regional habitat protection strategies such as the Natural Communities Conservation Plan (NCCP). The existing Land Use Element has vague and overbroad land use categories that provide little guidance for decision makers in the discretionary review of projects. The improvements contained in the existing Circulation Element could not take advantage of state-of-the-art engineering practice, modeling techniques or new technologies, which provide for improved intersection performance.

SA-24

Underperforming commercial areas were identified in the Retail Commercial Market Analysis prepared by Applied Development Economics in December 2002. Commercial areas that generate sales per square foot below national retail averages are considered underperforming.

SA-25

Table 3-3 on pages 3.3-13 through 3.3-14 compares citywide existing land uses and future land uses under the proposed General Plan Update. As the EIR is an evaluation of potential impacts resulting from implementation of the proposed General Plan Update, information on the existing General Plan acreage distribution is not needed.

SA-26

As described in response to comment SA-7, the land use changes in the areas referenced by the Project Description were incorporated into the calculation of citywide land use changes. Because these addressed very small geographic areas, they were not considered of significance for separate discussion by the Draft EIR. However, this did result in differences between the citywide totals and the subarea totals. Essentially, one column is not identified, the remainder of the City (exclusive of the subareas and “other land use changes” areas). Refer to Revised Table 3-3 of the Draft EIR, and as shown in Chapter 9 (Text Changes) of the Final EIR.

SA-27

Refer to response to comment SA-26.

SA-28

Refer to response to comment SA-26.

SA-29

This comment does not raise a question related to the Draft EIR. Typically, uses that are legal when established become legal non-conforming uses and are grandfathered. Non-conforming uses are governed by Chapter 20.62 of the City’s Zoning Code, which establishes procedures for the continuance or abatement of existing structures and uses that do not conform to the provisions of the Zoning code and the goals and policies of the General Plan.

SA-30

As stated in response to comment G2-10, this comment does not raise a question with regard to the Draft EIR. The residential density categories in the proposed General Plan reflect the densities allowed by the existing General Plan and the densities of residential development currently existing. The one exception is the density of up to 50 units per acre for residential development proposed in the Airport Area. In public hearings on the General Plan, the City Council has directed that the Land Use Map, Figures LU 1 through 15, be revised to replace the land use system of density ranges with a system that designates the type of housing product (e.g., single unit attached, single unit detached, two unit, multiple unit), with either density or number of units reflecting the currently existing development indicated on the map for each residential area in the City. The City Council directed that in addition to this mapping system, a policy prohibiting additional residential subdivisions in developed areas, be added to the Land Use Element to prevent unintended increases in residential density.

SA-31

Immediately following Figure 4.1-3 on page 4.1-7 of the Draft EIR, Figure 4.1-4 has been added to include the Newport Coast area and is in the Final Plan and Final EIR via text changes to Draft EIR figures, as shown in Chapter 9 (Text Changes).

SA-32

This specific list is from the previous 1990 Local Coastal Program and was not a part of the existing General Plan. The proposed General Plan Update adds a broad policy regarding protection of public views.

SA-33

Shade and shadow analyses are performed for site-specific projects, and are not commonly analyzed in a program EIR. The thresholds of significance identified in Section 4.1.4 do not include effects from shade/shadow. A shade and shadow diagram depicts shade cast by a specific development onto surrounding areas. Building height and massing must be known in order to accurately depict shade and shadows cast by the new structures. These elements have not been defined for all new development. Further, development could occur in many locations as a result of General Plan Update implementation, and depiction of even a representative sample of shade/shadow effects would result in more detail than needed for a Program EIR. Thus, due to the project-specific nature of shade/shadow analysis, this would be performed during site specific review.

SA-34

The second sentence of Policy NR 22.1 states, “Consider amending the boundary of this Zone where public views would not be impacted.”

SA-35

The proposed General Plan update does not allow increased building heights; it merely states that the City should consider such a change in its regulations. The manner in which greater building height might be allowed would have to be defined in an amendment to the Zoning Code and Local Coastal Program, as noted in General Plan Implementation Measures 2.1 and 5.1. The aesthetic impacts of such a change can be analyzed better when the provisions are known. And if the provisions include discretionary review for individual development projects, more detailed analysis would be possible as project details become known.

SA-36

The proposed General Plan update does not include any policies that provide for modification of bluffs.

SA-37

Policy LU 6.19.9 provides the basis for the City to require visual and physical access to the bay on all proposed development fronting the harbor in Mariners’ Mile. The policy provides nine specific principles that must be observed by development in this area to provide public views and access, and requires site-

specific analysis subject to approval in the Development Plan review process. This policy provides much more guidance for the preservation of public views than the existing General Plan Land Use Element. Policy D says, “The siting of new buildings and structures shall be controlled and regulated to insure, to the extent practical, the preservation of public views...” Current City ordinance provides for these evaluations and requires view corridors only when a proposed structure exceeds basic height limits. Therefore, the proposed plan improves the City’s ability to preserve views, or create new views. As to the potential for significant impacts, it is speculative as to whether significant environmental impacts would result from implementation of the policy, because this can only be determined at the time there are specific proposals for new development, at which time an environmental analysis would be conducted pursuant to CEQA in order to determine potential impacts and recommend mitigation measures, if necessary. See Master Response E regarding level of analysis

Nonetheless, the text on page 4.1-16 has been revised for clarification purposes as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR. This amendment does not qualify as a substantial change to the EIR.

Policy LU 6.19.9 requires that buildings be located and sites designed to provide adequate and ~~unobstructed~~ clear views of significant visual corridors of the Bay from Coast Highway (Mariners’ Mile).

SA-38

The minimum width for corridor views will vary, depending on the location, type of development, and visual resource under consideration. Policy LU 6.19.9 provides standards to determine view corridor width. Further, individual plan review will determine widths for view corridors as appropriate for each development project, in order to balance the needs of development against environmental protection.

SA-39

The precise need for the number, location, and scale of parking structures would be determined as development progresses and parking needs are identified. General Plan policies would guide the design of parking facilities, and these include Policies LU 5.1.9, LU 5.2.1, LU 5.3.1, NR 3.18, and LU 6.2.5.

SA-40

Policy LU 3.2 is intended to discourage if not prohibit development of houses that are out-of-scale with surrounding development.

SA-41

The proposed General Plan policies for West Newport Highway area are intended to maintain existing development intensities. Further, development in the West Newport Highway area would be required to be constructed to current standards, which limit commercial building heights to two stories and 21 feet, with no setbacks from property lines, except from alleys, where setbacks would be required. Commercial and parking structure heights would be equivalent to those permitted on adjoining residential lots, which would eliminate shade and shadow impacts on public open spaces or other useable outdoor living spaces.

SA-42

The placement of buildings along Newport Center Drive will improve the pedestrian-oriented corridor. The permitted increment of additional commercial density is insufficient to create a continuous mid or high rise “walled” corridor. It will result in low-rise, 2 to 3 story, structures that are intermittently spaced along the street. These will be much lower in height than the existing buildings located along the north side. From an urban form perspective, their placement and scale will not visually create a continuous “wall” of buildings.

The provision of code-required parking to support expanded uses in Newport Center may require the development of additional parking structures. Visual impacts can be mitigated through location and the use of architectural design elements that ensure a high quality of development and character.

SA-43

Policy LU 6.18.4 requires that buildings be located and designed to orient to the Old Newport Boulevard frontage, while the rear of parcels on its west side shall incorporate landscape and design elements that are attractive when viewed from Newport Boulevard. Should development be proposed within these areas that would impact the resources identified in this comment, the project-specific environmental review would identify any potential impacts that may occur as a result of development. Policy 6.6.3 in the public review draft dated March 27, 2006 included a consideration of increases to height limits for medical uses in the West Newport Mesa sub area. The City Council directed that this policy be eliminated during their consideration of the land use policies. Additionally, the General Plan EIR is a programmatic environmental document. Any future development proposed within the City limits will undergo its own project-level environmental review that will analyze the potential environmental impacts of the project-specific details, including, but not limited to, building massing, construction schedules, and site access. Consistent with CEQA Guidelines Section 15146, “the degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity ... described in the EIR.” As further stated, “the EIR [on a local general plan] need not be as detailed as an EIR on the specific construction projects that might follow.” The EIR complies with these Guidelines by focusing on the overall, programmatic effect of increased development; specific (project-level) information is not warranted for inclusion and cannot be reasonably determined based on currently available information.

SA-44

The proposed General Plan Update includes substantial new policies regarding the relationship of new development to streets and open space areas. The policies for the Airport Area do not suggest that any changes to the landscape standards contained in existing zoning are modified. Further, landscape street standards apply only to the major arterials of MacArthur Boulevard, Jamboree Road, Campus Drive, Birch Street, and Bristol Street North.

Building heights in the City’s Airport Area are regulated by Federal Aviation Administration (FAA) Regulations Part 77 (Objects Affecting Navigable Airspace), which is the standard identified in the Orange County Airport Environs Land Use Plan (AELUP) for John Wayne Airport. The allowable height of buildings varies according to the elevation, height, and slope in relation to individual airports. In response to comments from the Airport Land Use Commission, the City Council has directed that

policies regarding heights in the AELUP Planning Area, and providing for review by the Airport Land Use Commission, be added to the proposed General Plan.

SA-45

Bluffs would be preserved through proposed General Plan Update Policies LU 6.5.4 and NR 10.10. These measures contain more specificity that would ensure that development would be designed to protect coastal bluffs. These policies provide more specificity and policy guidance to assist the decisionmakers to ensure that development would be designed to preserve coastal bluffs. While Policy LU 6.5.4 is identified on page 4.1-31, Policy NR 10.10 is added to the EIR discussion on page 4.1-26, after the second paragraph as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR. Note that the policy has been revised since publication of the Draft EIR, and those changes are also identified here:

NR 10.10

Development on Banning Ranch

Protect the sensitive and rare resources that occur on Banning Ranch. If future development is permitted, require that an assessment be prepared by a qualified biologist that delineates sensitive and rare habitat and wildlife corridors. Require that development be concentrated ~~development~~ to protect biological resources and coastal bluffs, and ~~design~~ structures designed to not be intrusive on the surrounding landscape. Require the restoration or mitigation of any ~~important sensitive or rare~~ habitat areas that are affected by future development. (Imp 2.1, 19.7, 19.11, 19.12)

SA-46

Policies 6.5.4 and 6.5.5 would guide bluff protection on Banning Ranch by requiring buffers (or setbacks), along with development plan review by the City. Policy LU 6.5.4 states that “[d]evelopment should be located and designed to preserve and/or mitigate for the loss of wetlands and drainage course habitat. . . set back from the bluff faces, along which shall be located a linear park to provide public views of the ocean, wetlands, and surrounding open spaces. Policy LU 6.5.5 states that “[d]evelopment shall be located and designed to prevent residences on the property from dominating public views of the bluff faces from Coast Highway, the ocean, wetlands, and surrounding open spaces.

While no numeric standards (i.e., stated in linear feet from the bluff) have been established for buffers (as the buffer requirements will differ according to the development plan proposed and the proximity to sensitive resources), the City’s master development or specific plan review process will ensure that all General Plan policies are properly implemented.

SA-47

In theory, reflective materials used in buildings including glass windows and surface materials could create glare that impacts adjoining properties, motorists, public places, and natural environments. The commenter’s issue has been addressed by revision of Policy 5.6.2 (formerly 5.5.2). Page 4.1-30 of the Draft EIR has been amended, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

Policy LU 5.56.2 Form and Environment

Require that new and renovated buildings be designed to avoid the use of styles, colors, and materials that unusually impact the design character and quality of their location such as ~~about~~ abrupt changes in scale, building form, architectural style, and the use of surface materials that raise local temperatures, result in glare and excessive illumination of adjoining properties and open spaces, or adversely modify wind patterns.

For this reason, land use changes and expansion of currently permitted land uses is proposed in discrete areas within the City. There are numerous Land Use Policies designed to protect the visual character of the City. As referenced in the aesthetics section, these policies include but are not limited to: LU 1.1, LU 5.3.1, NR 22.2, and LU 6.19.6. All of these policies contain elements designed to protect and enhance the visual quality of the City.

SA-48

General Plan policies are more than “statements of aspiration.” They are City policies adopted by resolution of the City Council, and State law requires that development projects are consistent with the General Plan. As noted in General Plan Implementation Measure 2.1, the City will need to amend the Zoning Code to implement the updated General Plan. Sections “i” and “m” of that Implementation Measure call for establishing standards to carry out policy intentions for design characteristics and establishing site development and design standards.

SA-49

Page 4.1-22 addresses impacts of nighttime lighting. However, implementation of Policies LU 5.5.3, LU 5.1.1, LU 6.1.3, and LU 6.2.5 address spillover lighting, compatibility with adjacent uses, and integration of uses including considering lighting effects. See Master Response E regarding level of analysis.

SA-50

The proposed General Plan Update does allow for some intensification in some areas, including Mariner’s Mile. However, this is proposed within a policy framework designed to preserve the unique character of the area. Policies LU 6.19.6, 6.19.7, 6.19.8, 6.19.9, 6.19.11, 6.19.12, and 6.19.13 will require new development maintain the identify and quality of the district through architecture, site planning, provision of bay views and access, pedestrian orientation, maintenance of the visual quality of bluff faces and maintenance of existing height limits. Where residential uses are added, a commensurate amount of commercial use will be eliminated, thus preserving the character of the area. In Cannery Village, the proposed General Plan Update will reduce the intensification of the area by allowing some commercial properties to be used for residential uses. The overall size and height of structures in Cannery Village will not change since the existing General Plan allows mixed use development at similar floor area ratios to those proposed (Policies LU 6.10.1, LU 6.10.2, and LU 6.10.3)

SA-51

Refer to response to comment SA-10, which addresses the potential for CO hotspots to occur outside of the City.

SA-52

The comment suggests that the City should complete an analysis to determine how the project-generated traffic combined with growth in other communities will impact the excess cancer risks in the vicinity where the Newport Freeway, the San Diego Freeway, and the San Joaquin Hills Transportation Corridor meet. The comment references existing SCAQMD data regarding those risks. Though the comment does not mention the source of the information, the City assumes the commenter is referring to MATES-II, the Multiple Air Toxic Exposure Study prepared by SCAQMD. Readers interested in finding out more about the MATES-II are directed to www.aqmd.gov. In its Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning, the SCAQMD identified the types of projects for which the SCAQMD recommends the preparation of a health risk assessment to quantify the potential cancer risks. The types of projects are those involving diesel-powered mobile sources. These include truck stops, warehouses, distribution centers, and transit centers. No such uses are proposed in connection with this project. Updating a City-wide General Plan is not among the types of projects which trigger the preparation of Health Risk Assessments. Therefore, no analysis of Toxic Air Contaminants is required.

SA-53

The intent of this comment is unclear. By “other growth”, the City assumes the commenter is referring to growth outside of the City that would cause the SCAG-projected population estimates to be exceeded. As discussed on page 4.2-13, the City has identified that the estimated population at build out of the proposed General Plan Update would exceed SCAG’s projection for the City by approximately 10 percent. It is not possible for the City to ascertain the potential that other cities or counties in SCAG’s six counties might exceed the population projection’s issued by SCAG and accounted for in the AQMP.

As stated on page 4.2-9, “The future air quality levels projected in the 2003 AQMP are based on several assumptions. For example, the SCAQMD assumes that general new development within the Basin will occur in accordance with population growth and transportation projections identified by SCAG in its most current version of the RCPG, which was adopted in March 1996. The AQMP also assumes that general development projects will include strategies (mitigation measures) to reduce emissions generated during construction and operation.”

The SCAQMD has established methodology to determine the significance of cumulative impacts in accordance with 14 Cal Code Regs Section 15065(a)(3). In such instances, the significance of potential cumulative impacts would be determined by the significance of the project-specific impacts. In fact, according to the SCAQMD, “The SCAQMD’s approach is to determine whether or not there are related projects in the vicinity of the project under consideration, within approximately one mile. If not, and the project-specific impacts are less than the applicable significance thresholds, then the lead agency can make a case that impacts are not cumulatively considerable as defined in CEQA Guidelines §15065(a)(3), that is, the project is not expected to generate significant cumulative impacts...If there are related projects within the vicinity of the proposed project, e.g., that are part of an ongoing regulatory program or are contemplated in a program EIR, then additive effects of the related projects should be considered.”

It is not possible for the City ascertain the potential that other cities or counties in SCAG's six counties might exceed the population projection's issued by SCAG and accounted for in the AQMP. As stated on page 4.2-17, "Cumulative development, including the proposed General Plan Update would result in a potentially significant impact in terms of conflicting with, or obstructing implementation of, the 2003 AQMP as development would result in population levels above those used in preparation of the AQMP... Consequently, if growth in the Basin is not within the projections for growth identified in the Growth Management Chapter of the RCPG, implementation of the AQMP would be obstructed by such growth. As growth in the Basin would exceed these projections, at least in the Planning Area, this is considered to be a significant cumulative impact. Since growth under the proposed General Plan Update is inconsistent with growth under the RCPG, the impact of the proposed General Plan Update is cumulatively considerable. This is considered a significant impact."

As such, any contribution of air quality impacts of the proposed project that other projects contribute to would be cumulatively significant. The conclusion reached in the EIR correctly considered the potential that growth in the region could occur that was not accounted for by either SCAG or the AQMP; however, any attempt to quantify unaccounted for growth would be speculative in nature and not based on any factual representation.

SA-54

The comment is acknowledged. Text has been added to provide further clarification of habitat types within the City limits under the heading "Habitat Types" on page 4.3-3, as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR. This amendment does not qualify as a substantial change to the EIR.

Coastal Sand Dunes

Coastal sand dune communities are the first terrestrial plant communities above the high tide line where sandy beaches and/or sand dunes occur. This habitat type is restricted to the Pacific Coast of North America and is characterized by unstable, sandy soil with a low fertility and low water-holding capacity. Vegetation is often covered with sand particles due to coastal winds. Several species are typical of coastal dunes, including California saltbush (*Atriplex californica*), beach saltbush (*Atriplex leucophylla*), croton (*Croton californicus*), and American dune grass (*Leymus mollis*).

SA-55

The comment is acknowledged. One of the primary areas of protection within the Coastal Land Use Plan (CLUP) is the area of biological resources. More than 75 policies within the CLUP are applicable to biological resources. The listing of all of these policies within the biological resource section was determined to be overwhelming to readers of the EIR. Reference to the CLUP with mention of where and when CLUP policies are applicable to the proposed General Plan Update was deemed appropriate as the CLUP is available on-line at <http://www.city.newport-beach.ca.us/Pln/LCP/LCP.htm>. It should be noted that listing of the CLUP policies applicable to cultural resources was possible and appropriate due to their relatively limited number.

SA-56

All of the areas identified as “environmentally sensitive areas” or “ESAs” in the current General Plan are located within the geographic boundaries of the Environmental Study Areas listed in the proposed Natural Resources Element. The environmental study areas are relatively large, undeveloped areas that may support species and habitats that are sensitive and rare within the region or may function as a migration corridor for wildlife. Policy NR 10.4 requires a site-specific survey and analysis prepared by a qualified biologist as a filing requirement for any development permit applications where development would occur within or contiguous to areas identified as Environmental Study Areas. Policy NR 10.3 prohibits development in nature preserves, conservation areas, and designated open space areas in order to minimize urban impacts upon resources in identified Environmental Study Areas. These proposed policies provide greater protection to the sensitive habitats and species located within these areas than Recreation and Open Space Policy 9.1 in the current General Plan, discussed in response JA-3. For these reasons, no significant impact is foreseen.

The designation of ESAs within the City does not exempt other non-designated portions of the City from biological review under CEQA and other applicable regulations dealing with biological resources. During any development’s project-level environmental review, a biological survey of the site as well as review of on-site habitats would be conducted to determine the potential habitat sensitivity of a particular site. The commenter is mistaken in her assumption that no biological review will be conducted for areas outside the ESAs. Under CEQA, further biological review of any development within the City limits is required, regardless of its location outside or within an ESA from the General Plan Update.

SA-57

The comment is acknowledged. Refer to response to comment SA-56 regarding further biological review of any development within the City limits, as required by CEQA. While Policy NR 10.3 does reference ESAs, other policies expressly protect areas outside the ESAs. For example, Policy NR 10.4 protects areas contiguous to areas within ESAs. Policy NR 10.5 requires that development – whether it be within or outside an ESA, protect sensitive or rare resources against any significant impact. Policies NR 10.6, 10.7 and 10.8 apply to all areas with sensitive biological resources, whether or not those areas are within an ESA. Also refer to the other policies listed on pages 4.3-31 to 4.3-36.

SA-58

The land use designations on the identified park properties would not change as a result of the proposed General Plan Update. However, if any development (such as bathrooms or other park-related improvements) is proposed within the park areas identified in this comment, project-specific environmental review would identify any potential impacts that may occur as a result of development. However, from a programmatic perspective, the goals and policies of the proposed General Plan, in addition to federal, state, and local requirements, will ensure that less-than-significant impacts as a result of the proposed General Plan Update.

SA-59

The proposed Natural Resources Element includes more policies for resource protection than the existing General Plan. All of these policies, not just NR 14.5, would apply to the construction of docks and other structures over water. For example, policies under goals NR3 and NR4 address water quality, and policies under Goal NR11 protect eelgrass. Also see Master Response E regarding level of analysis.

SA-60

The commenter requests analysis of pelagic (of or relating to the open ocean or sea) species and refers to a recent publication on night lighting. While pelagic species are not specifically identified in the EIR analysis, the Draft EIR specifically addressed night lighting within this impact and determined that, from a programmatic assessment perspective, night lighting impacts would be reduced to less-than-significant levels with implementation of Policies NR 10.5, NR 10.7, and NR 10.8. These policies would prevent disruption, and ensure protection of sensitive habitat through siting and design requirements, along with sufficient buffer sizes and shielding from direct exterior lighting. This analysis and finding is consistent with Section 15204(a) of the CEQA Guidelines, which states that, “the adequacy of an EIR is determined in terms of what is reasonably feasible in light of factors such as the geographic scope of the project, the magnitude of the project, and the severity of the likely environmental impacts.” And, as further expressed in Section 15151 of the CEQA Guidelines, “An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible.” In addition, impacts to wildlife movement, including the effects of night lighting, were analyzed within Impact 4.3-3 of the Draft EIR using the identified Standards of Significance for impacts to Biological Resources. The Draft EIR determined that implementation of applicable General Plan policies would ensure that substantial impacts to native, resident, or migratory wildlife species or corridors would not occur in areas of infill and redevelopment. The programmatic analysis identified and assessed potential impacts using specific Standards of Significance and, in light of what is reasonably feasible in a programmatic analysis, determined that the specific improvements identified (in the form of General Plan Policies) was sufficient to reduce potential impacts of night lighting. Therefore the Draft EIR is sufficient in the scope of its analysis and no further analysis is required.

SA-61

The commenter suggests the incorporation of policies in the Safety Element that would limit shoreline protective devices to those needed to protect existing development. Policies S3.5 through S3.9 provide that protection (see S3.5: Protection of Coastal-Dependent Uses, S3.6: Siting of Shoreline Protective Devices, S3.7: Shoreline Protective Devices on Public Land, S3.8: Shoreline Protective Device Use, and S3.9: Shoreline Protection for New Development). Refer also to response to comment SA-58 regarding the assessment of project-level impacts.

SA-62

The existing General Plan contains no articulated limitations regarding conversion of open space for public uses. Policy NR 17.2 adds criteria that limit the circumstances under which conversions could occur. The policies identified in the biological resources section and the applicable regulatory

environment would guide site-specific assessment of biological effects from new development, including those projects located in public open spaces, to assure that biological impacts, if they exist, are properly identified and mitigated. Also see Master Response E regarding level of analysis.

SA-63

It cannot be assured that all riparian habitat has been mapped and delineated City-wide, and such an undertaking is not required as part of the General Plan Update and its accompanying CEQA analysis. As such, riparian habitat may exist in areas where development is permitted by the General Plan Update. As stated on page 4.3-26 of the EIR, should certain development proposed under the General Plan be located within or adjacent to such wetland areas, state and federal laws and regulations would be implemented to protect resources from development through the Corps Section 404 permitting process, which is a discretionary rather than negotiated process, and the California Wetlands Conservation Policy, which is intended to ensure that no net loss of wetlands would occur within the state. As explained on pages 4.3-24 to 4.3-25, the CDFG, under Section 1600 of the Fish and Game Code of California, is empowered to regulate streams and associated streamside vegetation. The CDFG presumes that most drainage areas are streambeds. CDFG has the authority to negotiate alterations of streambeds pursuant to Section 1600 of the Fish and Game Code. Thus, development that encompasses alteration of riparian areas could be authorized by CDFG in circumstances where CDFG determined it was appropriate. In circumstances where CDFG authorizes the alteration, the impact would be the loss of the riparian resources, consistent with the policies and regulations of CDFG.

SA-64

The comment misinterprets page 4.3-21 which states that “The City’s certified Coastal Land Use Plan (CLUP) contains extensive policy language addressing biological, habitat and resource protection. CLUP policies are applicable only in the Coastal Zone, which covers only a portion of the Planning Area.” The Draft EIR does not assert that inland resources are unprotected. Rather, throughout the biological resources section, numerous analyses and citations of Policy are provided that address inland environments. This includes but is not limited to the discussion under Impact 4.3-1, 4.3-2 and 4.3-3. As described in response to comment JA-2, the current Recreation and Open Space Element states that “Environmentally Sensitive Areas are those passive open space areas possessing unique environmental value which may warrant some form of protection or preservation.” While the existing Open Space and Recreation Element describes resources, they do not identify any protections.

SA-65

The threshold of significance identified on the top of page 4.3-24 of the Draft EIR states in part: “Would development allowed under the Proposed General Plan Update have a substantial adverse effect on ... other sensitive natural communities identified in local or regional plans, policies, regulations, or by the CDFG or USFWS?” [emphasis added] The comment focuses on a portion of the emphasized language. The discussion under Impact 4.30-2 includes lakes, streams [which includes drainage areas], streamside vegetation, lakeside vegetation, the riparian canopy, wetlands, terrestrial and marine resources, resources within ESAs, habitats containing candidate or special status plants or wildlife. In addition, pursuant to Policy NR 10.2, all development must comply with the Orange County Natural Resource Communities

Conservation Plan. The comment does not identify any other “sensitive natural community” that has been “identified in local or regional plans, policies, regulations, or by the CDFG or USFWS” that should have been included in the discussion under this or any other impact heading.

SA-66

The comment is acknowledged. Refer to response to comment SA-58 regarding the assessment of project-level impacts. Further, Goal NR 13 and its policies identify the need to protect local wetlands from the effects of further development within the City, which would include potential sedimentation and runoff impacts. In addition, the potential impacts of sedimentation, erosion, and polluted run off were analyzed in the Draft EIR under Impact 4.7-3 (p. 4.7-33 to 4.7-34) and under Impact 4.7-4 (p. 4.7-35 to 4.7-36). The City’s Natural Resources, Safety, and Harbor and Bay Elements are also designed to reduce sedimentation, erosion and polluted runoff. Refer to Draft EIR pages 4.7-44 to 4.7-54.

SA-67

The comment refers to the second paragraph under the cumulative impacts discussion on page 4.3-29, which includes a typographical error. Page 4.3-29, third paragraph, first sentence is revised as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

Because rare natural communities do not need to be formally listed as threatened or endangered under any state or federal regulations to be considered “sensitive,” the proposed General Plan Update and future projects within the County would ~~not~~ prohibit development within areas that contain sensitive natural communities. ...

Therefore, cumulative impacts due to the threshold discussed under Impact 4.3-2 (i.e., riparian habitats and other sensitive natural communities identified in local or regional plans, policies, regulations, or by the CDFG or USFWS) would be less than significant.

SA-68

The City has utilized the state-issued thresholds of significance for biological impacts. These are contained in Appendix G of the CEQA Guidelines. The threshold of significance does not reference species which have a “high value.” The use of this term in the TBR is for purposes of prioritizing resources within the City. In terms of determining whether the proposed General Plan Update will have a significant effect on protected species, the criteria is whether the species has been “identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or the CDFG or USFWS.” While the TBR has information on other species, the Draft EIR is not required to analyze species not covered by the threshold.

SA-69

If the commenter is referring to the loss of Nonnative annual grasslands, the loss of this resource in certain areas due to development would be of little consequence due to its abundance elsewhere and its lack of status as a sensitive community (page 4.3-7). If the commenter is referring to the loss of native grasslands, as identified on page 4.3-23, proposed General Plan Update policies providing protection to habitats containing candidate, and special status plant and wildlife species are additions to the City’s General Plan, in light of the fact that there are currently no such policies contained in the existing

Conservation of Natural Resources Element. Therefore, the proposed General Plan Update would increase the level of protection of these plant and wildlife species within the City’s regulatory framework. Further, the City has utilized the state-issued thresholds of significance for biological impacts. These are contained in Appendix G of the CEQA Guidelines. The threshold of significance does not reference Nonnative grasslands. In terms of determining whether the General Plan Update will have a significant effect on a resource, the test is whether the resource has been “identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or the CDFG or USFWS.” The Draft EIR is not required to analyze species not covered by the threshold.

SA-70

Refer to the Master Response A regarding inclusion of the 19th Street bridge in the EIR analysis.

SA-71

The cumulative biological impact was determined based in part on the CEQA Guidelines Appendix G discussion of biological resource questions within the context of the Orange County Central and Coastal NCCP area. To partially address the cumulative impacts on biological resources within the County, the City has committed in Policy NR 10.2 to comply with the NCCP. In addition, as explained in the last full paragraph on page 4.3-29, the General Plan Update provides protection for sensitive communities which are not already protected by federal or state regulations or by the NCCP. As the Draft EIR states in this context: “However, the policies and goals outlined under the proposed General Plan Update, specifically those identified in Impact 4.3-3, recognize the importance and value of these areas and are aimed at protecting these resources.” Based upon these policies, the Draft EIR concluded: “Because of this, the project’s contribution to the cumulatively adverse effect on these communities would not be considerable. Therefore, because the proposed General Plan Update does not contribute considerably to the decline of sensitive natural communities, the proposed General Plan Update’s contribution to this impact would not be cumulatively considerable, and would result in a *less-than-significant* impact.” On pages 4.3-30, the Draft EIR explained the basis for similar conclusions for riparian habitats, wetlands, and the movement of native residents or migratory wildlife species. The criteria that the City applied in making this determination include those contained in the CEQA Guidelines, Sections 15065(a)(3) and 15130, and Appendix G, Section IV. Biological Resources. The former defines “cumulatively considerable” to mean: “that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” It was under this definition that the Draft EIR reached its conclusion. Its discussion is pursuant to the criteria established in the CEQA Guidelines, Section 15130.

SA-72

The Draft EIR on pages 4.3-29 to 4.3-30 makes reference to potential future development outside of the City within the County. This is referring to development within the Orange County Central and Coastal NCCP area but outside of the City limits. The development referred to is the general growth and development that would occur within the Orange County Central and Coastal NCCP area between 2005 and 2030; no specific development projects were considered in this analysis as this is a programmatic EIR. As stated in page 4.3-29, the analysis assumes buildout of both the General Plan Update area as well

as the non-City portions of the NCCP area. The NCCP is formulated to account for the buildout condition.

SA-73

Section 4.3 (Biological Resources), Appendices C1 and C2, Section 5.1 (Biological Resources Addendum) of the TBR, and the responses to comments SA-54 through SA-72 demonstrate that there is substantial evidence to support the EIR's determination that no significant effects on biological resources would occur with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will guide development within the City and ensure that adequate analysis and protection of biological resources is performed, thereby resulting in a less-than-significant impact.

SA-74

Impacts 4.4-2 and 4.4.-3, pages 4.14-15 through 4.4-17, identify a less-than-significant impact with regard to directly or indirectly destroying archaeological and/or paleontological resources by ensuring that resources are protected and preserved in responsible public or private institutions. The proposed General Plan Update policies do not require that artifacts be donated to an institution in Orange County, although that is the preference. The commenter is directed to Policies HR 2.4 and NR 18.2 and 18.4 in particular, which are designed to ensure property retention and preservation of resources.

SA-75

The information contained in the Hazards Assessment Study is included in the TBR, as noted in this comment. This document is a companion to the EIR, and its conclusions were used to form the analysis presented in the EIR. Therefore, the relevant portions of this study have been incorporated into the EIR; the study itself provides additional detail, most of which is too technical for inclusion in the EIR. Consistent with CEQA Guidelines Section 15147, an EIR shall include "...relevant information sufficient to permit full assessment of significant environmental impacts, and placement of highly technical ... data in the body of an EIR should be avoided."

SA-76

The discussion under the first threshold on page 4.5-13 is revised as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

The highest risks originate from the Newport-Inglewood fault zone, the Whittier fault zone, the San Joaquin Hills fault zone, and the Elysian Park fault zone, and other identified fault zones within the Planning Area, each with the potential to cause moderate to large earthquakes that would cause ground shaking in Newport Beach and nearby communities.

In turn, Policies S 4.4 and S 4.5 would regulate the location of facilities affected by seismic activity in accordance with state law. These policies, coupled with compliance with CBC Chapter 33 for the construction of new buildings and/or structures and local City requirements would ensure that new development is not significantly affected by seismic activity. Page 4.5-14, first partial paragraph, is revised to add "and local City requirements" as a text change in Impact 4.5-1 as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR.

... building design standards of the CBC Chapter 33 for the construction of new buildings and/or structures, specific engineering design and construction measures would be implemented to anticipate and avoid the potential for adverse impacts. Compliance with applicable regulations, and local City requirements, and the policies contained in the General Plan Update would ensure that impacts related to strong seismic ground shaking remain at a *less-than-significant* level. No mitigation is required.

The information contained in the Hazards Assessment Study is included in the TBR, which is a companion to the EIR, and its conclusions were used to form the analysis presented in the EIR. Therefore, the relevant portions of this study have been incorporated into the EIR; the study itself provides additional detail, most of which is too technical for inclusion in the EIR. Consistent with CEQA Guidelines Section 15147, an EIR shall include "...relevant information sufficient to permit full assessment of significant environmental impacts, and placement of highly technical ... data in the body of an EIR should be avoided."

No changes to the analysis under this impact on page 4.5-13 of the EIR are required. Further, the addition of this policy does not alter the conclusions of Impact 4.5-1. As discussed above, any proposed development that results in identification of potentially active faults would be subject to the same requirements as other development affected by seismic activity. These requirements would ensure that impacts would be less than significant.

SA-77

Figure S2 will be amended in the Safety Element of the General Plan Update to identify a "fault disclosure zone" consistent with the TBR recommendation.

SA-78

A wholesale review of structural safety in the City and the adoption of mandatory retrofit requirements is beyond the scope of the General Plan Update. The proposed project primarily addresses future new development and redevelopment in the City, and does not include policies or other project components that would change the structural integrity of existing development in the City. Therefore, the existence of structures that would be more susceptible to earthquake damage than other structures is an existing condition, and is not an impact of the proposed project. The threshold of significance is framed to ask whether the project (i.e., the General Plan Update) will expose people or structures to seismic and related risks. The threshold does not address whether people or existing structures are already exposed to seismic and related risks.

SA-79

General Plan policies S 4.4 and S 4.6 address the siting of new and the upgrading and maintenance of existing essential public facilities. The sentence prior to the one referenced by the commenter states: "Adherence to the City's codes and policies contained in the General Plan Update would ensure the maximum practical protection available for users of buildings and infrastructure and associated trenches, slopes, and foundations." By way of example, Policy S 4.1 addresses the codes regulating all structures. Contained within the Building Codes and the Building Code Policies of the Building Department are requirements that all structures meet minimum standards for seismic safety design. In terms of location

on unstable soil or geologic units, the Building Department implements Building Code Policy NBMC 15.10, which requires soils reports for all new construction (including demolition and reconstruction), and any addition which increases the site coverage by more than 1,000 square feet. An addition of more than 400 square feet up to 1,000 square feet requires a soils engineer to inspect and certify subgrade compaction and footing bearing pressure, and a small addition up to 400 square feet requires the building inspector to inspect the subgrade and foundation trenches. In addition, Policy S 4.7 (New Development) has been added to the proposed General Plan Update and states: “conduct further seismic studies for new development in areas where potentially active faults may occur (Imp 2.1 and 37.1).” The policies referenced in the EIR result in an acceptable level of protection for people and structures in the case of a seismic event.

SA-80

If the Santa Ana River Crossing at 19th Street is developed, then project-specific study would be completed by OCTA, the lead agency for that project to investigate the potential for ground rupture at the location of the bridge. It is speculative to assume that engineering techniques could not be used to design the bridge to withstand the Maximum Credible Earthquake for the area, as is commonly completed for new roadway projects.

Refer to Master Response A regarding inclusion of the 19th Street bridge in the EIR analysis.

SA-81

Section 4.5 (Geology, Soils, and Mineral Resources), Section 6.2 (Seismic Hazards) and Section 6.3 (Geologic Hazards) of the TBR, and the responses to comments SA-75 through SA-80 demonstrate that there is substantial evidence to support the EIR’s determination that effects on geology and soils would remain less than significant with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will guide development within the City and ensure that adequate analysis and protection of geologic and soils resources is performed, thereby resulting in a less-than-significant impact.

SA-82

According to the questions regarding traffic/transportation in CEQA Guideline Appendix G, which is incorporated into the Draft EIR, the relevant threshold of significance is whether the addition of project-generated vehicular traffic impairs implementation of or physically interferes with the City’s Emergency Management Plan. That Plan, as described on page 4.6-29 of the Draft EIR, provides guidance for the City’s response to extraordinary emergency situations associated with natural disasters, technological incidents and nuclear defense operations. The Plan is not applicable to day-to-day emergencies or the established departmental procedures to deal with such emergencies.

The comment does not specify in what manner traffic congestion would interfere with the implementation of the Plan. It appears what the comment is focused on is the ability for emergency vehicles to navigate on congested roads and intersections and how that might affect emergency response time. While this inquiry is not directly relevant to the EIR’s conclusion regarding the City’s Emergency Plan, the City provides the following information. The commenter is directed to Subchapter 4.13 for a

discussion of how roadway segments and intersections are anticipated to operate at buildout of the General Plan Update. (Also refer to Appendices D and E.) Even without implementation of the identified improvement measures, most of the impacted intersections would operate at Level of Service D or E, and traffic conditions would continue to operate at levels that are below the theoretical design capacity of the roadways. On these road segments, emergency vehicles will be able to traverse these roadways and intersections. By law, drivers in California must yield the right of way to any police car, fire engine, ambulance, or any other emergency vehicle with flashing lights. In addition, drivers must remain at least 300 feet behind an emergency vehicle which is responding to a call. In Newport Beach and other jurisdictions where traffic conditions are severely congested, emergency vehicles can, and do, traverse such roadways, generally by requiring vehicles to move over in order for the emergency vehicles to pass through. On some limited occasions, because of extended congestion, emergency vehicles may be required cross to opposing traffic lanes (e.g., to travel westbound in eastbound traffic lanes), use the median, or a bicycle lane, to get around congested road segments or intersections. Thus, emergency vehicles are not anticipated to experience any substantial delays as a result of the significant traffic impacts that could occur at some intersections as a result of implementation of the proposed project.

Please note that intersections operating or projected to operate at LOS E do not include intersections on the Peninsula. Further, the Fire Department (Sutherland 2006)³ has confirmed that there is no evidence to suggest that emergency vehicle access is impeded on the Peninsula. Emergency vehicles are able to get through traffic. Access is only an issue on the 4th of July and that is not related to, or would be affected by, implementation of the General Plan Update as the project does not propose to close any roads, redirect traffic, or otherwise impede the existing circulation system.

The commenter states that “[a]bsent this information, evidence does not exist to support a conclusion that no significant impacts to biological resources will occur.” The City fails to see any connection between the ability of emergency vehicles to respond to calls and biological resources. Assuming that the comment refers to the City’s ability to implement its emergency response plan, substantial evidence supports the EIR’s conclusion that the proposed General Plan Update would not impair or physically interfere with the City’s adopted emergency response plan.

SA-83

The City’s Storm Drain Master Plan, completed in 2000, evaluated the deficiencies in the City’s existing storm drain system and proposed upgrades. Additional details regarding the location and type of deficiencies in the existing storm drain system can be found in that document which can be viewed at Newport Beach City Hall during normal business hours. That document is referenced on page 4.7-12 of the EIR and also included within the list of references on page 4.7-55.

The information is summarized on pages 4.7-12 through 4.7-15. The comment fails to demonstrate that additional information should be included in the EIR.

³ Ron Sutherland, Battalion Chief, Newport Beach Fire Department, conversation with EIP Associates, June 27, 2006.

SA-84

Any potential, future changes in sea level would be the result of atmospheric conditions, and not a result of the proposed project. The commenter does not identify which of the Hydrology/Water Quality Impacts she believes are implicated by changes in sea level. The City assumes that the commenter wishes the City to address the issue of whether the implementation of the General Plan Update would expose people or structures to significant risk of loss, injury, or death due to flooding that might occur as a result of the potential for the rise of sea levels. With respect to impacts on future daytime or permanent residents, impacts associated with potential flooding due to future change in sea level would be monitored by Policy 3.1, which states that the City will prepare and periodically update comprehensive studies of seasonal and long-term shoreline change, episodic and chronic bluff retreat, flooding, and local changes in sea levels, and other coastal hazard conditions, all of which are aimed at continually monitoring and assessing risk associated with any climactic changes. See Master Response E regarding level of analysis.

SA-85

With respect to compliance with existing TMDLs, the City of Newport Beach, the Santa Ana Regional Water Quality Control Board, the California Department of Fish and Game, the County of Orange, and other cities in the Newport Bay watershed have established the Newport Bay Watershed Executive Committee, which is advised by the Watershed Management Committee (WMC), to implement TMDLs. Generally, all of the TMDLs established by the Santa Ana Regional Water Quality Control Board require that watershed-based solutions are developed by the watershed stakeholders, followed by joint funding for the implementation of these projects throughout the watershed. Through this mechanism, compliance with existing TMDLs can be ensured. Further, General Plan Goal NR4 requires the maintenance of water quality standards through compliance with TMDL standards. This goal is implemented by Policy NR 4.1, which requires that TMDLs established by the RWQCB, Santa Ana Region, and guided by the Newport Bay Watershed Executive Committee, are implemented. This goal and policy ensures that compliance with any future TMDLs is also achieved. The proposed project would not alter this process nor in any way affect the ability of the City to comply with existing or future TMDLs.

SA-86

Under Section 303(d) of the Clean Water Act, jurisdictions are required to develop Total Maximum Daily Loads (TMDLs) for impaired waterbodies. Generally, a TMDL specifies the maximum amount of a pollutant that a water body can receive and still meet water quality standards. Newport Bay is designated as “water quality-limited” or identified as impaired for sediments, nutrients, fecal coliform, and toxic pollutants. The State Water Resources Control Board (State Board) and the US Environmental Protection Agency (EPA) have developed TMDLs for these constituents. TMDLs are designed to bring the listed water bodies into compliance with water quality standards. It is presumed that future discharges resulting from the proposed General Plan Update will be required to comply with all applicable water quality regulations, including applicable TMDLs. TMDLs do not prevent any increase in a listed pollutant, but rather allow specified daily loads of the subject pollutant to the impacted water body. As

outlined in response to comment SA-85, the City has a process to monitor and ensure its compliance with existing and future TMDLs.

SA-87

There is no requirement to apply Best Available Technologies in combination with, or in place of, Best Management Practices. EPA and the State Water Resources Control Board have both recognized that for storm water and urban runoff, it is appropriate to utilize Best Management Practices (BMPs) to meet applicable water quality requirements.

SA-88

Impacts related to the use of pesticides and fertilizers, and other non-point source pollutants, are addressed through implementation of the National Pollutant Discharge Elimination System program, which is fully discussed in Impact 4.7-1. Impact 4.7-1 concludes that a less-than-significant impact would occur with implementation of the proposed project.

SA-89

Modern pumping has caused water levels to drop below sea level inland of the Newport-Inglewood fault zone, which encourages sea water to migrate inland, contaminating the groundwater supply. Strategic lines of wells in the Alamitos and Talbert Gaps, which are located in Fountain Valley, inject imported and reclaimed water to create a mound of water to protect the Basin from seawater intrusion. As such, the injection of water in the Alamitos and Talbert Gaps prevent saltwater intrusion into the upper region of the aquifer, where most of the pumping occurs. As stated in Impact 4.7-6, pages 4.7-37 and 4.7-39, because operation of the proposed General Plan Update would not substantially increase groundwater pumping, the project would not adversely impact groundwater quality due to saltwater intrusion.

SA-90

Implementation of the proposed General Plan Update would not substantially increase groundwater pumping, and, therefore, it would not have a notable impact on the sustainability of the groundwater basin over the long term and additional detail regarding the Orange County Water District's long-term groundwater management strategy is not necessary in the cumulative analysis for the proposed project. Refer to response to comment SA-102 for information on the degree of specificity required in the cumulative analysis.

However, the most recent Groundwater Management Plan prepared by OCWD, which was finalized and adopted in 2004, provides the information requested by this commenter. In summary, and as stated on page 9-1 of the Groundwater Management Plan, "OCWD utilizes a supply side management approach to achieve long-term sustainable yield from the Basin. On a regular basis, the amount of water that the Basin can supply is determined, and the District modifies the basin production percentage and related management tools so that the amount of actual pumping corresponds to the amount of water the Basin can supply." Refer also to response to comment SA-91 for an estimate of future groundwater pumping levels.

SA-91

According to the OCWD 2004 Groundwater Management Plan, groundwater production from the Basin totaled approximately 350,000 AF in 2001/02 and has steadily increased since 1954. This is the last year of production stated in the report. However, according to OCWD's website (accessed on June 30, 2006), at the present time about 270,000 acre-feet of this water is pumped for use each year. That quantity grows steadily, and projections indicate the demand may reach 450,000 acre-feet a year in the next quarter century.

SA-92

As analyzed in Section 4.14 (Utilities and Service Systems) under Impact 4.14.1-2, the amount of projected development within the City would place more demand on the local water supply. The amount of increased demand is quantified in the Draft EIR under Impact 4.14.1-2. The three agencies that provide water to the City will decide which source of water to use based on future economic conditions, climate, and hydrogeological factors. OCWD, the entity that provides the groundwater supply to the City, projects that there would be sufficient groundwater supplies to meet the future demand requirements in Newport Beach. (Also refer to the discussion of Impact 4.7-2 on pages 4.7-32 to 4.7-33.)

SA-93

Impact 4.7-4 addresses the potential for increased downstream flooding and exceedance of stormwater drainage systems. As discussed under that impact, new development would primarily occur as infill, in areas previously developed with impervious surfaces, with the exception of Banning Ranch. Compliance with General Plan Update Policies and the City Municipal Code would ensure that new development would not significantly increase downstream flooding or exceed the capacity of stormwater drainage systems, and impacts would be less than significant.

SA-94

The anticipated increase in stormwater runoff cannot be reasonably calculated at this point in time, and therefore quantification of the increase would be based upon speculation and is inappropriate for inclusion in a program-level EIR. Consistent with CEQA Guidelines Section 15146, "the degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity ... described in the EIR." As further stated, "the EIR [on a local general plan] need not be as detailed as an EIR on the specific construction projects that might follow." The EIR complies with these Guidelines by focusing on the overall, programmatic effect of increased development; specific information is not warranted for inclusion and cannot be reasonably determined based on currently available information. As discussed under response to SA-93, most new development is infill development. Increased runoff from infill projects would be minor, and would largely depend on various components such as open space areas and on-site detention—components which are unknown and cannot be determined for specific projects that have yet to be proposed—of each new development project. In addition, the single largest potential change to drainage patterns could occur on Banning Ranch if that site is developed. The exact acreage and footprint of development on Banning Ranch is unknown, and, as such, specific runoff quantities cannot be specified. The commenter is directed to the discussion of Impacts 4.7-3, -4 and -5 for further information on this topic.

SA-95

As discussed under Impact 4.7-4, the City's SDMP identified upgrades necessary in most of the subareas. The progression of how development actually proceeds will be a factor for determining which upgrades are appropriate and when they should be implemented. The discussion under Impact 4.7-5 provides further information regarding storm drain infrastructure. Refer to response to comment SA-94 for additional information.

SA-96

As discussed in response to SA-93, most new development would be infill development. Policy 3.21 requires new development and public improvements to minimize the creation of, and increases in, impervious surfaces. Further, the amount of runoff from a site is not only affected by lot coverage, but also through the design of the on-site storm drain system. That is, a site with less lot coverage and no on-site detention could result in more runoff (in cubic feet per second) than a site of similar acreage with more lot coverage and an effective on-site detention system. Further, because impacts to the storm drain system would not be significant, no mitigation, such as a lot coverage standard, would be required.

SA-97

As discussed under Impacts 4.14.1-1 and 4.14.1-2, existing water supply and water supply infrastructure exists to serve the proposed General Plan Update. As such, no additional water storage facilities would be required.

SA-98

Other areas of the Draft EIR address the issues of flooding from sources other than levee breaches. For example, in the discussion of Impact 4.7-7, there is a discussion of the existing development in the coastal area that is already subject to flooding in the 100-year storm event according to FEMA mapping. (Also refer to the discussion of Impact 4.7-8.) In addition, the discussion of Impact 4.7-10 addresses the impact associated with tsunami, and also provides a discussion of prevention measures that would reduce impacts from storm surge. The effects of storm surge are largely similar to tsunami and would affect a similar area. Therefore, information presented on tsunamis is also relevant to storm surge. No new measures or policies beyond those identified in the EIR are necessary to ensure adequate shoreline protection.

SA-99

Impacts related to flood risks such as storm surges and tsunamis are addressed by more than Policy S2.6 relating to maintenance of storm drains. Policies S2.1 through S2.5 and S2.7 also address impacts with shoreline management plans, using sand dunes, raising floor elevations, and prohibiting construction of hard devices.

SA-100

As discussed in the description of the watersheds on pages 4.7-2 to 4.7-3, the Planning Area is part of four watersheds which consist of 158 acres of land. The EIR contains a discussion regarding the

cumulative impacts of development within the watersheds on water quality on page 4.7-42. In addition, Section 5.2 (Hydrology and Water Quality) of the TBR provide more information regarding the watersheds. The discussion is qualitative rather than quantitative by necessity. It would be unreasonable to quantify and describe all other new development anticipated in the 158 acres of watershed, given the number of jurisdictions and the geographic scope of the watershed. New development would include urban infill and new development typical of Orange County, with residential, commercial, and various other projects. Also note that Page 4.7-45 of the Draft EIR, Policy NR 3.6 (formerly NR 3.7) has been revised to indicate:

NR 3.7~~6~~ **Watershed Runoff Quality Control**

Support and participate in watershed-based runoff reduction, water quality control, and other planning efforts with the California Regional Water Quality Control Board (RWQCB), the County of Orange, and upstream cities. Ensure that enforcement and regulatory agencies regulate upstream dischargers (cities, Orange County, residential and commercial uses) in the San Diego Creek and Santa Ana/Delhi Channel watersheds. (Policy HB8.7) (Imp 19.3, 19.16)

While specific detail is not included in this EIR, given the types of projects anticipated and the types of impacts that could occur, an accurate assessment of cumulative impacts is provided.

SA-101

As discussed under response to SA-85 and SA-86, a water quality impact occurs with an increase over an established TMDL, not with any increase in criteria pollutants, and the City has a process to monitor and ensure compliance with existing and future TMDLs. This would ensure that the incremental contribution of the Proposed General Plan update to the cumulative conditions within Newport Bay would be less than significant.

SA-102

The commenter is questioning the pollutant loads that would result with implementation of the proposed project and whether these loads would be considered significant. Pollutant loads are primarily regulated on a watershed basis through the application of Total Maximum Daily Loads (TMDLs) for waters that are considered “impaired.” Generally, a TMDL specifies the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and requires a jurisdiction to allocate pollutant loadings among point and nonpoint pollutant sources to achieve that amount. In layman’s terms, a TMDL sets a limit for the total loading of a particular pollutant, such that the pollutant loads from all sources will not impair the beneficial uses designated for the waterbody. The limit identified by a TMDL is allocated among different point sources (wasteload allocations) and nonpoint sources (load allocations). TMDL targets also incorporate a margin of safety to account for uncertainty. The timeframe for compliance with TMDL targets varies, but may take many years. Therefore the TMDL will often include a compliance schedule, identifying interim and final targets.

As stated on page 4.7-8 of the Draft EIR, Newport Bay is designated as “water quality-limited” for four impairments under the federal *Clean Water Act’s* Section 303(d) List, meaning that it is “not reasonably expected to attain or maintain water quality standards” due to these impairments without additional

regulation. Under Section 303(d) of the Clean Water Act, states, territories, and authorized tribes are required to develop lists of impaired waters and establish priority rankings for waters on the lists and develop TMDLs for these waters. The Santa Ana Region Water Quality Control Board (SARWQCB) and the US Environmental Protection Agency (EPA) have developed TMDLs for the sediment, nutrients, fecal coliform, and toxic pollutants in Newport Bay (Newport Beach 2005). A complete list of the interim and final numeric targets for TMDLs in Newport Bay can be found on the County of Orange Watershed and Coastal Resources Division website (http://www.ocwatersheds.com/watersheds/newport_tmdls.asp). Essentially, the TMDL is the “cumulative load” of the watershed as measured on an interim and final basis.

The effectiveness of individual control measures varies, and the concentration of pollutants that will remain as a result of the effectiveness of each individual control measure cannot be reasonably quantified. However, all projects would be required to comply with the Orange County Drainage Area Management Plan, which provides the specifications necessary in order to ensure that water quality pollutants are minimized to the Maximum Extent Practicable. As stated under the analysis of Impact 4.7-1 and referenced under the cumulative impact analysis, operation of new development or redevelopment projects are required comply with provisions set forth in the DAMP, including the implementation of appropriate BMPs identified in the DAMP, to control stormwater runoff so as to prevent any deterioration of water quality that would impair subsequent or competing beneficial uses of the water, while allowing the established TMDL targets to be achieved.

Further, the Newport Bay Watershed Executive Committee, which is advised by the Watershed Management Committee (WMC), has been assigned with the responsibility to implement the TMDLs. The WMC typically meets quarterly to discuss compliance with the TMDLs established by the SARWQCB. Generally, all the TMDLs established by the SARWQCB require that watershed-based solutions be developed by the watershed stakeholders, followed by joint funding for the implementation of these projects throughout the watershed. Through this process of monitoring, the effectiveness of all of the water quality programs occurring within the watershed are determined, and, where necessary, additional guidelines, rules, or requirements may be established to achieve the TMDL targets and/or increase the effectiveness of individual control measures or BMPs.

As stated in Impact 4.7-1, compliance with all of the water quality regulations would minimize the risk of water degradation within the City from construction and operational activities, which would result in a less-than-significant impact.

SA-103

As described in response to comment SA-89, modern pumping has caused water levels to drop below sea level inland of the Newport-Inglewood Fault zone, which encourages sea water to migrate inland, contaminating the groundwater supply. Strategic lines of wells in the Alamitos and Talbert Gaps, which are located in Fountain Valley, inject imported and reclaimed water to create a mound of water to protect the Basin from seawater intrusion. As such, the injection of water in the Alamitos and Talbert Gaps prevent saltwater intrusion into the upper region of the aquifer, where most of the pumping occurs. As stated in Impact 4.7-6, because operation of the proposed General Plan Update would not substantially

increase groundwater pumping, the project would not adversely impact groundwater quality due to saltwater intrusion.

As described in SA-92, as analyzed in Section 4.14 (Utilities and Service Systems) under Impact 4.14.1-1 and Impact 4.14.1-2, adequate water supply would exist to meet demands associated with the General Plan Update. (Also refer to the discussion of Impact 4.7-2 on pages 4.7-32 to 4.7-33.) The year 2030 projected availability of imported water supply exceeds the 2030 projected region-wide demand for imported water supply by at least 155,000 AF. Therefore, MWDOC has indicated that there is adequate existing and planned imported water supply to accommodate the increased demand associated with the proposed General Plan Update. The City could in the future elect to extract more water from the local groundwater supply to avoid the purchase of additional imported water. However, the City's future decisions on its water sources will depend on the many factors that affect management of the water supply, including future economic, climate, and hydrogeological factors which are currently unknown. As such, the precise future demands on groundwater cannot be quantified and may vary from year to year. The Orange County Groundwater Basin is subject to management through OCWD and its Groundwater Master Plan, and long term administration of its groundwater resources would occur separate from the proposed General Plan Update. Refer also to responses to comments SA-90 and SA-91 for a discussion of other groundwater management strategies.

SA-104

Refer to Master Response B and responses to comments SA-100 and SA-102 for information on the degree of specificity required in the cumulative analysis. The analysis states that upgrades within the City would be required to the City's storm drain systems. The implementation of these upgrades will be dictated by how development proceeds within the area, which is currently speculative. It is beyond the scope of this EIR to identify storm drain improvements needed outside of the City. Nonetheless, the City is able to assess the significance of the impact created by its incremental contribution to the impacts.

SA-105

As discussed response to comment SA-100, the Planning Area is part of four watersheds which consist of 158 acres of land. The Draft EIR contains a discussion regarding the cumulative impacts of development within the watersheds on water quality on page 4.7-42. Section 5.2 Hydrology and Water Quality of the TBR provides more information regarding the watersheds. The discussion is qualitative rather than quantitative by necessity. It would be unreasonable to quantify and describe all other new development anticipated in the 158 acres of watershed, given the number of jurisdictions and the geographic scope of the watershed. New development would include urban infill and new development typical of Orange County, with residential, commercial, and various other projects. While specific detail is not included in this EIR, given the types of projects anticipated and the types of impacts that could occur, an accurate assessment of cumulative impacts is provided.

SA-106

Section 4.7 (Hydrology and Water Quality), Section 5.2 (Hydrology and Water Quality of the TBR), and the responses to comments SA-83 through SA-105 demonstrate that there is substantial evidence to support the EIR's determination that effects on hydrology and water quality would remain less than

significant with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will guide development within the City and ensure that adequate analysis and protection of hydrologic features and water quality is performed, thereby resulting in a less-than-significant impact.

SA-107

The proposals for “consolidation” of commercial uses in West Newport Highway and Balboa Village do not relate to land use compatibility. Rather, the intent is to address these underperforming commercial areas by concentrating commercial uses to improve their performance, and the quality of development in both the commercial and surrounding residential areas. The EIR only refers to “consolidation” when discussing the existing oil and gas operations on Banning Ranch.

SA-108

In public hearings on the General Plan, the City Council has directed that the land use category table and maps be revised to show single family and two family and multi-family land use designation.

SA-109

The introduction to Table 4.8-2 states that the proposed General Plan Update is generally consistent with the SCAG regional plan, with the exception of SCAG Policy 4.02. The discussion of SCAG Policy 4.02 (on page 4.8-20) suggests that certain traffic impacts relevant to SCAG Policy 4.02 would not be mitigated. Also, page 4.10-5 states that the increase in residential units and the associated increase in population would exceed SCAG projections. Nonetheless, in SCAG’s comment letter on the Draft EIR, SCAG states that “SCAG staff has evaluated your submission for consistency with the Regional Comprehensive Plan and Guide, Regional Transportation Plan, and Compass Growth Vision. The Draft EIR addresses SCAG’s policies and forecasts appropriately and has provided sufficient explanation of how the plan helps meet and support regional goals. Based on the information provided in the EIR we have no further comments.”

SA-110

As stated in Chapter 4, Section 4.8 (Land Use and Planning) on page 4.8-24, any future regional growth and development would be required to be reviewed for consistency with adopted land use plans and policies by the County, City of Newport Beach, or other incorporated cities with jurisdiction over a project. In addition, future development must comply with the requirements of CEQA, the California Zoning and Planning Law, and the state *Subdivision Map Act*. To the extent allowed by law, and as approved by a jurisdiction’s decision-making body, as well as any other public agency with discretionary authority over all or a part of an action, any General Plan can be amended to provide for more or less development, and it would be speculative to analyze what other jurisdictions may do as part of future planning efforts.

SA-111

Section 4.8 (Land Use and Planning), Section 2.1 (Land Use and Planning) of the TBR, and the responses to comments SA-107 through SA-110 demonstrate that there is substantial evidence to

support the EIR's determination that effects related to land use and planning consistency would remain less than significant with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will guide development within the City and minimize conflicts and ensure consistency of development with existing plans, thereby resulting in a less-than-significant impact.

SA-112

Traffic noise contours are based upon roadway noise levels calculated pursuant to Federal Highway Administration Highway Noise Prediction Model (FHWA-RD-77-108). The model calculates the average noise level at specific locations based on traffic volumes, average speeds, roadway geometry, and site environmental conditions. Site environmental conditions are determined by taking actual noise measurements, which takes into account existing background noise levels. To the extent that airplane noise contributes to the background noise levels, that source of noise is considered in the noise contour.

SA-113

The Draft EIR contains a general description of the noise impacts associated with construction at pages 4.9-33 to 4.9-35 of the Draft EIR. As explained therein, construction activities are limited to certain days and certain hours. The noise levels at 50 feet from the source of the noise are identified in Table 4.9.9. As noted in the Table, if equipment has noise reducing design features, the noise levels would be lower. Given the temporary nature of construction noise, the requirement that it not occur on weekends or evening hours, and its dissipation with distance, and its compliance with City Codes, the Draft EIR concludes that at this programmatic level, the increase in ambient noise level will not be "substantial." As individual projects are reviewed under CEQA, special circumstances (e.g., proximity to sensitive receptors, length of construction) may result in the City reaching the conclusion that temporary construction noise will substantially increase the ambient noise levels. Specific construction activities that may introduce temporary increases in ambient noise levels would be subject to further environmental review, as this Draft EIR is a programmatic document and does not identify any specific projects. Any project carried out under the proposed General Plan Update would be subject to its own environmental review under CEQA, including the identification of feasible mitigation measure to reduce the exempted impacts of construction noise. Any description of future construction related impacts in this Draft EIR would be speculative in nature, and therefore, can not be analyzed in more detail than was set forth in the Draft EIR. See Master Response E regarding level of analysis.

Additionally, as construction activities are exempt from the City Noise Ordinance and the Municipal Code, and construction activities are restricted to limited hours and days of the week, and consistent with General Plan Update Policy N 4.6 calls for strict enforcement of noise limits and hours of construction, and will further help to reduce events of random noise associated with construction at the times that are most likely to annoy residents.

SA-114

While plans for proposed residences in the Airport Area have not been developed enough to identify whether they would have outside balconies, the EIR discloses exterior noise level impacts related to residential uses in the Airport Area. As the EIR identifies that residences could be developed within the 65 dBA CNEL noise contour, exterior noise would exceed allowable noise levels for residential areas.

This would occur only if, consistent with Policy LU 6.15.24, the City makes appropriate findings for an override to allow residential development within the 65 dBA CNEL. In these areas, impacts on exterior noise levels at new land uses in the vicinity of the airport would be significant. However, in public hearings on the General Plan, the City Council has directed that proposed residential uses within the 65 dBA CNEL contour of the Airport Area be removed. General Plan Policies LU 6.15.3 on page 3-64 of the proposed General Plan, and Policies N 3.1, 3.2, and 3.3 on page 12-30 of the proposed General Plan have been added or revised to indicate this. See Master Response E regarding level of analysis.

SA-115

Refer to response to comment SA-10 and Master Response D regarding an analysis of noise impacts beyond the City's boundaries.

SA-116

Implementation of the Banning Avenue/19th Street bridge, while included in the MPAH, is not currently a programmed improvement. However, it is identified as a long-range improvement, and, therefore, it is included in the General Plan buildout scenario for traffic analysis. Because the noise analysis relies on the traffic analysis, the noise levels on Dover Drive reflects any traffic increases attributable to the Banning Avenue/19th Street bridge. Refer to Master Response A regarding inclusion of the 19th Street bridge in the EIR analysis.

SA-117

The 19th Street bridge is considered part of future conditions, as it is included in regional plans. It will remain on the regional plans unless an agreement can be reached by the four affected Cities. Therefore, impacts of including the bridge are not analyzed—impacts of removing it are analyzed. The City of Newport Beach General Plan Traffic Study Preliminary Alternatives Analysis (Urban Crossroads, Inc., May 3, 2005) included evaluation without the 19th Street bridge. Discussion of the impacts of excluding the 19th Street bridge is included on pages ES-21 and 6-1. Page ES-21 will be revised, as the last 2 lines of text are missing, to finish the paragraph, including “additional through lane in each direction. Therefore it is recommended that Newport Beach continue to be a strong advocate for this bridge.”

Refer to response to comment SA-116 for a discussion regarding traffic related noise impacts as a result of the proposed 19th Street bridge. See Master Response A regarding inclusion of the 19th Street Bridge in the EIR analysis.

SA-118

The calculations of total future population for the City in 2030, as shown in Table 4.10-2 on page 4.10-2 of the Draft EIR, were based on population and household forecasts prepared by SCAG in 2004, which include persons residing in Newport Coast, which was annexed in 2002.

SA-119

Newport Beach is a jobs-rich community. As described in Section 4.10 (Population and Housing), with implementation of the proposed General Plan Update, residential units would increase by an additional

4,666 compared to future growth under the existing General Plan. Inasmuch as the proposed General Plan Update will provide for more residential units, and will replace office uses with residential uses in the Airport Area, the implementation of the proposed General Plan Update will improve the jobs/housing balance.

SA-120

The Draft EIR is not required to examine anticipated employment and income levels versus anticipated costs of the housing to be provided. This issue area is not a required threshold of significance, pursuant to Section 15131 of the 2005 CEQA Guidelines which states that economic or social effects of a project shall not be treated as significant effects on the environment. However, in formulating land use alternatives for the proposed General Plan, the City evaluated the market potential (in addition to traffic, fiscal, and environmental impacts) for specific land uses at certain locations, to help define appropriate land uses. Mixed-use development was identified as a feasible land use in the areas designated in the proposed General Plan. By clustering residential and non-residential land uses, greater opportunities exist for residents to reside closer to their places of employment, as opposed to segregated land uses.

SA-121

The Draft EIR is not required to examine how changes in land use will affect work force demographics and income. This issue area is not a required threshold of significance, pursuant to Section 15131 of the 2005 CEQA Guidelines, which states that economic or social effects of a project shall not be treated as significant effects on the environment.

SA-122

Impacts related to provision of fire (pages 4.11-9 through 4.11-12), police (pages 4.11-15 through 4.11-18), and school services (pages 4.11-22 through 4.11-26) are identified in the EIR as less-than-significant. However, the City will likely require further CEQA environmental review of specific proposals to expand facilities in order to provide fire, police and school services. These new proposals could identify potentially significant impacts. Each proposal would be required to identify mitigation to address each potentially significant impact. However, the City also has the authority (CEQA Guidelines Section 15043) to approve a project despite significant impacts.

SA-123

As stated in response to comment EQ-42, on page 4.11-7, and on pages 4.11-9 through 4.11-12, the EIR identifies Nbfd service goals as based on accepted service levels which are not directly correlated to population increases, and are more a function of the geographic distribution of structures. Because the proposed GPU requires that adequate infrastructure be provided as new development occurs and because the Nbfd has planned for future growth, potential impacts related to fire service are less than significant. In addition, as described on page 4.11-8, the Nbfd is conducting an in-house operational research study using various programs to optimize station locations based upon growth in geographic areas. It would be premature to identify fire station locations at this time.

SA-124

As identified on page 4.11-16, the addition of 84 police personnel would require the construction of new facilities. However, the EIR also acknowledges that not all police personnel would be required at one time. Because the proposed General Plan Update buildout would occur as market forces dictate, the City would likely bring on additional police personnel as needed. Each increment of new development would require a different response from NBPD planning services to accommodate changes in number of police personnel. The EIR, page 4.11-16, provides the flexibility to address these changes with future environmental review.

SA-125

As described in EQ-46, SA-82, and SA-152, emergency access is addressed in Section 4.13 (Transportation/Traffic), Impact 4.13-6, page 4.13-44, as well as in Section 4.6 (Hazards and Hazardous Materials), Impact 4.6-8 on page 4.6-29.

SA-126

As described in response to comment B-24, the City of Irvine has proposed a Negative Declaration for their IBC residential zoning overlay, which states that the SAUSD has indicated they have sufficient capacity to accommodate additional population from the IBC, with the required payment of impact fees. While no information is provided about capacity of SAUSD, the EIR presents a conservative analysis and describes potential capacity constraints at SAUSD and that the school district would likely have to build new facilities. However, the EIR, page 4.11-22, also states that impacts related to construction of new schools would be less than significant.

SA-127

The mitigation of impacts related to provision of schools is limited to payment of school impact fees. The EIR, thus, identifies potential deficiencies in school capacity as capacity constraints lead to the need for new facilities.

SA-128

The commenter is correct. Page 4.12-13 incorrectly describes Municipal Code Chapter 19.52 as applying to all residential development. Page 4.12-13 is revised as noted below and as shown in Chapter 9 (Text Changes) in the Final EIR:

Parkland dedication standards associated with the *Quimby Act* and the Newport Beach Subdivision Code are applicable to development in the City. Chapter 19.52, Park Dedication and Fees of the City's Municipal Code provides for the dedication of land, the payment of fees in lieu thereof or a combination of both, for park or recreational purposes in conjunction with the approval of residential development subdivisions. ...

SA-129

The City's Park Dedication Ordinance was adopted in the 1970s, at which time the City did provide at least 5 acres of parkland per 1,000 persons residing in the community. The discrepancy noted is the result

of annexing the Newport Coast and Newport Ridge areas in 2000, which is due to the fact that the park sites in those areas are largely privately owned by homeowners associations. Therefore, the City continues to have the ability to require parkland dedication at the ratio of 5 acres per 1,000 population.

SA-130

The 155 acres of park that the commenter refers to would likely represent a mix of new park sites, as well as private park sites, as well as improvements to existing park sites. See Recreation Element Policy R1.10 which identifies the priorities for development of parkland; Policy LU 6.15.15 requires dedication of parks for residential development in the Airport Area; and Policy R1.3 requires on-site recreational amenities for residential development in the Airport Area and Newport Center.

SA-131

As stated on page 4.11-21, NMUSD does not currently identify any projected needs for new facilities. In addition, as stated on page 4.11-22, NMUSD staff have indicated that campus size is near or above the minimum standards for elementary schools and below the standard for middle schools. No new recreation impacts have been identified related to NMUSD schools.

SA-132

Refer to response to comment SA-129. Policies regarding park credits do not change the fact that the City had at least 5 acres per 1,000 residents at the time the Park Dedication Ordinance was adopted. The proposed General Plan allows consideration of park credits only in high density residential neighborhoods and only if the private parks provided the same benefit and/or reduced demand for public park space and are accessible during daylight hours to the general public (R 1.3). The Proposed Land Use Element has a policy to require the maintenance of private open space and recreations facilities, but there is no credit proposed as part of the policy (LU 6.2.9). Other than the credits provided for in Recreation Element R 1.3, satisfaction of the park dedication requirements is expected through the dedication of land or the payment of in-lieu park fees.

SA-133

Page 4.12-17 identifies cumulative impacts related to provision of new or modified recreational facilities for new residents as a result of the proposed General Plan. The relevant geographic context for the analysis of these impacts is the City of Newport Beach and its SOI.

The comment provides no evidence that the project would impact parks in neighboring cities, and the City of Newport Beach does not know how many of its residents use recreation facilities and programs in Costa Mesa. It is known that Costa Mesa residents currently make heavy use of Newport Beach recreation facilities and programs, with 593 Costa Mesa residents in recreation programs and an additional 1,647 Costa Mesa residents in Newport Beach adult sports leagues. In all, Costa Mesa residents constitute 13 percent of participants in Newport Beach recreation programs. In addition, 15 percent of teams in Newport Beach's adult softball league are from Irvine (many from IBC businesses), and 244 Irvine residents are registered in Newport Beach adult recreation programs. Newport Beach provides full recreation programs for youth, adults and seniors, and there is no evidence that the City would not

expand or adjust its programs as necessary to meet growing and changing needs and desires of its residents, consistent with past City policy and practice. The City's park dedication fee provides the resources for additional recreation facilities, and Policy R 1.10 establishes the City's priorities for developing new park and recreation facilities. In addition, Policy LU 6.5.2 provides for an active community park of up to 30 acres to be developed on the Banning Ranch property, in either the open space or residential village land use option. It should be noted that this location is near the Costa Mesa boundary. The park dedication fee and the noted policies in the proposed General Plan update will avoid a significant impact on parks in neighboring cities.

SA-134

As described on page 4.12-17, the EIR has identified that development of facilities could create aesthetic, biological or hydrology impacts; however, any of these new facility developments would be subject to the City's environmental review process which includes project-specific environmental review under CEQA. Further, the EIR does not speculate on plans of the City of Costa Mesa for modifying its park services or initiating new sources of revenue generation.

SA-135

The City's experience over the past 20 years is that most multi-family developments include approval of a subdivision map that triggers the payment of park fees. This is done even if the project is not initially sold as condominiums and stays a rental property.

SA-136

The use of park fees to improve and upgrade parks could reduce monies available to acquire additional parkland. However, upgrading existing parks enhances their ability to serve more residents.

SA-137

Refer to response to comment SA-129.

SA-138

Refer to response to comment SA-10 and Master Response D regarding analysis beyond the City boundaries.

SA-139

As described in the General Plan Traffic Study report, the nearest intersection to the MacArthur Boulevard / I-405 Freeway interchange is MacArthur Boulevard at Campus Drive. The increase in ICU at this intersection during the PM peak hour (when traffic volumes are highest) due to through traffic on MacArthur Boulevard destined for the subject interchange is only .028 (.236 – .208). Given the intervening arterial intersections and dispersion of traffic, no impact is anticipated at the MacArthur Boulevard / I-405 Freeway interchange. In addition, the City of Irvine and Costa Mesa did not ask for this analysis in their IS/NOP comments. See Master Response D regarding analysis beyond the City boundaries.

SA-140

See Master Response A regarding inclusion of 19th Street Bridge in EIR analysis.

SA-141

See Master Response A regarding inclusion of 19th Street Bridge in EIR analysis. The proposed General Plan Update is consistent with the adopted Master Plan of Arterial Highways (MPAH). The Santa Ana River Crossings Study (SARX) was an EIR that analyzed the impacts of amending the MPAH to delete the 19th Street and Gisler bridges. This EIR was never certified by the Orange County Transportation Agency (OCTA). The proposed General Plan Update would not preclude OCTA from amending the MPAH to provide alternate means of achieving acceptable levels of traffic flow. Because the SARX Draft EIR was released in June 2001 and the Draft Final EIR was completed in April 2002, such an amendment to the MPAH would likely require new environmental analysis, which might not identify the same alternatives. The responsibility for this analysis is OCTA's; it is not the function of Newport Beach's EIR on its proposed General Plan Update.

SA-142

Margin of error is an incorrect term. The margin of error expresses the amount of the random variation underlying a survey's results. This can be thought of as a measure of the variation one would see in reported percentages if the same poll were taken multiple times. The larger the margin of error, the less confidence one has that the poll's reported percentages are close to the "true" percentages, that is the percentages in the whole population.

Margin of error is only dependent on the sample size and should not be used to determine the accuracy of traffic data. In traffic data, the sample size can be irrelevant to proving how accurate counts are (as presented above). Furthermore, to determine if traffic count is accurate, the data should be compared to another set of traffic data on a different day with the same outside factors (e.g., weekends, holidays, peak hours). The comparison of the data on different days will indicate the variations of the traffic behavior since it compares "apples to apples" and bases evaluations on the size of the traffic count sample.

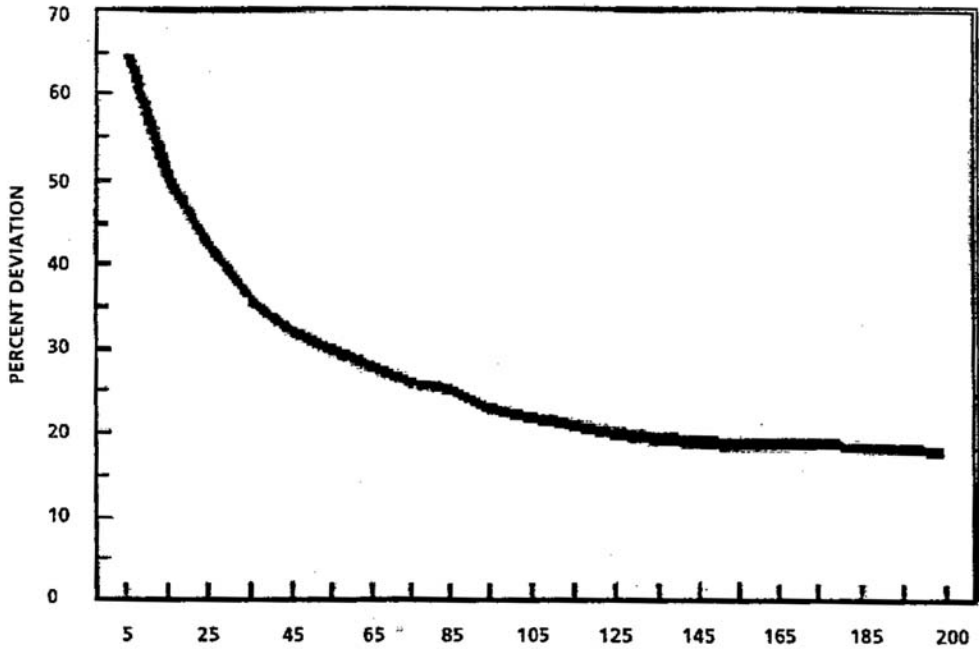
A more relevant question would be related to the natural variation in traffic patterns over the course of a week. Standard industry practice, which was followed in preparation of the Transportation Study, is to perform traffic count collections on a Tuesday, Wednesday, or Thursday to minimize the potential for unusual travel patterns associated with weekend getaways, alternate work schedules, etc. Even so, it is expected that traffic volumes can vary from 5 or 10 percent, up or down.

SA-143

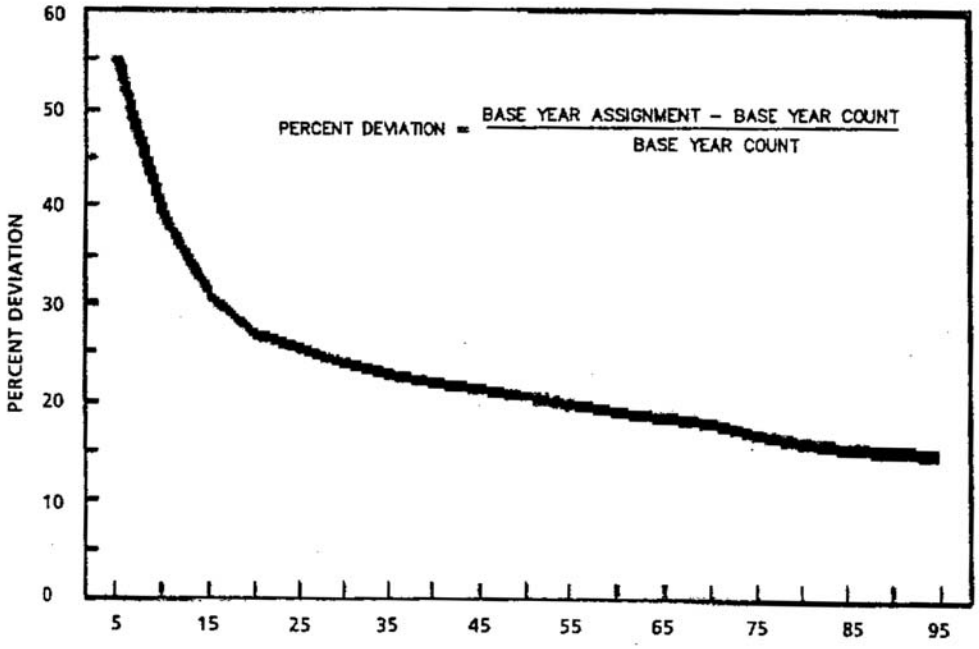
For documentation of the forecasting tool, see Newport Beach Traffic Model (NBTM) 3.1 Technical Documentation Report (Revised) (Urban Crossroads, Inc., January 27, 2004). In summary, calibration of the NBTM with respect to traffic volume forecasts (model validation) are based on the criteria set forth in the document Highway Traffic Data for Urbanized Area Project Planning and Design. This document is also known as National Cooperative Highway Research Program Report 255 (NCHRP-255). This

CITY of NEWPORT BEACH
GENERAL PLAN UPDATE EIR

NCHRP-255 EXHIBIT



Total Screenline Traffic (1000's)



Base Year Count (1000's)



Sources: National Cooperative Highway Research Program Report 255 (NCHRP-255); Urban Crossroad, 2006.

Project No. 10579-03



report documents the difficulties associated with evaluating model performance. Variability in day-to-day traffic conditions is a well-established fact, and the criteria included in NCHRP-255 provide a reasonable basis for evaluating model traffic forecasts. NCHRP-255 presents graphs (reproduced in the traffic model documentation report) that represent the maximum desirable deviation from actual traffic counts that can be expected from a modeling tool such as the NBTM. The graphs are included here. The NBTM was certified by the Orange County Transportation Authority (OCTA). The NCHRP-255 states that “the principal types of applications include systems planning, corridor or subarea studies, evaluation of alternative plans, traffic operations studies, highway design, and environmental studies”.

Screenlines are a primary tool used to evaluate model performance. A screenline is an imaginary cordon drawn across a series of roadways that serve a common traffic flow. For example, the screenline that runs north of Coast Highway from Jamboree Road to Newport Coast Drive has traffic volumes that vary from the counted volume by approximately 3 percent.

SA-144

The comment cites one of multiple source studies reviewed to determine an appropriately conservative mixed use development trip rate. Every study reviewed indicated an internal capture rate equal to or in excess of from 10 percent and up to 50 percent, above the internal capture rate of 10 percent ultimately used in the analysis. As individual mixed-use projects are evaluated, internal capture rates can be specified with more detailed information available. Examples gathered to determine internal capture are described in 3-3 and 3-4 (Appendix V contains sample calculations). Based on the examples provided, and Urban Crossroads, Inc. professional expertise, for planning level analysis, a 10 percent internal capture rate is in fact a conservative and appropriate assumption.

SA-145

The data cited on high-rise apartments in the traffic study report was obtained from the Institute of Transportation Engineers (ITE) publication Trip Generation Manual (7th edition). The ITE Trip Generation rates for high-rise apartments are approximately 37 to 43 percent less than the rate for apartment. Based on the judgment of the engineering staff of Urban Crossroads, Inc., a factor reducing apartment trip generation in the model to represent high-rise apartments is reasonable. A discussion of high-rise apartments is found on page 3-6 of the Transportation Study. High-rise apartments are represented as typical apartments in the model, with the reduction shown by creating a “surrogate quantity” of dwelling units that is 20 percent less than the actual unit count. The model structure could not be modified to include a special rate for high-rise apartments, as the Newport Beach Traffic Model update was already completed prior to beginning this General Plan analysis.

Data contained in the ITE Trip Generation Manual is typically collected in suburban areas. There is no indication that well developed mass transit is available at the ITE study sites. Sites surveyed in the ITE Trip Generation Manual are not located in mixed use settings, but reflect a single use characteristic as a prerequisite for inclusion in the database. Therefore none of the reduction could be attributed to mixed use reduction instead.

In addition to the relationship between the peak hour trip rates for typical apartments and high rise apartments, the relationship between the peak hour trip rates for typical apartments and high rise apartments and typical condominiums and high rise condominiums has also been investigated by Urban Crossroads, Inc. staff. In each comparison to typical apartments, the reduction in peak hour trip generation exceeds the conservative 20 percent reduction utilized in the Draft EIR.

SA-146

High rise apartments (five stories or higher) may occur in Newport Center and the Airport Area as a result of the proposed General Plan Update. As discussed on page 3-4 of the traffic study report (Appendix D to the Draft EIR), mixed use reductions are not taken when high-rise reductions are used in the Airport Area. The same is true for the Newport Center/Fashion Island subarea. The ITE Trip Generation rates for high-rise apartments are approximately 37 to 43 percent less than the rate for apartment. Based on the engineering judgment of Urban Crossroads, Inc. staff, a factor reducing apartment trip generation in the model to represent high-rise apartments is reasonable. A discussion of high-rise apartments is found on page 3-6 of the Transportation Study. High-rise apartments are represented as typical apartments in the model, with the reduction shown by creating a “surrogate quantity” of dwelling units that is 20 percent less than the actual unit count. The model structure could not be modified to include a special rate for high-rise apartments, as the Newport Beach Traffic Model update was already completed prior to beginning this General Plan analysis. As discussed in the previous section, the relationship between mid-rise apartments and typical apartments’ trip rates in the ITE Trip Generation Manual would also justify application of the 20 percent (or even a greater) reduction. Therefore, any apartment building exceeding three stories would be a reasonable candidate for application of the reduced trip rate.

SA-147

Model trip generation is different than traffic study trip generation. ITE trip generation rates reflect driveway level trips at single use projects. Model trip generation reflects how the uses interact with the surrounding system (including things like pass-by traffic, etc.). The overall number of trips generated by NBTM 3.1 does not exactly match ITE land use (driveway level) trip generation, but the overall differential is relatively small. The differences are generally greatest for nonresidential land use categories that are often part of a larger shopping center and/or are frequented by a relatively high percentage of pass-by trips (e.g., banks, gas stations, fast food restaurants, etc.).

The modeling has been performed with high density residential traffic included. Urban Crossroads, Inc. has applied the trip rates from the ITE Trip Generation Manual to determine the appropriate reduction to the typical apartment trip rates included in the traffic model. The ITE Trip Generation rates for high-rise apartments are approximately 37 to 43 percent less than the rate for apartment. Based on the engineering judgment of Urban Crossroads, Inc. staff, a factor reducing apartment trip generation in the model to represent high-rise apartments is reasonable. A discussion of high-rise apartments is found on page 3-6 of the Transportation Study. High-rise apartments are represented as typical apartments in the model, with the reduction shown by creating a “surrogate quantity” of dwelling units that is 20 percent less than the actual unit count. The model structure could not be modified to include a special rate for

high-rise apartments, as the Newport Beach Traffic Model update was already completed prior to beginning this General Plan analysis.

SA-148

Travel Demand Management (TDM) is encouraged in the Circulation Element, but no credit for TDM has been included in the analysis.

SA-149

As described in response to comment G2-8, this comment does not raise a question with regard to the Draft EIR. The existing Circulation Element does not set a LOS standard; rather, Policies 1 and 2 refer to “service levels as close to level of service D as possible.” The existing Element projects that some intersections, particularly in the Airport Area, will exceed LOS D because of regional traffic, and states that the “Element represents a conscious decision to accept [these] levels of service.” Policy 2.1.1 in the proposed Circulation Element establishes level of service standards. For the vast majority of intersections, the standard is LOS D. The policy sets the standard of LOS E for five intersections in Newport Beach and five intersections in the Airport Area shared with the City of Irvine, whose standard in the area is LOS E. In public hearings on the General Plan, the City Council has directed that two improvements analyzed in the traffic study be added to the Circulation Element. With these improvements, the number of intersections in Newport Beach for which the standard would be LOS E is reduced to three. The purpose of the policy to amend the Traffic Phasing Ordinance is to maintain consistency between the General Plan and City ordinances. The comment focuses on changes to the LOS standards for the City of Newport Beach and changes to the Transportation Phasing Ordinance. The TPO will need to be modified to allow LOS E at certain locations, consistent with the General Plan Circulation Element. These modifications are permissible and reflect the current needs of development within the City of Newport Beach.

SA-150

Cost of improvements is not addressed in General Plan Transportation Studies. Funding of improvements is discussed in the General Plan Circulation Element. It is anticipated that funding would come from a variety of sources, including developer contributions. The City has not prepared cost estimates, as the projects have not been designed and estimates at this point would be speculative.

SA-151

The reader is referred to Tables 4-7 and 5-10 of the General Plan Transportation Study for discussion of locations where right of way acquisition may be necessary. No significant impacts to land use as a result of the potential right of way acquisition are anticipated, as the improvements generally consist of localized intersection improvements that will require minimal right of way acquisition.

SA-152

The EIR identifies emergency response and emergency access in several places. Page 4.13-44 identifies emergency access requirements in the Municipal Code and Fire Code. In addition, proposed General Plan policies S 9.1, S 9.2, and S 9.4 are designed to ensure that congested streets are addressed through

the City’s Emergency Management Plan, and that personnel are familiar with relevant response plans. Refer also to response to comments SA-82, SA-125, EQ-46 and EQ-60 for a discussion of where emergency access is addressed in the EIR and what the conclusions are in the traffic section with respect to emergency access.

SA-153

Refer to responses to comments SA-138 through SA-152. No new analysis or new impacts have been identified.

SA-154

The commenter is referring to the discussion of Current and Projected Water Supplies on pages 4.14-8 and 4.14-9. This information is from the City’s December 2005 Urban Water Management Plan. The plan is required to project a 25-year buildout scenario, a buildout year of 2030, which is approximately 5 years beyond the projected buildout year of the proposed General Plan Update. The level of development assumed at that time is outlined within section 3.0 (Historical and Projected Water Use):

Water use and production records, combined with projections of population, employment, and urban development, provide the basis for estimating future water demands. This section presents information regarding regional demographics, customer based unit water use, total historical water use, and projections of future City water demands.

SA-155

As stated on page 4.18-8, “[a]ccording to the City of Newport Beach’s 2005 Urban Water Management Plan, water supplies can continue to meet the City’s imported water needs until the year 2030. Beyond that date, improvements associated with the State Water Project supply, additional local projects, conservation, and additional water transfers would be needed to adequately serve the City.” While no single event is predicted to occur after 2030, the 2005 UWMP predicts that beyond its buildout year, water demand will continue to grow. The 2005 UWMP addresses climate, water quality, and other agency demands as part of the larger water demand picture.

SA-156

The commenter is referring to Table 4.14-1, which identifies that approximately 68 percent of the City’s water comes from OCWD. The commenter implies that groundwater supply is based purely on demand. This is incorrect. For example, as stated on page 4.14-12, IRWD assumes new potable groundwater supplies will be developed as planned “to greatly reduce reliance on imported water under normal and dry year operating conditions.” As described in response to comment SA-90, page 9-1 of the Groundwater Management Plan, “OCWD utilizes a supply side management approach to achieve long-term sustainable yield from the Basin. On a regular basis, the amount of water that the Basin can supply is determined, and the District modifies the basin production percentage and related management tools so that the amount of actual pumping corresponds to the amount of water the Basin can supply.” Refer also to response to comment SA-91 for an estimate of future groundwater pumping levels.

In February of 1991 through January 1993 the City of Newport Beach was required to reduce water use by 10 percent through mandatory water reduction. Strains on the area’s water supply were caused by a

drought rather than overdrafts in each of the two above listed years. Since this time, there has not been a mandatory reduction in water use for the City of Newport Beach. No other known restrictions on groundwater pumping have occurred that have affected Newport Beach's water supply.

SA-157

Projected water consumption was calculated using generation rates established by the 2005 Urban Water Management Plan.

SA-158

Water consumption estimates associated with the proposed project were prepared by the three water providers to the Planning Area, the City of Newport Beach, Irvine Ranch Water District and Mesa Consolidated Water District. The estimates were based on the changes in land use proposed in the General Plan update, by acreage in various land use categories, and using the water providers' factors. The "Sewer Generation Factors" in Table 4.14-12 of the Draft EIR, which were used to estimate wastewater generation, were taken from the *City of Newport Beach Master Plan of Sewers*, which was published in August 1996. The generally intended use of these factors is to plan the size of sewer infrastructure rather than to estimate the amount of wastewater that will be generated and need to be treated. As a result, the use of these factors to project the amount of wastewater resulted in overly conservative projections.

The Orange County Sanitation District (OCSD) reports that approximately 12 million gallons per day (mgd) of wastewater flows through the Bitter Point pump station. This station receives wastewater from the majority of the area within Newport Beach, as well as a portion of Costa Mesa. In preliminary work to update Newport Beach's Master Plan of Sewers, AKM Consulting Engineers has estimated that the current amount of wastewater from Newport Beach is 8 to 10 mgd. The 2005 Urban Water management Plan for Newport Beach estimates wastewater at 11,200 acre feet per year, which equates to 10 mgd. With the land use changes proposed in the General Plan update, it is overly conservative to expect that wastewater generation would increase by 4,123,173 mgd, or 33 to 50 percent above the current amount.

Typically, wastewater generation is estimated to be approximately 90 percent of water consumption. This number is conservative as the total portion of the municipal water supply that reaches the collection system as wastewater in semiarid regions of the southwestern United States has been estimated between 60 and 65 percent of the total supply (Metcalf and Eddy, *Wastewater Engineering: Treatment Disposal and Reuse*, 3rd ed., 1991), considering that some of the municipal water supply, including water used for manufacturing, landscape irrigation, fire fighting, and leakage from water mains and service pipes does not reach the sanitary sewer system. The 90 percent of water consumption methodology is based upon the City of Los Angeles Bureau of Sanitation methodology, which assumes that 90 percent of indoor water demand would become wastewater. Therefore, the increase in wastewater is more likely to be 60 to 90 percent of the increase in water consumption (1,184,322 gallons per day), or 710,593 to 1,065,890 gallons per day. The calculation in the Draft EIR represents a conservative analysis in that it evaluates a greater wastewater generation than will likely occur. Even with a conservative estimate of wastewater, the Draft EIR found that each of the two OCSD treatment plants to which Newport Beach wastewater is

sent could accommodate the increased amount resulting from implementation of the proposed General Plan update, and still operate at less than 60% of capacity.

SA-159

Impact 4.14.1-2, pages 4.14-18 through 4.14-20, addresses water supply and whether new or expanded entitlements are necessary to meet future demand. MWDOC, IRWD, and MCWD have all identified excess water entitlements to meet the proposed General Plan Update buildout. No further response is necessary.

SA-160

As identified in response to comment SA-159, the City's water suppliers are operating within their existing entitlements. Page 3.14-20 evaluates the cumulative impacts of increased water supply as a result of the proposed General Plan Update. The proposed General Plan Update would result in a less-than-significant cumulative impact. Each water purveyor has identified water conservation measures to reduce their reliance on imported water supplies, as identified in their respective urban water management plans.

SA-161

Mesa Consolidated Water District has affirmed to the City of Newport Beach that it has adequate supplies to serve projected buildout resulting from the proposed General Plan Update (Robert McVicker, MCWD, April 2006) based on information regarding land use changes resulting from the proposed General Plan update in the Mesa Consolidated service area.

SA-162

The sewer deficiencies mentioned on page 4.14-28 (if that is the reference of this commenter) are existing, and not the result of buildout of the proposed General Plan update. Therefore, the EIR need not discuss these deficiencies in detail. They are identified in the referenced Master Plan of Sewers, dated August 1996, which is the City's guide for improving its sewerage system.

SA-163

Page 4.14-31 identifies the average and design flow of the two treatment plants serving the City. As each of the treatment plants is operating at 52 percent and 55 percent of design capacity, and as they would operate at 54 percent and 57 percent of capacity with the proposed General Plan Update, the project would not affect peak flows and impact the plants. No new impacts have been identified.

SA-164

The commenter is referring to the Michelson Water Reclamation Plant (MWRP) described on page 4.14-31. The EIR analysis did not identify any other treatment plant operating below design capacity. This would be an unlikely or speculative event that the EIR would not address. Further, pages 4.14-31 and 4.14-32 describe the less-than-significant impact the proposed General Plan would have on sewage treatment plant capacity. No further response is necessary.

SA-165

The commenter appears to be asking a general question about the operation of treatment plants that are beyond the scope of the EIR. The EIR has evaluated the design capacity of the existing treatment plants and compared that with the increment of wastewater generation resulting from implementation of the proposed project. Further, pages 4.14-31 and 4.14-32 describe the less-than-significant impact the proposed General Plan would have on sewage treatment plant capacity. No further response is necessary.

SA-166

As described on page 4.14-33 the design capacities of the wastewater treatment facilities are based on regional growth forecast adopted by SCAG, which in turn is based on cities' general plans and other forecasts of SCAG's member cities. Cumulative impacts analysis for this topic evaluates the projected growth against the design capacities. As the treatment plants are operating well below design capacity with the proposed project, no cumulative impact would occur. Further, the proposed General Plan Update would not represent a considerable contribution to any identified impact.

SA-167

The threshold question is whether the project would require the construction or expansion of wastewater treatment facilities or conveyance systems that could cause significant environmental effects. As indicated on pages 4.14-31 and 4.14-32 of the Draft EIR, each one of the Orange County Sanitation District (OCSA) treatment plants has the capacity to treat the full increase in sewage projected from the proposed General Plan Update. Therefore, the project does not require the construction of new facilities.

SA-168

The commenter appears to be looking in the utilities section for the analysis of water quality impacts due to increased wastewater generation. The EIR has evaluated the impact of increased wastewater from construction and operation of the proposed General Plan Update and its potential effects on the ocean on pages 4.7-27 through 4.7-32. During construction, these impacts would be addressed through Stormwater Pollution Prevention Plans (SWPPPs), Water Quality Management Plans (WQMPs), BMPs that are a part of SWPPPs and WQMPs, and City inspections. During operation, these impacts would be addressed through wastewater treatment, NPDES permits, BMPs identified in the DAMP, and General Plan policies. The EIR identifies a less-than-significant impact from increased wastewater generated by the proposed General Plan Update.

SA-169

The threshold question is whether the project would be served by a landfill with insufficient permitted capacity to accommodate the project's solid waste disposal needs. As discussed on page 4.14-44, landfill capacity available to the City is more than adequate to serve projected future demand. Therefore, no further analysis regarding landfills is required.

SA-170

As discussed in Section 3.6 (Energy) of the TBR, “[e]lectricity is a “reactive” utility, meaning it is provided on an as-needed basis to customers within existing structures in the Planning Area.” Pages 4.14-48 and 4.14-49 describe the no impact finding related to increased demand for energy as a result of the proposed General Plan Update. The proposed increase in energy demand is within SCE’s 10-year load forecasts.

SA-171

The commenter is requesting information about the adequacy of local transmission facilities. Page 4.14-49 of the Draft EIR discusses the adequacy of electrical facilities serving the City, and indicates that SCE plans for new distribution resources would be adequate to serve all existing and new customer loads throughout the next decade.

SA-172

The threshold of significance is identified on page 4.14-48 and relates to the potential physical impacts attributed to construction or modification of existing infrastructure that serves new electrical demand. A significant impact with regard to electrical service would then relate to the physical impacts of planned improvements by SCE. This EIR does not identify any new potentially significant physical impacts related to SCE’s provision of increased electricity.

SA-173

The commenter is requesting information about the use of the AES plant to supply electricity. Page 4.14-49 makes reference to this plant when it describes that two additional power plants were licensed by the CEC in 2001. As disclosed on <http://www.energy.ca.gov/sitingcases/huntingtonbeach/index.html> the CEC’s facility certification process carefully examines public health and safety, environmental impacts and engineering aspects of proposed power plants and all related facilities such as electric transmission lines, natural gas pipelines, etc. The Energy Commission’s responsibilities are similar to those of a lead agency under the California Environmental Quality Act (CEQA). Impacts related to the operation of the AES were addressed by the CEC in 2001.

SA-174

As identified in Section 3.6 (Energy), as development occurs, SCG will continue to extend its service to accommodate development and supply the necessary gas lines. SGC does not base its service levels on the demands of the Planning Area; rather it makes periodic upgrades to provide service for particular projects and new development. Approximately two months before construction commences on a project, SGC requests that the developer contact them with detailed information about the project’s natural gas requirements. If necessary, SGC customizes pipelines and mains to better serve newly constructed facilities. The cost for such service differs from project to project. SGC is continuously expanding its network of gas pipelines to meet the needs of new commercial and residential developments in Southern California. In addition, the EIR identified on page 4.14-50, a no impact finding related to increased demand for natural gas as a result of the proposed General Plan Update. This

EIR does not identify any new potentially significant physical impacts related to SCGC's provision of increased natural gas.

SA-175

As described in response to comment SA-174, SGC does not base its service levels on the demands of the Planning Area; rather it makes periodic upgrades to provide service for particular projects and new development. The EIR on page 4.14-50 describes the no impact finding related to increased demand for natural gas as a result of the proposed General Plan Update. SCGC estimates that existing infrastructure is available to serve additional development generated by the proposed General Plan Update.

SA-176

As described on page 4.14-48 through 4.14-50, the proposed General Plan Update would not result in project or cumulative impacts with regard to energy production or transmission facilities. The use of a potential LNG terminal in Long Beach would be speculative and premature to discuss or analyze.

SA-177

Refer to Master Response A regarding inclusion of the 19th Street bridge within this analysis. The Alternatives analysis provided on pages 5-1 through 5-29 provides analysis of four alternatives including the No Project/No Development, No Project/No Action (existing general plan), GPAC Recommendations, and Subarea Only Minimum. Alternative 4 (Subarea Only Minimum) was identified to show development guided by a General Plan consisting of land uses resulting in the lowest density of all the alternatives. This alternative would result in the least amount of new development, when considered against the other action alternatives. This alternative was identified as the environmentally superior alternative (page 5-30) and addresses concerns related to traffic flow and associated development levels. In addition, the Transportation Study evaluated the proposed General Plan Update without the 19th Street bridge and determined that traffic impacts could only be addressed through the addition of through lanes on Coast Highway.

SA-178

As described in response to comment SA-73, Section 4.3 (Biological Resources), Appendices C1 and C2, Section 5.1 Biological Resources Addendum of the TBR, and the responses to comments SA-54 through SA-72 demonstrate that there is substantial evidence to support the EIR's determination that no significant effects on biological resources would occur with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will guide development within the City and ensure that adequate analysis and protection of biological resources is performed, thereby resulting in a less-than-significant impact.

As described in response to comment SA-81, Section 4.5 (Geology, Soils, and Mineral Resources), Section 6.2 (Seismic Hazards), and Section 6.3 (Geologic Hazards) of the TBR, and the responses to comments SA-75 through SA-80 demonstrate that there is substantial evidence to support the EIR's determination that effects on geology and soils would remain less than significant with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will

guide development within the City and ensure that adequate analysis and protection of geologic and soils resources is performed, thereby resulting in a less-than-significant impact.

As described in response to comment SA-106, Section 4.7 (Hydrology and Water Quality), Section 5.2 (Hydrology and Water Quality) of the TBR, and the responses to comments SA-83 through SA-105 demonstrate that there is substantial evidence to support the EIR's determination that effects on hydrology and water quality would remain less than significant with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will guide development within the City and ensure that adequate analysis and protection of hydrologic features and water quality is performed, thereby resulting in a less-than-significant impact.

As described in response to comment SA-111, Section 4.8 (Land Use and Planning), Section 2.1 (Land Use and Planning) of the TBR, and the responses to comments SA-107 through SA-110 demonstrate that there is substantial evidence to support the EIR's determination that effects related to land use and planning consistency would remain less than significant with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will guide development within the City and minimize conflicts and ensure consistency of new development with existing plans, thereby resulting in a less-than-significant impact.

As described in response to comments SA-122 through SA-127, Section 4.11 (Public Services) of the EIR and Section 4.1 (Fire Protection), Section 4.2 (Police), Section 4.3 (Education), and Section 4.4 (Parks) of the TBR, demonstrate that there is substantial evidence to support the EIR's determination that effects related to provision of public services would remain less than significant with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will guide development within the City and ensure that adequate analysis and protection of public services is performed, thereby resulting in a less-than-significant impact.

As described in response to comments SA-128 through SA-137, Section 4.12 (Recreation and Open Space) of the EIR, and Section 4.4 (Parks) of the TBR, there is substantial evidence to support the EIR's determination that effects related to provision of recreation and open space resources would remain less than significant with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will guide development within the City and ensure that adequate analysis and protection of recreation and open space resources is performed, thereby resulting in a less-than-significant impact.

As described in response to comments SA-154 through SA-176, Section 4.14 (Utilities and Service Systems) of the EIR and Section 3.2 (Water System), Section 3.3 (Wastewater System), Section 3.4 (Storm Drain System), Section 3.5 (Solid Waste), and Section 3.6 (Energy), there is substantial evidence to support the EIR's determination that effects related to provision of utilities and service systems would remain less than significant with implementation of the proposed General Plan Update. The goals and policies of the proposed General Plan Update will guide development within the City and ensure that adequate analysis and protection of utilities and service systems is performed, thereby resulting in a less-than-significant impact.

SA-179

The calculations of total future population for the City in 2030, as shown in Table 4.10-2 on page 4.10-2 of the Draft EIR, were based on population and household forecasts prepared by SCAG in 2004, which include persons residing in Newport Coast, which was annexed in 2002.

SA-180

CEQA Guidelines Section 15088.5(b) states that recirculation is not required where new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

R. A. Nichols Engineering
519 Iris Avenue, Corona del Mar, CA 92625
Tel. (949) 644-7735 o Fax (949) 640-7316
raneng@inetworld.net o www.raneng.com

City Manager and Council
Newport Beach City Council
3300 Newport Blvd.
Newport Beach CA. 926588-8915

R

June 7, 2006
PCHEquacLtr56
bus. 949-644-3000
Fax. 949-644-3020

council@city.newport-beach.ca.us

Re: General Plan EQAC Circulation Element Comments

The General Plan indicates all reasonable means should be considered to attain intersection traffic Level of Service "D" in all areas of the City. In particular we would like to consider the traffic on Pacific Coast Highway through old Corona Del Mar. We believe three traffic improvements could increase traffic capacity and should be considered:

The present Center medians were created in an effort to make PCH pedestrian friendly.

o A traffic study was used as justification for this CdM Village median design. The study considered pedestrian and bicycles, along and across PCH. This study indicates there is almost as much bicycle as pedestrian traffic, and both are very small compared to vehicular traffic levels.

o Secondly, the justification for the location of the present traffic island curbs is that they are located over the lane lines delineated previously by CalTrans. We would note that placing un-mountable curbs at the edge of substandard width traffic lanes is known to slow traffic markedly. The CA Highway Design Manual indicates 10' traffic lanes may lose more than 10% of their capacity. Additionally, no provision is made for bicycle traffic. The CA. Highway Design Manual guidelines indicates a separate path at least 4' wide should ideally be provided for bicycle traffic.

I. Present General Plan, Traffic studies show that traffic capacity may be improved from "E" to "D" by making PCH through CdM six lanes. This six lane suggestion was also suggested by the Irvine Co. in previous CdM PCH traffic studies. As pointed out in the attached letter, the six lane capacity could be restricted to rush hour, say Eastbound 5-7 PM and 7-9 AM Westbound. The present roadway through Old Corona Del Mar is a minimum of 75' wide. In many places, PCH is much wider The 75' would allow six 10'8" traffic lanes with a 10'8" center left turn lane at approaching crossing road intersections.

The wider curb traffic lane could remain striped for parking at 8' and would have a 2'8" buffer, to the adjacent traffic lane. While not an entirely satisfactory buffer, 2' 8" allows for opening ones' parked Car door, a marginal bicycle lane and/or allows right turn traffic to pull entirely out of the traffic lane. Buses too, can pull into this turn lane for unloading and loading rather than partially or fully blocking a through lane when they do not even try to pull over. Traffic studies indicate approximately 75% of parked car accidents occur on the few major arterials in cities allowing parking on same., Ref. Fundamentals of Traffic Engineering, UCB-ITS CN 96-1"C. Curb Parking Related Accidents". ". We understand that accidents on PCH in CdM and on Mariners Mile are considerably more frequent than in other areas

Finally, PCH, when previously worked on by the state ,was worked on at night when traffic volume was lower and taking a lane away was acceptable. Now with the City owning the road , the Road is repaired during the day. Traffic rapidly becomes bottlenecked and nothing moves. With a six lane design, parking could be restricted and the curb lane used as a through lane. If only one lane is set aside for work, still two through lanes are useable and the highway remains useable.

II. Newport Coast Road was originally aligned from PCH south of CdM through to MacArthur Boulevard and Route 73. The part of that road from MacArthur to Newport Coast was confiscated before it was ever used and incorporated into part of the San Jaoquin Toll Corridor, Route 73. A study has been done looking into this confiscation and whether this first leg of from the toll road could be decommissioned to a public road and used as a bypass for PCH through Corona Del Mar, CA.

1

2

Chris Trapp
Environmental Affairs Committee
May 30,2006, Page 2

III. Finally as part of the water quality project proposed for Corona del Mar, Buck Gully is to receive a series of water flood control dams. The one in the 5th Avenue area of buck Gully is to be a two-story dam. It is possible by realigning this dam slightly it could serve as the basis of a two lane continuation of 5 th Avenue around Corona Highlands and Cameo Shores parallel to PCH. Although this might only remove 6-8 K cars/day from the highway, the road could also prove to be valuable as an emergency bypass to PCH.

3

Very truly Yours,

Richard A. Nichols, PE, PhD ChE

CC:Sharon Wood, swood@city.newport-beach.ca.us
ctrapp@pacbell.net

■ Response to Comment Letter R

Letter from R.A. Nichols Engineering, received June 7, 2006

R-1

This comment suggests creating a third through traffic lane on East Coast Highway in the direction of peak traffic flow during the AM and PM peak periods in Corona del Mar. This would be accomplished through a narrowing of the travel lanes below the current width, and prohibiting the use of on-street parking in the peak hour direction to provide the third through lane. This suggestion was not submitted in response to the NOP and therefore presents a new alternative circulation system “improvement” not studied as a part of the alternative analysis in the Draft EIR.

Section 15126.6 of the CEQA Guidelines sets forth the requirement to consider and discuss a reasonable range of alternatives to the proposed project. The alternatives to be discussed must be both reasonable and feasible. This proposal suggests the reduction in travel lane width on East Coast Highway through Corona del Mar, a roadway section which already is at substandard widths. This further reduction would be required in order to have a third lane against the curb at a width that would be operational. While this is not preferred from a traffic engineering perspective due to safety considerations and the ability of the road to adequately serve traffic volumes, it would provide for a slightly wider parking lane during off-peak periods because it would have to be widened to allow travel in it during peak traffic hours. The proposal has been studied, and while it may be beneficial to cyclists, other implications of the proposal would be to reduce the size of the landscaped center median in some places, the loss of on-street parking that serves the commercial properties in Corona del Mar during peak traffic periods and additional travel lanes for pedestrians to cross during peak traffic periods. Additionally, the confusion that is likely to result from a change in roadway configuration and flow during short periods during the day could also create unsafe traffic conditions. All of these consequences, when considered together, make this proposal infeasible.

R-2

The comment suggests that a change in the existing San Joaquin Hills Transportation Corridor to be a “public road” between Newport Coast Drive and MacArthur Boulevard would increase its use as a bypass to Coast Highway through Corona del Mar. This, too, would be a change in the circulation system from that proposed in the Circulation Element and, therefore, would be considered a project alternative for the purpose of compliance with CEQA. Again, as set forth the Section 15126.6 of the CEQA Guidelines, alternatives should be considered and discussed if they are found reasonable and feasible.

Removal of the tolls associated with the Transportation Corridor segment from Newport Coast Drive to MacArthur Boulevard would effectively make it a freeway. It is likely that the elimination of tolls in this area could increase the use of Newport Coast Drive as a bypass from Coast Highway in Corona del Mar. City staff investigated the feasibility of the City replacing the revenue received by the Transportation Corridor Agencies from the toll collection points during the development of the General Plan Update project description. It was determined that the lost toll revenue would be \$6.24 million annually, based on 2005 revenues. This revenue would need to be replaced, because the tolls are pledged as revenue to

support payment of and eventual retirement of the toll road bonds. The City Council has determined that this amount is not feasible for the City pay for the modest benefit a free facility for this segment would produce.

R-3

This comment suggests that a water retention facility being studied by the City be used to extend 5th Avenue in Corona del Mar across Buck Gully to an eventual connection with Coast Highway to the south. This proposal would be similar to the “5th Avenue Bypass,” which was considered before the establishment of the alignment of State Route 73 (SR-73).

Buck Gully is a natural canyon/drainage course in Corona del Mar. In the area of 5th Avenue, the grade differential between the street and the gully bottom is approximately 80 feet. Thus, the proposed retention dam being studied is about 60 feet lower in elevation than would be necessary to connect to 5th Avenue with a straight alignment. Because of this, connecting 5th Avenue across the gully could only be accomplished with a bridge including supporting structures approximately 80 feet in height in some areas, and the bridge would be an estimated 400 feet long. If a bridge of lesser height is considered, the new road would have grades beyond those normally considered acceptable. Additionally, there are difficulties in obtaining easements or right of way to pass around Corona Highlands and Cameo Highlands. In the Corona Highlands area, land would have to be acquired from the individual homeowners or the Pelican Hill Golf Course. Beyond that neighborhood, a road could connect into Surrey Drive and Cameo Highland Drive to Coast Highway, or would have to further encroach on the golf course around Cameo Highlands to Coast Highway. For these reasons, the proposal is considered infeasible.

L

Larry Porter
1501 Westcliff Dr #201
Newport Beach California 92660
Voice and Fax 949 722 9166
Email : Dubbietub@aol.com

RECEIVED BY
PLANNING DEPARTMENT
CITY OF NEWPORT BEACH

JUN 13 2006
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

June 13, 2006

Mr. Greg Ramirez
City of Newport Beach
3300 Newport Blvd
Newport Beach , CA 92685

DEIR , CNB , SCH # 2006011119 , April 2006 , General Plan 2006 Update

I am responding to and questioning : 4.7 Hydrology and Water Quality -and- 4.14 Utilities and Service Systems. Not necessarily in the above orders.

Please go to : pg 4.14-17 > "Thresholds of Significance" > "bullet" #2 . "Have sufficient water supplies available to serve the project from (emphasis added) **EXISTING ENTITLEMENTS** and resources, or are new or expanded **ENTITLEMENTS NEEDED** .

And/also : pg 4.14-18 > The "Rectangle" at the top of the page with the word Threshold followed by the words : "Would the project have **sufficient water supplies** available to serve the project from **existing entitlements** and resources , or are new or **expanded entitlements needed**?

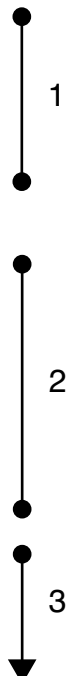
It then follows that there are questions that must be truthfully answered : (A) What is MWD **entitled to** from its sources : 1) the state water project and 2) the Colorado river. And what is the OCWD **entitled to** from the Santa Ana River?

MWD

Discuss the reliability of the MWD state project water given that water from the Sacramento and San Joaquin Rivers (the supply) traverse thru the Delta that is made up of a maze of levees that are peat/unstable? and that the islands formed are sinking ! Would not a plausible earthquake liquify the levees? Would not a large flood event overwhelm the levees? I did not notice your discussion of water absent from the State Water Project. Please include.

In the event of a Delta failure that water would be contaminated , no?

And. Discuss the Colorado River Water. Is the river over allocated? Have there been draughts the likes of which have not been seen since the River was allocated? What about



a ten year , a 20 year? Have the tree rings shown this to have happened? You did not mention the absence of water from the Colorado River. Please do so.

↑
3

And. Please include a discussion of MWD seniority of its entitlements to each of these sources. And what rights , seniority do the City of Newport Beach enjoy to MWD water?

4

OCWD

Now , “Pumpers” can pump a percentage of their demand from the basin. That percentage has been recently reduced. Please talk about the eventuality of further reductions – given- further demand by others (which you do not discuss , but , please talk about the ability of the basin to supply all the the demands knowing that the hydrology / supply can reasonably questioned? And if the basin were to be quantified (as are other basins) - what then? How do you anticipate the “Pie” will be split?

5

The answers to the “OCWD” situation constrain : Newport , Costa Mesa , and IRWD , no?

How can the OCWD ground water basin continued to act as an adequate filter if contaminates continue to be injected , percolated into it? Is it special and never needs cleaning? Can it be cleaned? How?

Global Warming Precipitation

How could global warming affect the 1) State Water Project and 2) Colorado River Watershed? Might too much precipitation come as rain and not snow and test the adequacy of the reservoirs? Would water now captured be lost to the sea? You didn't mention this. Why not? And please.

6

Global Warming Hurricanes

How much of an onslaught could Prado and Seven Oaks take before being overwhelmed? If Prado fails , then what? Is there more of chance now. Katrina – would an ounce of prevention been worth a pound of cure? Why put people in a flood plain? Who benefits? No one I know.

7

Tsunamis

Why chance it? Who benefits? What happens if the low lying areas are not residentialized? Potential harm is reduced? Better,no?

8

Energy Oil

Where is the oil that will provide for this growth? And the cumulative surrounding growth? Is not "Peak Oil" a fact?

9

Energy
Natural Gas

Where is the natural gas that will provide for this growth? And cumulative surrounding growth? Is not the supply of natural gas a concern?

10

I await your reply,
Happy Trails

/S/ Larry Porter



Larry Porter

■ Response to Comment Letter L

Letter from Larry Porter, received June 13, 2006

L-1

Pages 4.14-18 through 4.14-20 describes that the city's water suppliers are operating within their existing entitlements. No further response is necessary.

L-2

As described on page 4.14-20, although all water providers are required to prepare plans to ensure that adequate water supplies exist for future growth, there is ongoing controversy surrounding the State's water supply and distribution efforts. MWDOC, the City's provider of imported water, IRWD, and Mesa have each indicated they can accommodate the additional demand from the proposed General Plan Update in addition to future growth assumed in the respective UWMPs.

L-3

As described in response to comment L-2, the City must rely on water provider's assessments of their capabilities for the analysis of water supply. The EIR has identified a less-than-significant impact related to water supply as the City, MWDOC, IRWD and Mesa have affirmed that they can serve the project.

L-4

The EIR has identified a less-than-significant impact related to water supply as the City, MWDOC, IRWD and Mesa have affirmed that they can serve the project. No further analysis is necessary.

L-5

Page 4.14-8 discusses OCWD's and OCSD's plans for injecting treated wastewater into the groundwater basin. This project, the Groundwater Replenishment System, would be subject to its own environmental review, and thus is not the focus of this EIR.

As identified in response to comment EQ-80, the General Plan buildout year is 20 years from 2006, or about 2026, which is prior to the buildout year of 2030 for the City's 2005 Urban Water Management Plan. Therefore, all growth from the General Plan Update is included within the 2005 UWMP forecasts. According to the City's 2005 Urban Water Management Plan, as discussed in Section 4.14.1 (Water System) of the Draft EIR, OCWD (which provides the groundwater supply to the City) projects that there would be sufficient groundwater supplies to meet any future demand requirements in Newport Beach, including sufficient supply for multiple dry-precipitation years through 2030. The OCWD Basin Pumping Percentages (BPB) are assessed and adjusted annually, if necessary, based on the total demand to be produced from the basin during the year. These adjustments ensure that supply is regulated and that OCWD can continue to meet the total potable water demand. Because no significant impacts have been identified with respect to future water demand, OCWD has not identified anticipated reductions in the BPB.

In response to the second part of this comment, the ground water basins are cleaned periodically to unclog the accumulated sediment on the bottom and sides of the basins which inhibit percolation. Currently, the basins are dewatered and cleaned using bulldozers to restore the percolation rate, however a new basin cleaning device (the Basin Cleaning Vehicle) is being tested which would allow the basins to be cleaned while they still contain water. The BCV stirs up the clogging layer at the bottom of the lake and pumps the clay and silt ashore. This will allow the basins to continue to capture and store future water supplies in the process of being cleaned, thereby increasing local water supplies and decreasing the need to purchase more expensive imported supplies.

L-6

As described in response to comment L-2, the City must rely on water provider's assessments of their capabilities for the analysis of water resources. The EIR has identified a less-than-significant impact related to water supply as the City, MWDOC, IRWD and Mesa have affirmed that they can serve the project.

L-7

Pages 4.7-38 through 4.7-40 discuss the less-than-significant impacts related to placing housing or structures within a 100-year flood hazard area, and exposing people to flooding.

L-8

Impact 4.7-10, page 4.7-41, addresses the less-than-significant risks related to tsunamis.

L-9

Page 6-1 identifies the significant irreversible environmental effects that would result from implementation of the proposed General Plan Update including energy resources.

L-10

As discussed in SA-174, page 4.14-50 describes the no impact finding related to increased demand for natural gas as a result of the proposed General Plan Update. Further, SCGC is a "reactive" utility that provides natural gas as demand increases. This EIR does not identify any new potentially significant physical impacts related to SCGC's provision of increased natural gas.

JAN D. VANDERSLOOT, M.D.

2221 East 16th Street
Newport Beach, CA 92663

Home Phone (949) 548-6326
Office FAX (714) 848-6643

June 12, 2006

JA

Mr. Greg Ramirez, Senior Planner
Planning Department
City of Newport Beach
3300 Newport Blvd.
P.O. Box 1768
Newport Beach, CA 92658-8915

RECEIVED
PLANNING DEPARTMENT
CITY OF NEWPORT BEACH

JUN 13 2006
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

City of Newport Beach
General Plan Update
Draft Environmental Impact Report
April 2006

By Fax: 949.644.3229

Dear Mr. Ramirez,

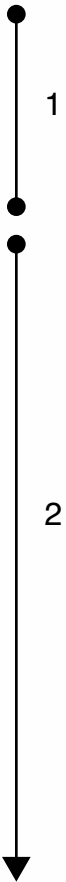
Thank you for the opportunity to comment on the Draft EIR for the General Plan Update.

In addition to the questions that I raised in my letter to the NOP of February 27, 2006, which have not been adequately addressed in the Draft EIR, I have the following comments that are also not adequately addressed in the EIR. Please include my letter to the NOP of February 27, 2006 in the Draft EIR and provide responses in the Response to Comments document

Section 4.3 Biological Resources, page 4.3-10. This section brings up a whole new category called "Environmental Study Areas", which include all the natural habitats in Newport Beach. "Environmental Study Areas are defined as "Undeveloped areas supporting natural habitats that may be capable of supporting sensitive biological resources within the city". (page 4.3-10). The Draft EIR calls these Environmental Study Areas "ESAs" and goes on to identify 28 areas within the city.

However, these ESAs (study areas) are not protected as Environmentally Sensitive Areas (also called ESAs in the current General Plan), because they are only subject to study to determine their environmental value. They are not protected as they are in the current General Plan, which protects the ESAs because they are already determined to be environmentally sensitive areas.

The Draft EIR does not analyze how much of the currently protected ESA's (Environmentally Sensitive Areas) will be lost because they are changed to Environmental Study Areas (also called ESA's), where they will only be studied, not protected. Please include an analysis in the Draft EIR as to how the change from ESA (Environmentally Sensitive Area) to ESA (Environmental Study Area) affects the amount



JAN D. VANDERSLOOT, M.D.

2221 East 16th Street
Newport Beach, CA 92663

Home Phone (949) 548-6326
Office FAX (714) 848-6643

of acreage in each area that will be protected under the policies that govern environmentally sensitive areas in the City.

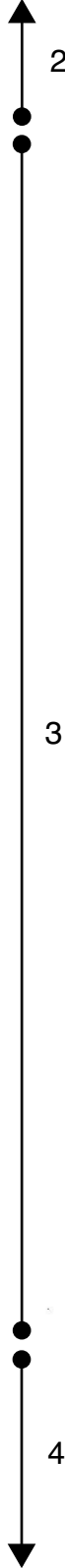
Areas that are currently designated ESA's (Environmentally Sensitive Areas) in the current General Plan include those areas identified on page 3-17 of the City of Newport Beach Recreation and Open Space Element, General Plan Amendment 94-2(E), Resolution 98-49 Adopted June 22, 1998. This is Policy 9.1- Preservation of Sensitive Areas: which serves to "Preserve and enhance the City's Environmentally Sensitive Areas (ESA's) on page 3-17. This Policy prohibits the location of structures in environmentally sensitive areas as identified in the Recreation and Open Space Plan Map: Environmentally Sensitive Habitat Areas, Coastal Bluffs, Bluff top set back areas, Riparian areas, Geologic hazard areas, Residential development impacted by noise levels of 65 CNEL or greater, Floodplain areas, and Natural slope areas steeper than 2:1 and greater than 25 feet in height, subject to Planning Commission determination.

The Recreation and Open Space Element then goes on to specifically locate ESA (Environmentally Sensitive Area) in the different service areas of the City. ESA can be found in Service Area 1, 3, 4, 7, 9, 10, 11, and 12. All of these Environmentally Sensitive Areas (ESA's) will potentially be impacted by the change to Environmentally Study Areas (ESA's), which will merely subject the areas to study, not subject the area to actual protection.

In addition, the Land Use Element of the current General Plan also specifies that environmentally sensitive areas shall be preserved and protected. See page 10 of the Land Use Element of the City of Newport Beach, Adopted by the Newport Beach City Council, October 24, 1988, Resolution No. 88-100, Incorporating General Plan Amendments Approved through January 2000. Page 10, paragraph 2)a. states: "The following environmentally sensitive areas shall be preserved and protected, and no structures or landform alteration shall be permitted within these areas, except as provided in Section d below:

- 1) Areas supporting species which are rare, endangered, of limited distribution, or otherwise sensitive
- 2) Natural riparian areas
- 3) Freshwater marshes
- 4) Saltwater marshes
- 5) Intertidal areas
- 6) Other wetlands
- 7) Unique or unusually diverse vegetative communities

The City of Newport Beach commissioned documents entitled "Identification of Biological Habitats and Communities within the City of Newport Beach Environmental Sensitive Habitat Areas and Environmental Policies" prepared by Chambers Group, Inc, December 2002, and the document "City of Newport Beach General Plan Update Newport Beach Biological Resources" prepared by Coastal Resources Management and



JAN D. VANDERSLOOT, M.D.

2221 East 16th Street
Newport Beach, CA 92663

Home Phone (949) 548-6326
Office FAX (714) 848-6643

Chambers Group, Inc., January 2003. These documents were presented to the General Plan Advisory Committee (GPAC,) of which I am a member, in July 2003. These documents listed a number of Environmentally Sensitive Habitat Areas (ESHA) in the City, all of which have now been degraded to Environmental Study Areas in the new General Plan Update. The documents should be included in the new EIR, acreage calculated for how much ESHA is actually in the City, and how much has been reduced by downgrading the ESHA's to Environmental Study Areas (ESA).

It is noted on page 2-3 of the December 2002 report by Chambers Group "Identification of Biological Habitats and Communities in Newport Beach" that "The majority of ESHAs discussed in this report were previously documented and described (City of Newport Beach 1990). This 1990 document should also be included in the new General Plan EIR.

The list of former ESHA's in the December 2002 Chambers report include Semeniuk Slough, North Star Beach, West Bay, Upper Newport Bay Ecological Reserve, San Diego Creek, Eastbluff Remnant, Mouth of Big Canyon, Newporter North, Buck Gully, Morning Canyon, Newport Beach Marine Life Refuge, Castaways, Banning Ranch, Muddy Canyon, Los Trancos, Pelican Hill, Ridge Park, Irvine Coast Marine Life Refuge Crystal Cove State Park (Underwater Park), Newport Harbor Entrance Channel Kelp Beds. All of these ESHAs are being downgraded to Environmental Study Areas in the new General Plan and the impact of these changes should be analyzed in the DREIR.

The 2002 Chambers Report also states on page 2-3 that "The boundaries of most ESHAs have not changed since 1973. However, others were expanded..." This provides more evidence that these areas should be protected by policies in the new General Plan and should not be shrunken by artificial redesignation as Environmental Study Areas (ESAs) as opposed to the protective designation of Environmentally Sensitive Habitat Areas (ESHAs).

Sincerely,

Jan D. Vandersloot, MD

Jan D. Vandersloot, MD

4

CITY OF NEWPORT BEACH

**RECREATION AND OPEN
SPACE ELEMENT**

**GENERAL PLAN AMENDMENT 94-2 (E)
RESOLUTION 98-49
ADOPTED JUNE 22, 1998**

**City of Newport Beach
Newport Beach, California**

**Prepared By:
Lawrence Associates
San Juan Capistrano, California**

Sharing of Recreation Facilities

Public schools within the City administered by the Newport-Mesa Unified School District contain a number of important recreation facilities, including playfields, swimming pools, gymnasiums, and other facilities. Policies to foster cooperation with the School District to maximize after-school recreational use of these facilities are contained in this Element (see Chapter 3, Objective No. 3).

ESA's: Environmentally Sensitive Areas

The City's Local Coastal Program (LCP) identifies a number of environmentally sensitive areas. These are mostly water-associated habitats such as marine intertidal, riparian, or marsh areas. They include all or portions of the following areas: Santa Ana River Mouth/Oxbow Loop, North Star Beach, Westbay, Upper Newport Bay Ecological Reserve, San Diego Creek, Eastbluff Remnant, Mouth of Big Canyon, Newporter North, Buck Gully, Morning Canyon, Corona del Mar Marine Life Refuge, and Castaways. These environmentally sensitive areas are described in detail in the Local Coastal Program. The Recreation and Open Space Element contains policies designed to enhance recreational and open space qualities, consistent with their sensitivity and their overriding need for preservation as expressed in the LCP.

Beach And Harbor Facilities

The recreation needs survey conducted for the preparation of this Element identified additional recreation facilities desired by residents of the City. A significant percentage of the survey respondents expressed a desire for additional public boat launching and sailing facilities within the City. This need is addressed in the chapter on Objectives and Policies.

Bikeways

Backbone bikeways are major throughway trails that connect to regional trails. They are primarily on major roads and serve the functional and recreational cyclist. Secondary Bikeways connect to backbone trails and serve cyclists and children riding to and from school.

Environmentally Sensitive Areas

Environmentally Sensitive Areas are those passive open space areas possessing unique environmental value which may warrant some form of protection or preservation. Such areas include, but are not limited to:

- Areas supporting species which are rare, endangered, of limited distribution or otherwise sensitive.
- Riparian areas
- Freshwater marshes d. Saltwater marshes
- Intertidal areas
- Other wetlands
- Unique or unusually diverse vegetative communities.

Greenbelt

Greenbelts in public or private ownership are included in this category. They may include areas with some recreational facilities, although the primary function of the area is passive open space.

Jogging Trail

These trails are routes commonly used for community wide running events sponsored by the City.

Marine Life Refuge

The Marine Life Refuge is located in tidelands off the coast of Corona del Mar. It is managed by the state Department of Fish and Game and exists for the purpose of protecting marine and intertidal life.

Open Space

Open space includes passive and active open space areas which do not function as public parks but do provide open space relief. Such areas may or may not be accessible to the general public.

Pedestrian Trail

Pedestrian trails include, improved or unimproved walkways or sidewalks located within park, beach, greenbelt, or open space areas.

REGIONAL NEEDS

Upper Newport Bay

The Upper Newport Bay, often referred to as the "back bay", is a major environmental recreational resource for the City and the surrounding region. There are a number of environmentally sensitive lands abutting the bay which are part of its ecosystem.

Although the Upper Bay is located in the City and is an open space amenity for City residents, primarily a regional resource. Therefore, direct responsibility for the preservation of the Upper Bay rests with county and state agencies. Preservation or partial preservation of parcels adjacent to the Bay would meet regional open space, passive recreational (viewing, walking) and resource protection needs as well as some citywide recreational and open space needs. This Element calls for City cooperation with other public agencies to preserve the sensitive ecological resource of the Upper Bay.

Bike Trails

Bike trails and other bikeways are provided for in the Circulation Element because of their importance as transportation routes. However, because they are also recreational resources, bike trails are referred to in this Recreation and Open Space Element as well. (The term "bikeways" refers to all bicycle circulation routes: on-road bike routes and bike lanes plus off-road bikeways. "Bike trails" refers primarily to off-road bikeways.)

Several regional bicycle trails pass through the City of Newport Beach. These trails provide alternate circulation routes and access to areas of regional interest and constitute an important component of the local recreation system. The Circulation Element identifies routes of existing and appropriate future trails. The City should continue to work closely with other local government agencies to implement connections from regional to local trails and to popular destinations located in the City.

OBJECTIVE 9 - ENVIRONMENTAL RESOURCES

Maintain and enhance the City's environmental resources.

POLICY 9.1 - PRESERVATION OF SENSITIVE AREAS: Preserve and enhance the City's Environmentally Sensitive Areas (ESA's), coastal bluffs and bluff tops and wetland areas, and minimize risks in geologically hazardous areas, floodplains, and 65 Community Noise Equivalent Level (CNEL) contour areas through development regulation.

IMPLEMENTATION:

Action - Adopt Recreation and Open Space Element and Plan. Prohibit the location of structures, except as provided below, in the following environmentally sensitive areas as identified in the Recreation and Open Space Plan Map:

- Environmentally Sensitive Habitat Areas
- Coastal bluffs
- Bluff top set back areas
- Riparian areas
- Geologic hazard areas
- Residential development impacted by noise levels of 65 CNEL or greater
- Floodplain areas.
- Natural slope areas steeper than 2:1 and greater than 25 feet in height

Note - These measures are not intended to prevent public agencies and private property owners from providing public infrastructure, maintaining drainage courses and facilities, sedimentation basins, and other related facilities where need can be demonstrated and minimal environmental impacts will occur.

Responsible Department - Community Services, Planning.

Schedule - Ongoing.

POLICY 9.2 - HISTORICAL/CULTURAL RESOURCES: Encourage the preservation and enhancement of the City's archeological, paleontological, historical and cultural resources through development regulation.

IMPLEMENTATION:

Action - Continue enforcement of and adherence to the following City Council policies: *Places of Historical and Architectural Significance, Archaeological Guidelines, Paleontological Guidelines and Implementation Procedures for the California Environmental Quality Act.*

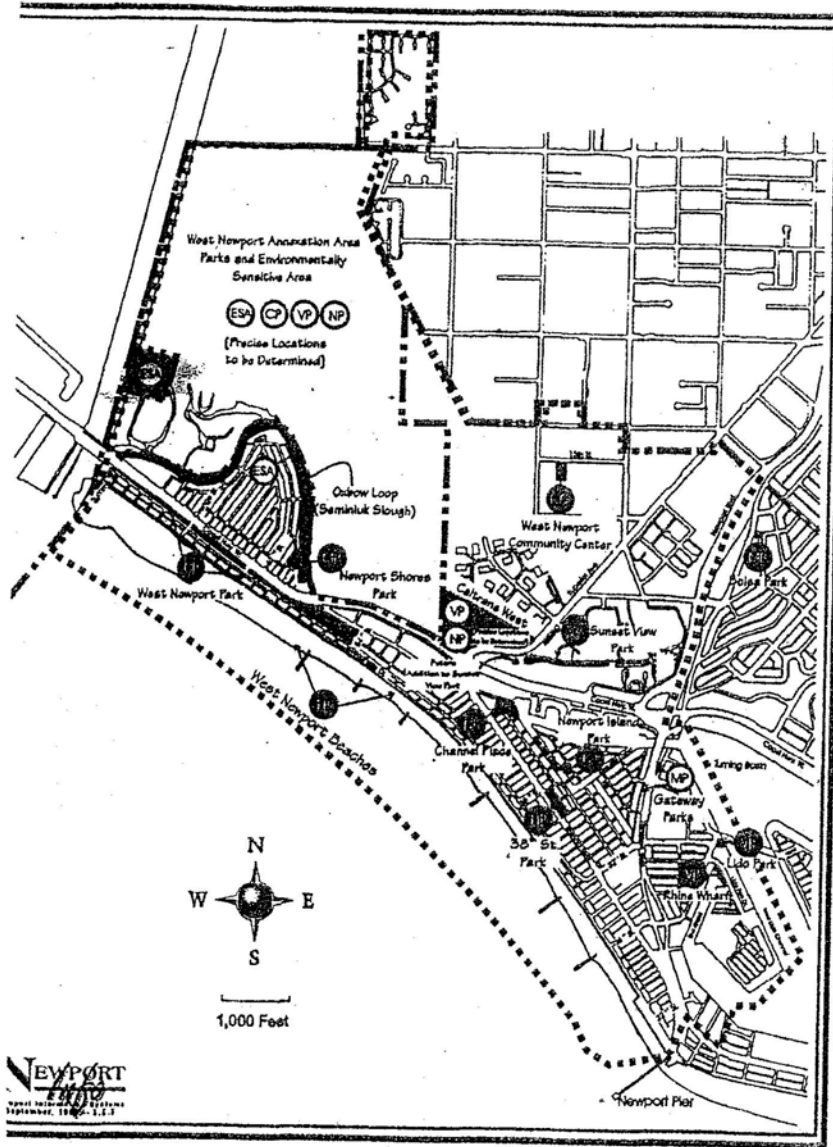
Responsible Department - Planning.

Schedule - Ongoing.

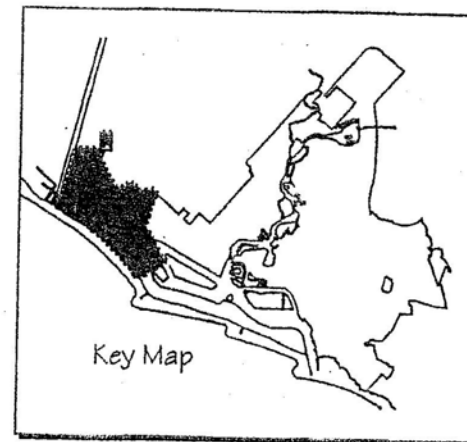
SERVICE AREA 1 WEST NEWPORT



Newport Beach Recreation & Open Space Plan



NEWPORT
1970
Special Recreation District
September, 1996 - 1.1.1



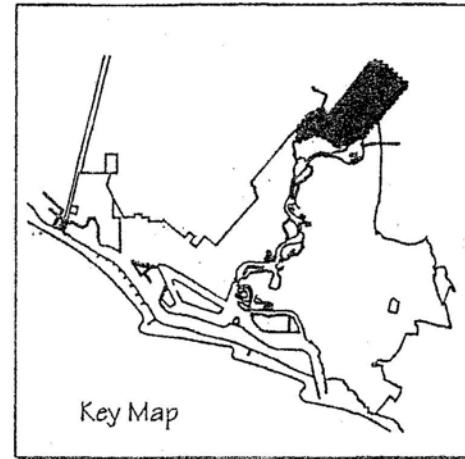
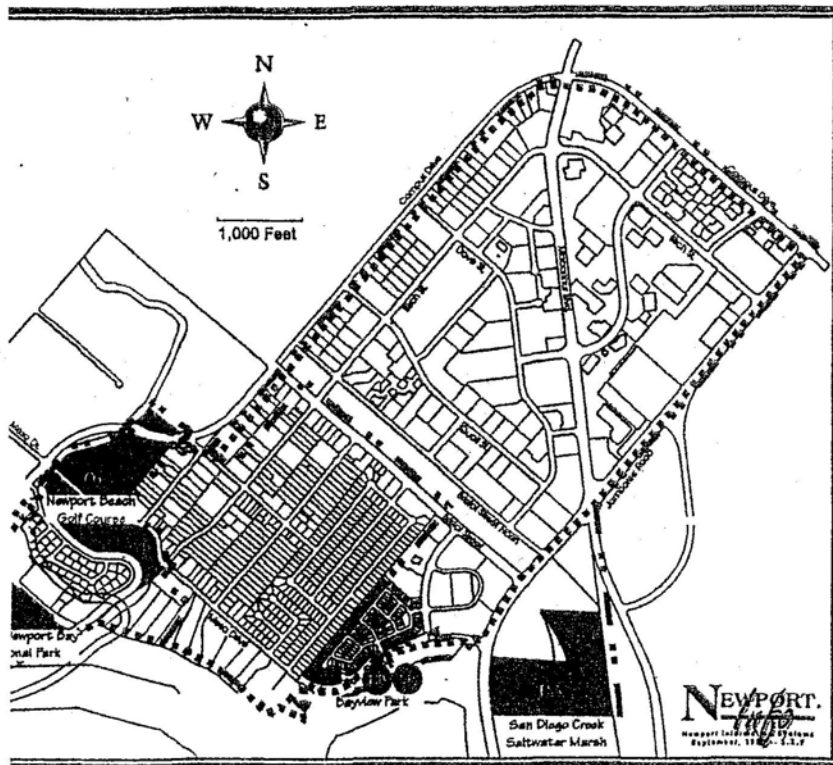
	RECREATION
MP	Mini Park
NP	Neighborhood Park
CP	Community Park
VP	View Park
SC	Schools
CC	Community Center
	OPEN SPACE
ESA	Environmentally Sensitive Area
OS	Open Space
GB	Greenbelt
	PUBLIC BEACH
	EXISTING
	PROPOSED
	SERVICE AREA BOUNDARY
	CITY BOUNDARY

SERVICE AREA 4

SANTA ANA HEIGHTS



Newport Beach Recreation & Open Space Plan



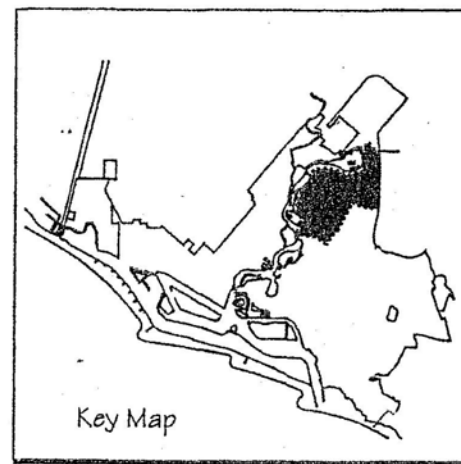
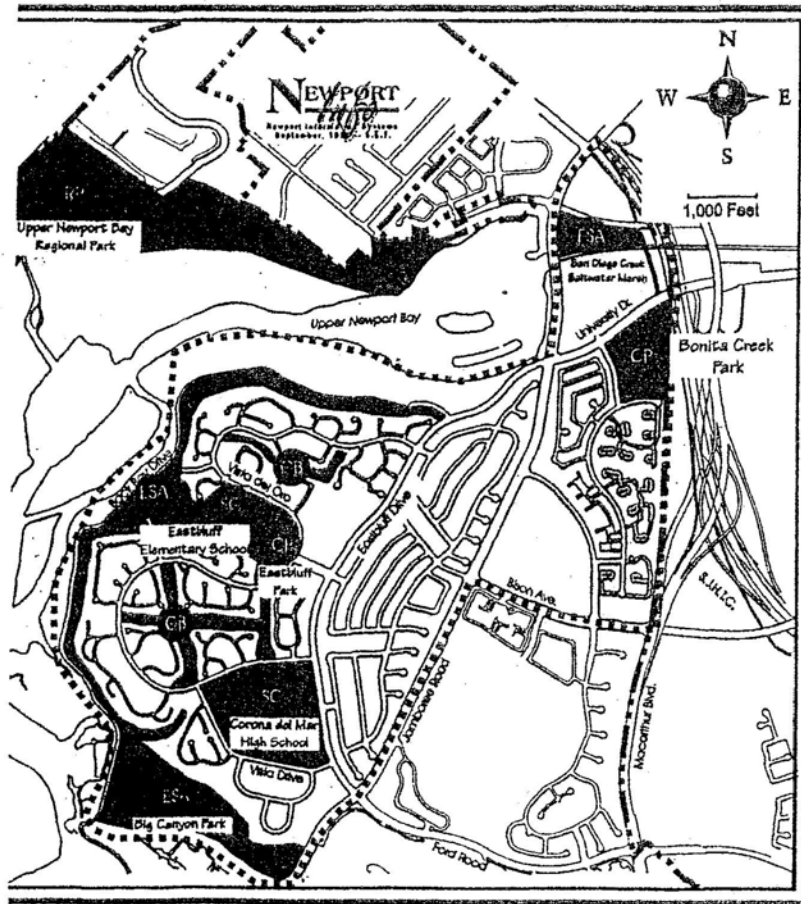
	RECREATION
MP	Mini Park
NP	Neighborhood Park
CP	Community Park
VP	View Park
SC	Schools
RP	Regional Park
	OPEN SPACE
ESA	Environmentally Sensitive Area
OS	Open Space
GB	Greenbelt
	PUBLIC BEACH
	EXISTING
	PROPOSED
	SERVICE AREA BOUNDARY
	CITY BOUNDARY

SERVICE AREA 7

EASTBLUFF - NEWPORT NORTH



Newport Beach Recreation & Open Space Plan



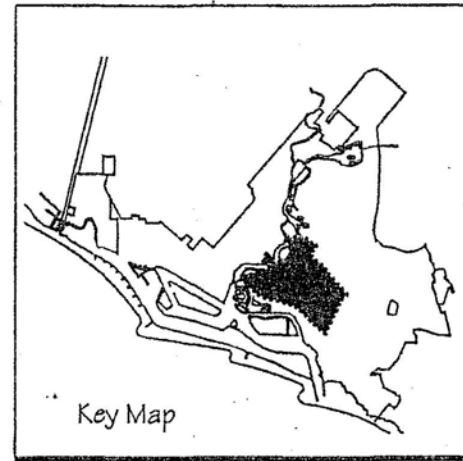
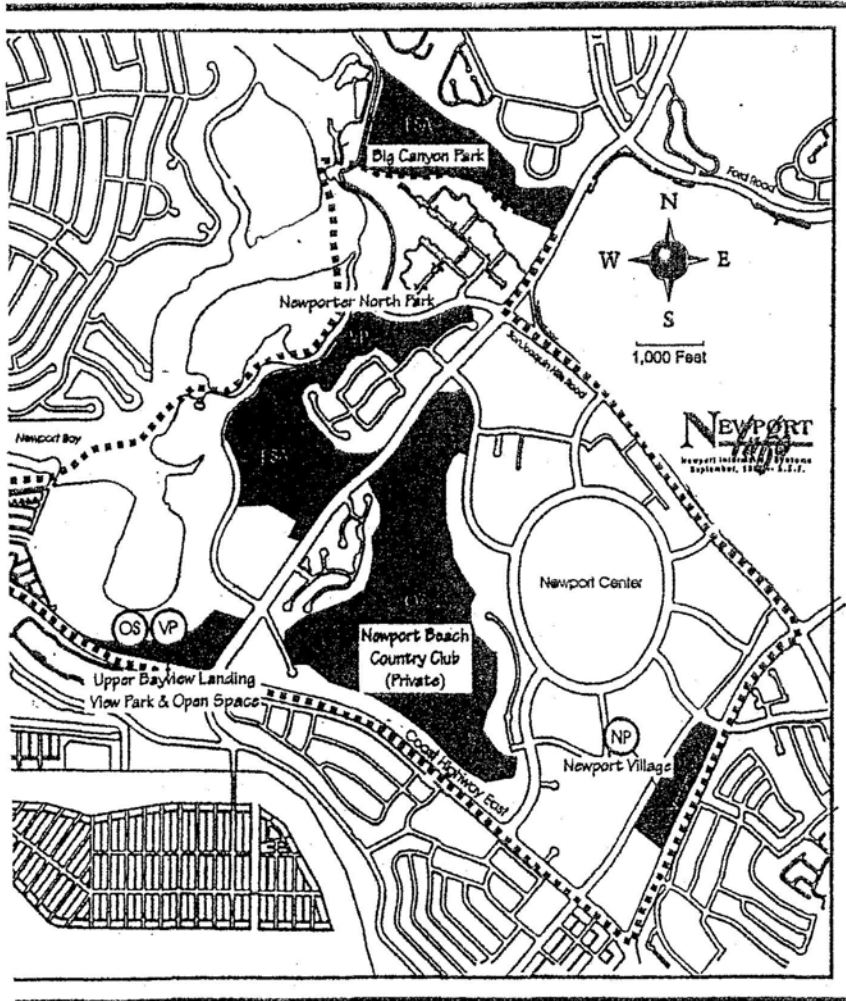
- | | |
|-----|--------------------------------|
| | RECREATION |
| MP | Mini Park |
| NP | Neighborhood Park |
| CP | Community Park |
| VP | View Park |
| SC | Schools |
| CC | Community Center |
| | OPEN SPACE |
| ESA | Environmentally Sensitive Area |
| OS | Open Space |
| GB | Greenbelt |
| | PUBLIC BEACH |
| | EXISTING |
| | PROPOSED |
| | SERVICE AREA BOUNDARY |
| | CITY BOUNDARY |

SERVICE AREA 9

NEWPORT CENTER



Newport Beach Recreation & Open Space Plan



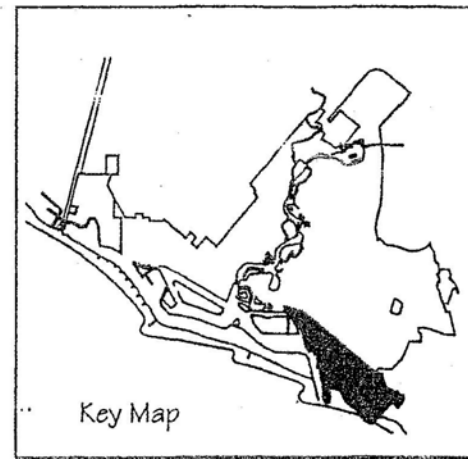
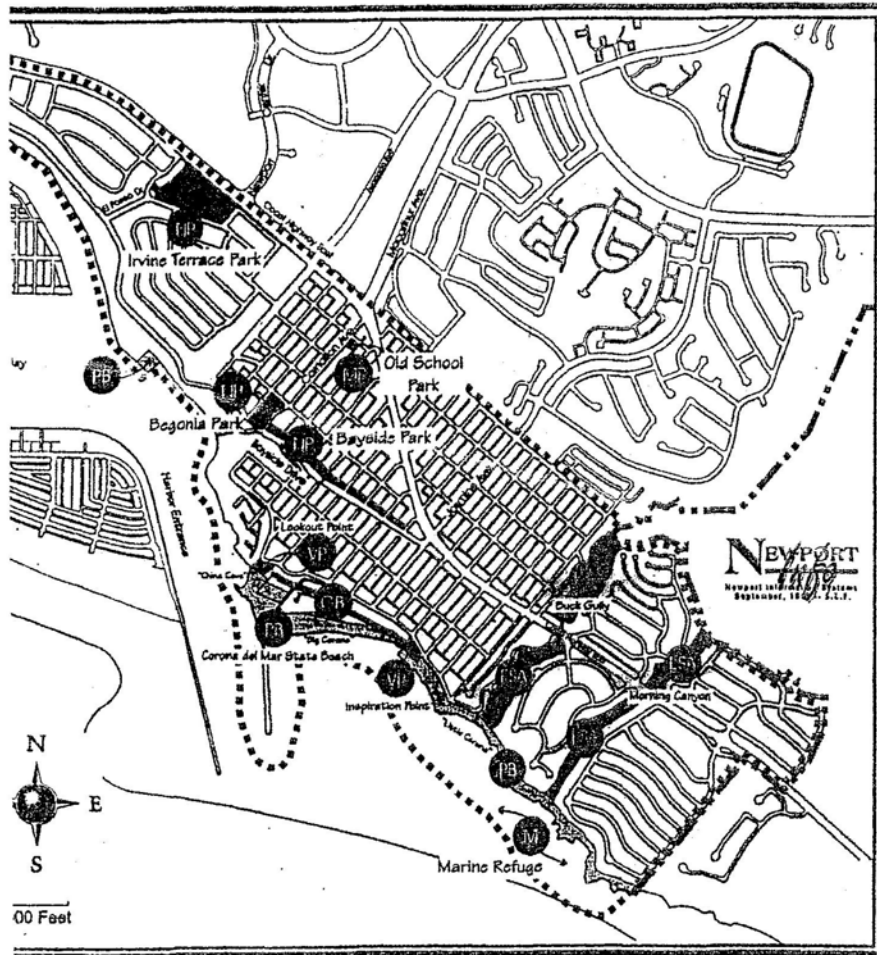
	RECREATION
MP	Mini Park
NP	Neighborhood Park
CP	Community Park
VP	View Park
SC	Schools
RP	Regional Park
	OPEN SPACE
ESA	Environmentally Sensitive Area
OS	Open Space
GB	Greenbelt
	PUBLIC BEACH
	EXISTING
	PROPOSED
	SERVICE AREA BOUNDARY
	CITY BOUNDARY

SERVICE AREA 10

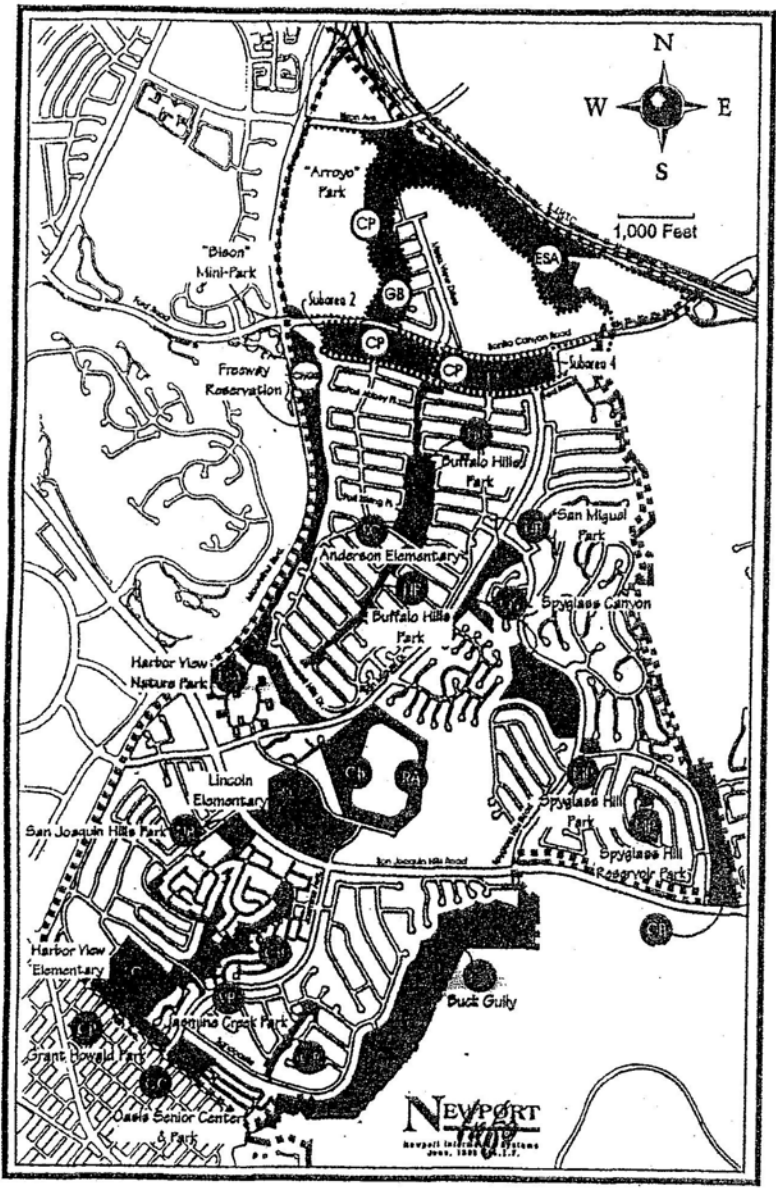
CORONA DEL MAR



Newport Beach Recreation & Open Space Plan



	RECREATION
MP	Mini Park
NP	Neighborhood Park
CP	Community Park
VP	View Park
SC	Schools
RP	Regional Park
	OPEN SPACE
ESA	Environmentally Sensitive Area
M	Marine Refuge
GB	Greenbelt
	PUBLIC BEACH
	EXISTING
	PROPOSED
	SERVICE AREA BOUNDARY
	CITY BOUNDARY

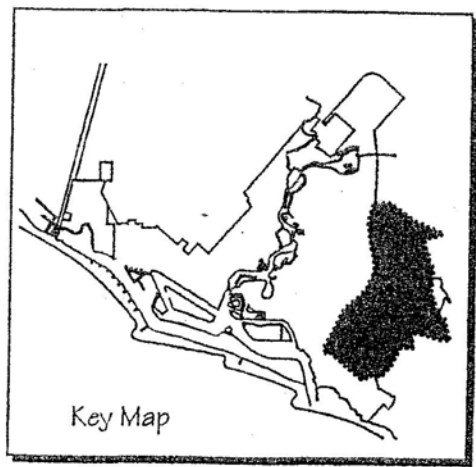
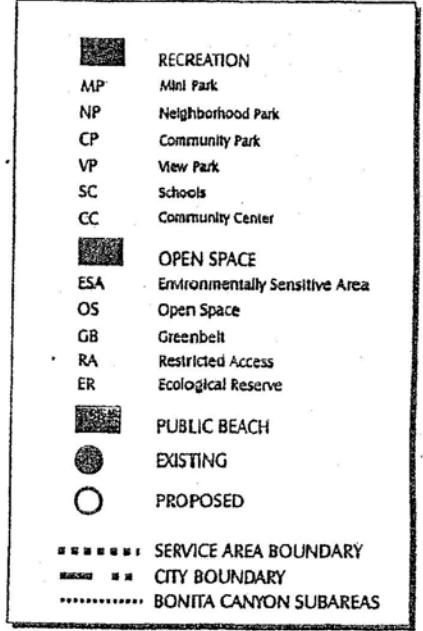


SERVICE AREA 11

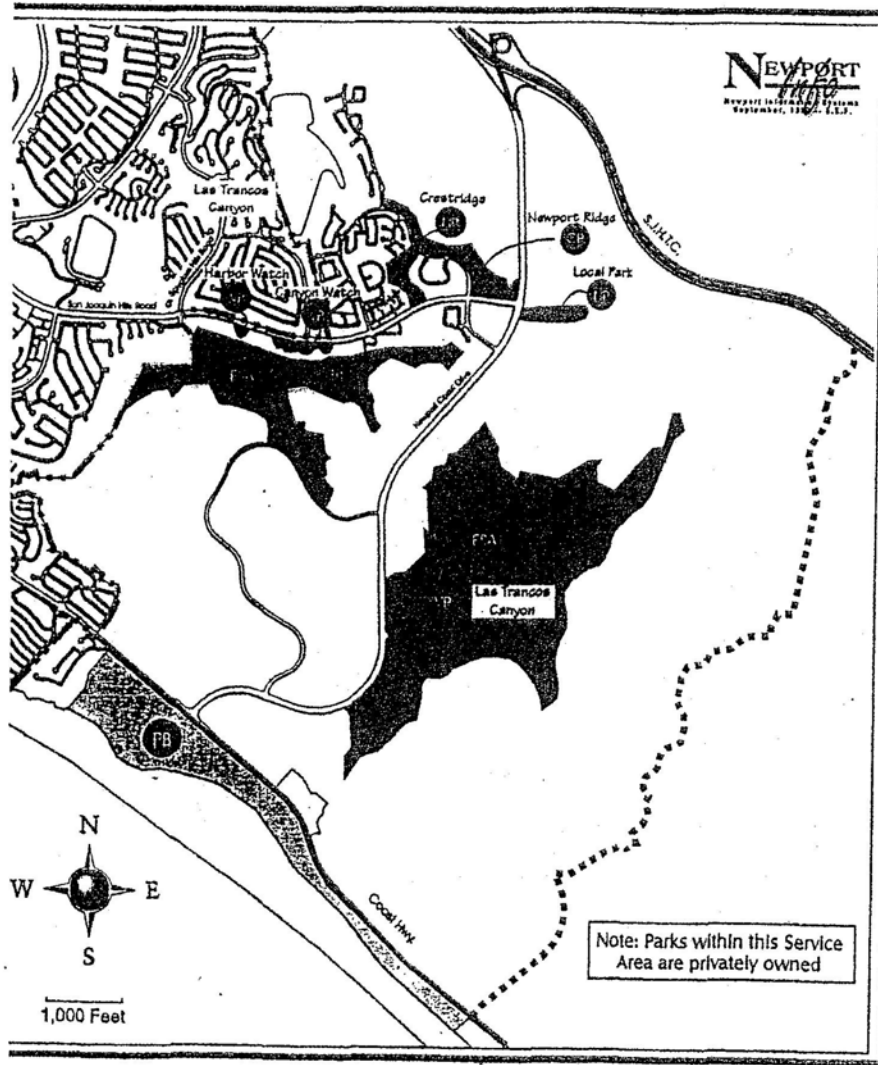
HARBOR VIEW



Newport Beach Recreation & Open Space Plan



NEWPORT BEACH
 Newport Beach, California
 June, 1999



SERVICE AREA 12

NEWPORT COAST



Newport Beach Recreation & Open Space Plan

	RECREATION
MP	Mini Park
NP	Neighborhood Park
CP	Community Park
VP	View Park
SC	Schools
CC	Community Center
	OPEN SPACE
ESA	Environmentally Sensitive Area
OS	Open Space
GB	Greenbelt
RA	Restricted Access
ER	Ecological Reserve
	PUBLIC BEACH
	EXISTING
	PROPOSED
	NEWPORT BEACH SPHERE OF INFLUENCE
	CITY BOUNDARY

CIOSA AGREEMENT

The following table shows the properties dedicated by the Irvine Company for recreation and open space uses under the Circulation Improvement and Open Space agreement (CIOSA) between the City and the Irvine Company:

TABLE A-4- CIOSA - OPEN SPACE DEDICATION			
	PROPERTY	OPEN SPACE ACRES TO BE DEDICATED	DEDICATION TIMING
1	San Diego Creek South	2.4	3
2	San Diego Creek North	0	N/A
3	Jamboree/MacArthur	4.7	3
4	Upper Castaways	30.6	2
5	Bay View Landing	11.1	1
6	Newporter North	47.2	2
7	Block 800	0	N/A
8	Corporate Plaza West	0	N/A
9	Freeway Reservation	17.3	2
10	Newporter Knoll	12.0	1
11	Newporter Resort	0	N/A
12	Newport Village	12.8	4
TOTAL		138.1 acres	

DEDICATION TIMING:

- (1) Open Space to be dedicated upon Effective Date of Agreement.
- (2) Open Space to be dedicated upon issuance of first building permit.
- (3) Open Space shall be offered for dedication upon issuance of last building permit of all projects contained in CIOSA agreement. The Irvine Company may elect to waive this condition.
- (4) Open Space area to be dedicated upon issuance of first building permits for both Upper Castaways and Newporter North.

EXISTING BEACH AND HARBOR FACILITIES

The City contains approximately six miles of sandy ocean beach, plus small beaches along the bay. The width of the ocean beaches vary from area to area along the coast. The beaches at Little Corona and the Marine Life Refuge are very narrow and rocky. The Balboa Peninsula has small beaches on the bay side, such as 10th and 15th Streets, and a broad ocean beach, averaging over 400 feet in width. In west Newport, by contrast, the beach is seldom more than 200 feet wide.

Public parking lots are located at Corona del Mar State Beach, Balboa Pier, Newport Pier, and City Hall. Restroom facilities are concentrated in relatively few areas adjacent to piers and some street ends. There are long stretches of beaches that do not have conveniently located public restrooms. The availability of public restrooms is also a problem for people on boats not equipped with restroom facilities and for visitors to Upper Newport Bay.

**TABLE A-5:
EXISTING (1998) PUBLIC OPEN SPACE AND RECREATION FACILITIES**

PARK/RECREATION FACILITY	Usable Acres	Active/Passive	TYPE AND FACILITIES	ADA Access
SERVICE AREA 5: LIDO ISLE - LOWER BAY				
Myrtle Park	0.1	P	Mini Park: Turf area; benches; pay phone	yes
Total Park Acreage	0.1		0.1 ac. passive	
SERVICE AREA 6: BALBOA ISLAND				
Balboa Island Park and Carroll Beek Community Center	0.3	A	Neighborhood Park-Active: Recreation center; ½ basketball court; 1 bench; play area; 1 dr/fountain	yes
Total Park Acreage	0.3		0.3 ac. active	
Balboa Island Beaches	1.0 active 6.9 passive		Swimming, beach play, boating (active recreation area = area nearest water, approximately 1 acre)	
SERVICE AREA 7: EASTBLUFF - NEWPORT NORTH				
Big Canyon Park	39.2	P	Environmentally Sensitive Area: Hiking trails; view of back bay	no
Bonita Creek Park	13.1	A	Community Park: Rec. center; 1 lighted soccer field; 2 ball diamonds (1 lighted); ½ basketball court; restrooms; play area; picnic area; 8 picnic tables; (+1.1 ac. free pkng)	no
Eastbluff Park	18.7	10.2 A 8.5 P	Community Park: Turf area; 1 ball diamond; 1 athletic field; play area; 3 picnic tables; 2 BBQ's; benches; restrooms; dr/fountains (+.8 ac. free parking) (Park includes portion used by Boys/Girls Club, with gym, activity center, community room, and classrooms)	yes
Total Park Acreage	71.0		23.3 ac. active + 47.7 ac. passive	
School Recreation Site: Corona del Mar High School & Marian Bergeson Aquatic Ctr.	22.8	A	• Basketball; field sports; tennis; volleyball • Swimming; diving; water polo	
SERVICE AREA 9: NEWPORT CENTER				
"Newporter North" Park	4.0	P	View Park: Turf area; benches; view of upper bay.	yes
Total Park Acreage	4.0		4 ac. passive	
SERVICE AREA 10: CORONA DEL MAR				
Bayside Park	2.5	0.4 A 2.1 P	Neighborhood Park: Turf area; play area; benches	no
Begonia Park	2.0	0.8 A 1.2 P	Neighborhood Park: Turf area; 2 play areas; 2 barbecues; 2 picnic tables; benches; drinking fountain; view of bay/ocean	no
Harbor View Nature Park	10.2	P	Passive Neighborhood Park: Hiking trails	no
Inspiration Point	1.4	P	View Park: Turf area; benches; view of ocean	yes
Irvine Terrace Park	6.5	A	Active Neighborhood Park: Turf area; play area; 1 basketball court; 2 small playfields; 2 tennis courts; benches; 5 picnic tables; 2 barbecues; dr/fountains; view of bay/ocean; restrooms	south portion only

Land Use Element
of the
City of Newport Beach

*Adopted by the
Newport Beach City Council*

*October 24, 1988
Resolution No. 88-100*

*Incorporates General Plan Amendments
Approved through January 2000*

aboard vessels assigned to moorings installed over City tidelands. The City shall also consider the adoption of ordinances regulating or restricting the number of commercial activities conducted on the waters of Newport Bay if and when problems associated with such activity, such as parking, marine sanitation and noise adversely affect the quality of the marine environment.

Policy

- D. *The siting of new buildings and structures shall be controlled and regulated to insure, to the extent practical, the preservation of public views, the preservation of unique natural resources, and to minimize the alteration of natural land forms along bluffs and cliffs.*

DISCUSSION

Newport Beach has developed around and along extremely unique and valuable land forms and resource areas. The City's charm and character, as well as the value of residential and commercial property, are all tied to preserving, protecting, and enhancing Upper and Lower Newport Bay, the oceanfront beaches, and other valuable resources within the City. The City's commitment to preservation and enhancement of these areas is demonstrated by its role in the Upper Newport Bay restoration project. The City was the lead agency in both the development and administration of this project.

The natural resources within the City should be enjoyed by residents and visitors alike. Given the value of ocean or bayfront property, there is constant pressure to develop property in and around the bay and beaches. While the City remains committed to protect private property rights, it is also committed to regulate the placement of buildings and structures in areas adjacent to valuable natural resources or environmentally sensitive habitats.

IMPLEMENTATION

Location of Structures

1. Development of Coastal Bluff Sites. Natural coastal bluffs represent a significant scenic and environmental resource. As used in this Section, "coastal bluff" is any natural landform having an average slope of 26.6 degrees (50%) or greater, with a vertical rise of 25 feet or greater. Where there is some question as to the applicability of this section to a specific landform, a determination as to whether or not the specific landform constitutes a coastal bluff shall be made by the Planning Commission, consistent with the purposes of this regulation.
2. In order to preserve these unique landforms, developments proposed for coastal bluff areas shall be subject to the following regulations:

a. The following regulations apply to all building sites on existing subdivided lots, and residential subdivisions containing less than four units:

- 1) *Grading.* Permitted development shall be designed to minimize the alteration of natural landforms along bluffs and cliffs. In areas of geologic hazard, the City shall not issue a building or grading permit until the applicant has signed a waiver of all claim against the public for future liability or damage resulting from permission to build. All such waivers shall be recorded with the County Recorders Office.
- 2) *Geologic Report.* To promote public safety, a geologic study shall be performed for each site to determine areas of potential instability. The bluff areas of potential hazard or instability shall be indicated on maps as a part of any development plan.
- 3) *Shoreline Protective Devices.* In the event of an impending or existing natural disaster or other emergency, a property owner, upon the approval of a building and/or grading permit by the City Grading Engineer and Building Official, may install temporary shoreline protective devices, material, or other suitable construction to protect a coastal bluff. Prior to the approval of a building and or grading permit for the construction or installation of the emergency protective device or material, the City Attorney shall approve as to form and content a document signed by the property owner stipulating that said material or devices will be removed immediately upon the termination of the threat to the property. In addition, said agreement will also provide for the waiver of all claims and indemnify the City against liability for any damage resulting from approval to install said emergency protective material or devices. The property owner may elect to apply for the appropriate local and state permits to retain the protective material or devices after the threat to the property no longer exists, in which case the agreement shall be modified to state that upon exhaustion of all local and state administrative procedures to retain said material or devices, said material or devices will be removed in the event that the appropriate applications are denied.

b. In addition to the regulations set forth above, the following regulations apply to all new tracts and subdivisions. If the development is residential in nature, these regulations will apply to all new subdivisions containing four or more units.

- 1) *Setback Requirement.* A bluff setback adequate to provide safe public access, taking into account bluff retreat and erosion, shall be

provided in all new development. As a general guideline, property lines shall be set back from the edge of the bluff no closer to the edge of the bluff than the point at which the top of the bluff is intersected by a line drawn from the solid toe of the bluff at an angle of 26.6 degrees to the horizontal. A greater setback distance shall be required where warranted by geological or groundwater conditions, but in no case shall a property line be closer than 40 feet to the edge of the bluff.

In addition, there shall be a building setback of 20 feet from the bluffside property line. This required building setback may be increased or decreased by the Planning Commission in the review of a proposed site plan consistent with the purposes of this section.

- 2) **Environmentally Sensitive Habitats and Riparian Areas.** There are many areas within the City of Newport Beach that are environmentally sensitive in nature. For the most part, these are water-associated habitats such as marine intertidal, riparian, or marsh areas.
 - a. The following environmentally sensitive areas shall be preserved and protected, and no structures or landform alteration shall be permitted within these areas, except as provided in Section d. below:
 - 1) Areas supporting species which are rare, endangered, of limited distribution, or otherwise sensitive
 - 2) Natural riparian areas
 - 3) Freshwater marshes
 - 4) Saltwater marshes
 - 5) Intertidal areas
 - 6) Other wetlands
 - 7) Unique or unusually diverse vegetative communities
 - b. Where there is some question as to the applicability of this section to a specific area, a determination as to whether or not the specific area constitutes an environmentally sensitive area shall be made by the Planning Commission, consistent with the purposes of this regulation.
 - c. These policies are not intended to prevent public agencies and private

property owners from maintaining drainage courses and facilities, sedimentation basins, public infrastructure, and other related facilities in a safe and effective condition with minimal impact on the environment.

- d. When the environmental process demonstrates that adverse impacts can be mitigated to an acceptable level, or that the benefits outweigh the adverse impacts, the Planning Commission may approve a development plan in an environmentally sensitive habitat or riparian area.
3. *Geologic Hazard Areas.* There are areas within the City of Newport Beach that the natural geological processes can pose a threat to the public health, safety, and welfare. These areas contain earthquake faults, existing or potential landslides, areas with expansive or collapsible soil, excessive settlement and subsidence, and areas subject to potential erosion and siltation. The following policies shall apply to all areas of potential geologic hazard:
 - a. No structures shall be permitted in areas of potential geologic hazard, except as provided in Section b. below.
 - b. When the environmental process demonstrates that adverse impacts can be mitigated to an acceptable level, or that the benefits outweigh the adverse impacts, the Planning Commission may approve a development plan in an area of potential geologic hazard.
 4. *Residential Areas Impacted by Noise Levels Greater than 65 CNEL.* Due to noise sources such as roadways and aircraft overflights, certain residential areas are impacted by exterior noise levels in excess of 65 CNEL. The following policies shall apply to residential subdivisions of four or more units where the existing or future exterior noise levels are greater than 65 CNEL:
 - a. No new residential development shall be permitted within any area where the noise levels are greater than 65 CNEL, unless the environmental process identifies specific mitigation measures that result in exterior areas of any residence, such as patios and other public and private recreation areas, being mitigated to less than 65 CNEL.
 - b. In addition to mitigating exterior noise levels to less than 65 CNEL, all interior portions of a residence shall not exceed 45 CNEL.

ESTIMATED GROWTH FOR STATISTICAL AREA F4

	Residential (in du's)			Commercial (in sq. ft.)		
	Existing 1/1/87	Gen. Plan Projection	Projected Growth	Existing 1/1/87	Gen. Plan Projection	Projected Growth
1. CdM North	1,276	1,530	254	-0-	-0-	-0-
<i>TOTAL</i>	<i>1,276</i>	<i>1,530</i>	<i>254</i>	<i>-0-</i>	<i>-0-</i>	<i>-0-</i>
Population	2,526	3,029	503			

Corona Highlands (Statistical Area F5)

1. *Buck Gully.* This area is a natural canyon between Corona Highlands and old Corona del Mar. It is designated for Recreational and Environmental Open Space. In order to provide an adequate buffer for the environmentally sensitive areas within Buck Gully, all construction including but not limited to fences, retaining walls, pools of any size or depth, or tennis courts or other activity areas are expressly prohibited within 25 feet of the property lines of all properties adjacent to Buck Gully. In addition, prior to the issuance of a grading permit, the Grading Engineer shall determine that there will be no grading activities including the alteration of the existing landform or removal or deposition of material within the 25 foot buffer area from the rear property line.
2. *Villa del Este.* This site is located on East Coast Highway at Seaward Road. The site is designated for Multi-Family Residential, with one unit allowed for each 1,900 sq.ft. of buildable lot area. The site is allocated 18 dwelling units.[GPA 89-1 (C)]
3. *Shorecrest Lane.* This multi-family area is bounded by East Coast Highway, Seaward Road and Morning Canyon Road. The area is allocated 77 dwelling units, and is designated for Multi-Family Residential land use. One unit is allowed for each 1,900 sq.ft. of buildable lot area.
4. *Corona Highlands.* This area is allocated 235 dwelling units, and is shown for either Two Family Residential or Single Family Detached land use. A minimum of 3,000 sq.ft. of buildable lot area is required for each dwelling unit in Two Family Residential areas. In single family areas, no subdivision which will result in additional dwelling units is allowed.
5. *Morning Canyon.* This area is a natural canyon between Corona Highlands and Cameo Highlands. It is designated for Recreational and Environmental Open Space. In order to

provide an adequate buffer for the environmentally sensitive areas within Morning Canyon, all construction including but not limited to fences, retaining walls, pools of any size or depth, or tennis courts or other activity areas are expressly prohibited within 25 feet of the property lines of all properties adjacent to Morning Canyon. In addition, prior to the issuance of a grading permit, the Grading Engineer shall determine that there will be no grading activities, including the alteration of the existing landform or removal or deposition of material, within the 25 foot buffer area from the rear property line.

6. *Morning Canyon SFA.* This project is located on Morning Canyon Road at East Coast Highway. The site is designated for Single Family Attached land use and is allocated 14 dwelling units, which reflects the existing land use.

ESTIMATED GROWTH FOR STATISTICAL AREA F5						
	Residential (in du's)			Commercial (in sq. ft.)		
	Existing 1/1/87	Gen. Plan Projection	Projected Growth	Existing 1/1/87	Gen. Plan Projection	Projected Growth
1. Buck Gully	-0-	-0-	-0-	-0-	-0-	-0-
2. Villa del Este	-0-	18	18	9,552	-0-	(9,552)
3. Shorecrest Lane	72	77	5	-0-	-0-	-0-
4. Corona Highlands	204	235	31	-0-	-0-	-0-
5. Morning Canyon	-0-	-0-	-0-	-0-	-0-	-0-
6. Morning Canyon SFA	14	14	-0-	-0-	-0-	-0-
<i>TOTAL</i>	<i>290</i>	<i>344</i>	<i>54</i>	<i>9,552</i>	<i>-0-</i>	<i>(9,552)</i>
Population	574	681	107			

Cameo Highlands (Statistical Area F6)

1. *Cameo Highlands.* This area is northerly of East Coast Highway between Morning Canyon and the City Boundary. The area is allocated 142 dwelling units and is designated for Single Family Detached land use. No subdivision which will result in additional dwelling units is allowed in this area.

ESTIMATED GROWTH FOR STATISTICAL AREA F6

	Residential (in du's)			Commercial (in sq. ft.)		
	Existing 1/1/87	Gen. Plan Projection	Projected Growth	Existing 1/1/87	Gen. Plan Projection	Projected Growth
1. Cameo Highlands	142	142	-0-	-0-	-0-	-0-
<i>TOTAL</i>	<i>142</i>	<i>142</i>	<i>-0-</i>	<i>-0-</i>	<i>-0-</i>	<i>-0-</i>
Population	281	281	-0-			

Shore Cliffs (Statistical Area F7)

1. *Shore Cliffs.* This area is located southerly of East Coast Highway between Buck Gully and Morning Canyon. The area is allocated 144 dwelling units, and is designated for Single Family Detached land use. No subdivision of this area which will result in additional dwelling units is allowed.

2. *Buck Gully.* This area is a natural canyon between Shore Cliffs and old Corona del Mar. It is designated for Recreational and Environmental Open Space. In order to provide an adequate buffer for the environmentally sensitive areas within Buck Gully, all construction including but not limited to fences, retaining walls, pools of any size or depth, or tennis courts or other activity areas are expressly prohibited within 25 feet of the property lines of all properties adjacent to Buck Gully. In addition, prior to the issuance of a grading permit, the Grading Engineer shall determine that there will be no grading activities, including the alteration of the existing landform or removal or deposition of material, within the 25 foot buffer area from the rear property line.

3. *Morning Canyon.* This area is a natural canyon between Shore Cliffs and Cameo Shores. It is designated for Recreational and Environmental Open Space. In order to provide an adequate buffer for the environmentally sensitive areas within Morning Canyon, all construction including but not limited to fences, retaining walls, pools of any size or depth, or tennis courts or other activity areas are expressly prohibited within 25 feet of the property lines of all properties adjacent to Morning Canyon. In addition, prior to the issuance of a grading permit, the Grading Engineer shall determine that there will be no grading activities, including the alteration of the existing landform or removal or deposition of material, within the 25 foot buffer area from the rear property line.

ESTIMATED GROWTH FOR STATISTICAL AREA F7

	Residential (in du's)			Commercial (in sq. ft.)		
	Existing 1/1/87	Gen. Plan Projection	Projected Growth	Existing 1/1/87	Gen. Plan Projection	Projected Growth
1. Shore Cliffs	144	144	-0-	-0-	-0-	-0-
2. Buck Gully	-0-	-0-	-0-	-0-	-0-	-0-
3. Morning Canyon	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	144	144	-0-	-0-	-0-	-0-
Population	285	285	-0-			

Cameo Shores (Statistical Area F8)

1. *Cameo Shores.* This area is southerly of East Coast Highway between Morning Canyon and the City Boundary. The area is allocated 176 dwelling units and is designated for Single Family Detached land use. No subdivision which will result in additional dwelling units is allowed in this area.
2. *Morning Canyon.* This area is a natural canyon between Shore Cliffs and Cameo Shores. It is designated for Recreational and Environmental Open Space. In order to provide an adequate buffer for the environmentally sensitive areas within Morning Canyon, all construction including but not limited to fences, retaining walls, pools of any size or depth, or tennis courts or other activity areas are expressly prohibited within 25 feet of the property lines of all properties adjacent to Morning Canyon. In addition, prior to the issuance of a grading permit, the Grading Engineer shall determine that there will be no grading activities, including the alteration of the existing landform or removal or deposition of material, within the 25 foot buffer area from the rear property line.

ESTIMATED GROWTH FOR STATISTICAL AREA F8

	Residential (in du's)			Commercial (in sq. ft.)		
	Existing 1/1/87	Gen. Plan Projection	Projected Growth	Existing 1/1/87	Gen. Plan Projection	Projected Growth
1. Cameo Shores	174	176	2	-0-	-0-	-0-
2. Morning Canyon	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	174	176	2			
Population	345	348	3			

■ Response to Comment Letter JA

Letter from Jan D. Vandersloot, received June 12, 2006

JA-1

The comment is acknowledged. The commenter's letter to the NOP of February 27, 2006 has been attached as part of this comment letter and the comments therein are addressed as JA2-1 through JA2-10.

JA-2

The current Recreation and Open Space Element states that "Environmentally Sensitive Areas are those passive open space areas possessing unique environmental value which may warrant some form of protection or preservation." Therefore, it is incorrect to state that some form of special protective status is afforded to areas identified as "ESAs" in the current General Plan.

All of the areas identified as "environmentally sensitive areas" or "ESAs" in the current General Plan are located within the geographic boundaries of the Environmental Study Areas listed in the proposed Natural Resources Element. The environmental study areas are relatively large, undeveloped areas that may support species and habitats that are sensitive and rare within the region or may function as a migration corridor for wildlife. Policy NR 10.4 requires a site-specific survey and analysis prepared by a qualified biologist as a filing requirement for any development permit applications where development would occur within or contiguous to areas identified as Environmental Study Areas. Policy NR 10.3 prohibits development in nature preserves, conservation areas, and designated open space areas in order to minimize urban impacts upon resources in identified Environmental Study Areas. These proposed policies provide greater protection to the sensitive habitats and species located within these areas than Recreation and Open Space Policy 9.1 in the current General Plan, discussed in response JA-3. For these reasons, no significant impact is foreseen.

JA-3

The comment that Policy 9.1 of the current Recreation and Open Space Element prohibits the location of structures in environmentally sensitive areas identified in the Recreation and Open Space Map is incorrect. The implementing action for Policy 9.1 calls for the adoption of a Recreation and Open Space Element Plan and prohibiting structures in specific types of environmentally sensitive areas (i.e., environmentally sensitive habitat areas, coastal bluffs, bluff top set back areas, riparian areas, geologic hazard areas, etc.) However, this does not prohibit development within Environmentally Sensitive Areas (ESA's) as a whole. Furthermore, the prohibition called for in the implementing action is limited to those areas identified in the Recreation and Open Space Plan Map and these specific types of environmentally sensitive areas were not identified on the map.

The comment suggests that the proposed Natural Resources Element only requires the study of environmentally sensitive areas. However this ignores the numerous policies within the element that provide for the protection of these areas once they are identified on a site-specific basis. These include

Policies NR 10.1 through NR 10.14, NR 11.1 through NR 11.3, NR 12.1 to NR 12.3, NR 13.1, NR 13.2, and NR 14.4.

The comment that the current Land Use Element prohibits structures and landform alteration in environmentally sensitive areas is inaccurate. Policy D of the current Land Use Element states:

The siting of new buildings and structures shall be controlled and regulated to insure, to the extent practical, the preservation of public views, the preservation of unique natural resources, and to minimize the alteration of natural land forms along bluffs and cliffs.

The Policy D implementation measures establish a number of development regulations for “all new tracts and subdivisions,” including new residential subdivisions of four or more units. One of these regulations establishes that “no structures or landform alteration shall be permitted” in the following “environmentally sensitive areas:”

- 1) Areas supporting species which are rare, endangered, of limited distribution, or otherwise sensitive
- 2) Natural riparian areas
- 3) Freshwater marshes
- 4) Saltwater marshes
- 5) Intertidal areas
- 6) Other wetlands
- 7) Unique or unusually diverse vegetative communities

However, this regulation also provides that if there is some question as to the applicability of this regulation to a specific area, the Planning Commission shall make a determination as to whether or not the specific area constitutes an environmentally sensitive area. This regulation further provides that:

When the environmental process demonstrates that adverse impacts can be mitigated to an acceptable level, or that the benefits outweigh the adverse impacts, the Planning Commission may approve a development plan in an environmentally sensitive habitat or riparian area. [emphasis added]

The current General Plan contains no criteria or procedure under which the Planning Commission would make these determinations. The policies of the proposed General Plan provide greater protection to the sensitive habitats and species located within these areas than the ambiguous policy in the current General Plan and broad caveats in the implementing measures. For these reasons, no significant impact is foreseen.

JA-4

When the City of Newport Beach drafted the first Local Coastal Program (LCP) Land Use Plan in the 1980s, the term “environmentally sensitive habitat area” was used to identify riparian areas, wetlands, intertidal areas, and other habitats that are considered to be environmentally sensitive. These environmentally sensitive habitat areas were described as being located on all or portions of twelve large areas. In 2002, a biological assessment study was conducted for use in updating the biological resource sections of the LCP Land Use Plan and the General Plan. This biological assessment study carried over the term “environmentally sensitive habitat area” or “ESHA” to describe twenty-eight areas, including the twelve areas described in the existing LCP Land Use Plan.

The California Coastal Commission staff advised City staff that describing areas as ESHAs should be given careful consideration given the limitations on development within these areas as set forth in Section 30240(a) of the Coastal Act. Section 30240(a) requires the protection of environmentally sensitive habitat areas against any significant disruption of habitat values and limits uses to only those that are dependent on those resources. Consequently, the LCP Coastal Land Use Plan approved by the California Coastal Commission on October 13, 2003 identifies these areas as “environmental study areas” (ESAs) to distinguish their geographic identification from the ESHAs located within them. To avoid further confusion, an addendum to the 2002 biological assessment study has been prepared to more correctly identify the twenty-eight areas (nineteen in the coastal zone and nine outside of the coastal zone) as “environmental study areas.” This is the reason for the change in terminology and there is no change in the ESHA protection policies of the Coastal Act, the Coastal Land Use Plan, or the proposed General Plan. For these reasons, no significant impact is foreseen.

The biological assessments referenced in the comment was superseded *Newport Beach Biological Resources Addendum* prepared by EIP Associates in October 2003. The addendum was presented to General Plan Advisory Committee on November 10, 2003, which the commentator was present as a member. The addendum was prepared to more correctly identify the twenty-eight areas as “environmental study areas” for the reasons identified above. The change in terminology does not result in a change in the ESHA protection policies of the Coastal Act, the Coastal Land Use Plan, or the proposed General Plan. For these reasons, no significant impact is foreseen.

JAN D. VANDERSLOOT, M.D.

2221 East 16th Street
Newport Beach, CA 92663

Home Phone (949) 548-6326
Office FAX (714) 848-6643

February 27, 2006

JA2

Mr. Greg Ramirez, Senior Planner
Planning Department
City of Newport Beach
3300 Newport Blvd.
P.O. Box 1768
Newport Beach, CA 92658-8915

City of Newport Beach
General Plan Update
Notice of Preparation/Initial Study
January 2006

By Fax: 949.644.3229

Dear Mr. Ramirez,

Thank you for the opportunity to comment on the NOP for the General Plan Update. I have the following questions that should be addressed in the EIR:

1. Table 3. City of Newport Beach General Plan Update Existing and Proposed Land Use. Can you provide a total of how many residential units (du) will be added to the existing dwelling units under the Existing, Current GP and Proposed GP, and what the incremental changes are? For example, I now have to add the Existing MFR and SFR to get 39,369 du, I have to add 29,504 MFR to 19,570 SFR to get 49,074 du under the Current GP, and I have to add Proposed MFR 34,303 plus 20,402 SFR to get 54,705 du under the Proposed General Plan. Thus, the Proposed General Plan will have 15,336 more du than existing, and 5,631 du more than the Current GP, and the Current GP over existing is 5,631. This is important for people to know how much the City will grow under the different scenarios.
2. What is the growth in population who will occupy the dwelling units, and what is the per cent growth compared to the existing?
3. What is the number of people per household under the different categories of Existing, Current GP, and Proposed GP?
4. What percent growth in population will occur under the Current GP and the Proposed GP?
5. What is the number of park acreage required under the Quimby Act and will the proposed GP meet these requirements?

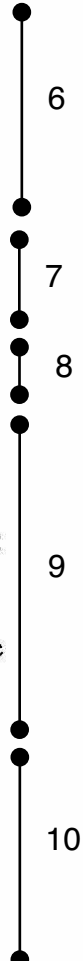


JAN D. VANDERSLOOT, M.D.

2221 East 16th Street
Newport Beach, CA 92663

Home Phone (949) 548-6326
Office FAX (714) 848-6643

- 6. Table 4, Transportation Improvements under Proposed General Plan Update. There are 13 additional intersection improvements with project proposed. The EIR should identify what actions need to be taken at each of these locations. Will land need to be acquired to improve the intersections? If so, from whom and at what cost? If land is not acquired, how will the improvements be accomplished?
- 7. Will parking need to be removed from the sides of streets to accomplish widening of highways such as Coast Highway in Mariners Mile?
- 8. Will land need to be acquired to widen streets? From whom? At what cost?
- 9. The EIR should examine eliminating alternatives that are not feasible, such as the 19th Street/Banning Bridge over the Santa Ana River. Both the cities of Huntington Beach and Costa Mesa are actively working to eliminate this bridge from the County Master Plan of Arterial Highways. What will happen to Newport Beach traffic circulation if this bridge is not built? The traffic alternatives should include this very possible scenario in the EIR. For example, the city of Costa Mesa has proposed a series of alternatives to mitigate for loss of the bridge. These alternatives can be obtained from the City Manager of Costa Mesa and should be included in the EIR.
- 10. How will the recently announced decision of the city of Irvine to add an overlay of 10,000 dwelling units near John Wayne Airport and Jamboree affect the circulation of Newport Beach and its capacity to handle the traffic from the development? See attached article from the Daily Pilot February 13, 2006 entitled: Housing Plans worry Newport".



Thanks again for the opportunity to comment on the NOP. Please put me on the mailing list for the EIR notices.

Sincerely,

Jan D. Vandersloot MD
 Jan D. Vandersloot, MD

Attachment:

Daily Pilot Article February 13, 2006, "Housing plans worry Newport"

■ Response to Comment Letter JA2

Letter from Jan D. Vandersloot, received February 27, 2006 in the NOP response period

JA2-1

The comment is noted. This item was addressed in the Draft EIR. Refer to Table 2-1 on page 2-4 of the Draft EIR.

JA2-2

The comment is noted. This item was addressed in the Draft EIR. Refer to Impact 4.10-1 on pages 4.10-5 through 4.10-6 of the Draft EIR.

JA2-3

A static persons per household (pph) ratio of 2.19 (as stated on page 4.10-5) was used to determine the level of impact of the proposed General Plan Update versus existing conditions and the existing General Plan.

JA2-4

The comment is noted. This item was addressed in the Draft EIR. Refer to Impact 4.10-1 on pages 4.10-5 through 4.10-6 of the Draft EIR.

JA2-5

The comment is noted. This item was addressed in the Draft EIR. Quimby Act requirements are discussed on page 4.12-12. As noted on page 4.12-12, “[t]he Act requires the provision of three acres of park area per 1,000 persons residing within a subdivision, unless the amount of existing neighborhood and community park area exceeds that limit, in which case the City may adopt a higher standard not to exceed five acres per 1,000 residents.”

JA2-6

The comment is acknowledged. The environmental effects and project-specific details of several potential transportation improvements have been analyzed in the EIR at a programmatic level, consistent with available information and CEQA requirements. A more detailed analysis would be prepared consistent with CEQA once a specific design concept for a particular improvement has been articulated and the project is proposed as an individual construction project subject to review and consideration by the City.

JA2-7

The comment is acknowledged. Refer to response to comment JA2-6 for a response to this comment regarding specific details concerning the removal of on-street parking.

JA2-8

The comment is acknowledged. Refer to response to comment JA2-6 for a response to this comment regarding specific details relating to improvement of the transportation infrastructure within the City.

JA2-9

The comment is acknowledged. The City is not pursuing nor does it consider the removal of the 19th Street bridge as a reasonable alternative to the proposed General Plan Update at this time. As such, the analysis of such an alternative was not included within the EIR. However, the commenter is referred to Appendix D of the EIR, which briefly discusses the potential transportation implications should the 19th Street bridge be removed.

JA2-10

The comment is acknowledged. The City's analysis of future traffic conditions utilized the Newport Beach Transportation Model (NBTM) and accounted for current regional growth projections. The development of 10,000 dwelling units in the City of Irvine may fall within current regional growth projections. However, from a programmatic perspective, the use of regional growth projections when assessing cumulative traffic/transportation conditions is the most appropriate and effective method of analyzing the potential impacts of the proposed General Plan Update.



STATE OF CALIFORNIA
 Governor's Office of Planning and Research
 State Clearinghouse and Planning Unit



Arnold Schwarzenegger
 Governor

Sean Walsh
 Director

June 12, 2006

PR

RECEIVED BY
 PLANNING DEPARTMENT I
 CITY OF NEWPORT BEACH

Gregg B. Ramirez
 City of Newport Beach
 3300 Newport Boulevard
 Newport Beach, CA 92685-8915

JUN 19 2006
 AM PM
 7 8 9 10 11 12 1 2 3 4 5 6

Subject: City of Newport Beach General Plan Update EIR
 SCH#: 2006011119

Dear Gregg B. Ramirez:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on June 8, 2006, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Terry Roberts
 Director, State Clearinghouse

**Document Details Report
State Clearinghouse Data Base**

SCH# 2006011119
Project Title City of Newport Beach General Plan Update EIR
Lead Agency Newport Beach, City of

Type EIR Draft EIR

Description Implementation of the proposed General Plan Update would result in new development within the Planning Area, which consists of two geographical areas; the City's corporate limits, and its Sphere of Influence (SOI) represents those areas likely to be served by and potentially annexed to the City. The SOI includes the existing City boundaries as well as an additional 361 acres of land in the Banning Ranch subarea. Land use designations under the proposed General Plan include residential, commercial, office, industrial, parks/open space, visitor-serving, and institutional. Generally, development in accordance with the General Plan would result in appropriate infill of vacant lands in the City and redevelopment of existing sites, effective reuse of obsolete sites, and incremental growth in specific areas within the City. Implementation of the updated General Plan at its fullest intensity for all vacant lands would result in the development of the land use types listed above.

Lead Agency Contact

Name Gregg B. Ramirez
Agency City of Newport Beach
Phone (949) 644-3219 **Fax**
email
Address 3300 Newport Boulevard
City Newport Beach **State** CA **Zip** 92685-8915

Project Location

County Orange
City Newport Beach
Region

Cross Streets

Parcel No.
Township

Range

Section

Base

Proximity to:

Highways SR 55, SR 39, Hwy. 1
Airports John Wayne Airport
Railways
Waterways Upper Newport Bay
Schools Newport Mesa, Santa Ana, and Laguna USD
Land Use The existing General Plan for the City of Newport Beach currently designates land use.

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Coastal Zone; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

Reviewing Agencies Resources Agency; Regional Water Quality Control Board, Region 9; Department of Parks and Recreation; Native American Heritage Commission; Department of Housing and Community Development; Office of Historic Preservation; Department of Fish and Game, Region 5; California Coastal Commission; California Highway Patrol; Caltrans, District 12; Caltrans, Division of Aeronautics; Department of Toxic Substances Control; Office of Emergency Services; Department of Health Services

**Document Details Report
State Clearinghouse Data Base**

Date Received 04/21/2006

Start of Review 04/21/2006

End of Review 06/08/2006

■ Response to Comment Letter PR

Letter from the Governor's Office of Planning and Research, received June 19, 2006

PR-1

Comment noted. This comment contains information regarding the State Clearinghouse's actions in submitting the Draft EIR to various state agencies for review and the closing date of the review period. No further response is required.