

## **4. ENVIRONMENTAL IMPACT ANALYSIS**

### **I. LAND USE**

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#### **1. INTRODUCTION**

This section of the Draft EIR evaluates the extent to which the proposed project could result in inconsistencies with applicable plans, policies, and regulations, and whether any such inconsistencies could result in physical impacts on the environment. Applicable plans and regulations include: the City of Newport Beach General Plan Land Use Element and Local Coastal Program Coastal Land Use Plan, the California Coastal Act, the Southern California Association of Governments' Regional Transportation Plan/Sustainable Communities Strategy and Southern California Compass Blueprint, the Airport Environs Land Use Plan for John Wayne Airport, and the City of Newport Beach Municipal Code. It should be noted that the General Plan consistency analysis in this section is focused on the Land Use Element, and that consistency with relevant goals and policies contained in other General Plan Elements are evaluated in the sections of this Draft EIR where they relate to the environmental issue being addressed.

#### **2. ENVIRONMENTAL SETTING**

##### **a. Regulatory Framework**

##### **(1) State Level**

##### **(a) California Coastal Act**

The California Coastal Commission (Commission) was established by voter initiative in 1972 (Proposition 20) and later made permanent by the Legislature through adoption of the California Coastal Act of 1976. The Commission, in partnership with coastal cities and counties, plans and regulates the use and development of land and water in the coastal zone. Development activities, which are broadly defined by the Coastal Act to include (among others) construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters, generally require a coastal development permit from either the Commission or the local government.

The Coastal Act includes specific policies (see Division 20 of the Public Resources Code) that address issues such as shoreline public access and recreation, terrestrial and marine habitat protection, visual resources, landform alteration, agricultural lands, commercial fisheries, lower cost visitor accommodations, industrial uses, water quality, offshore oil and gas development, transportation, development design, power plants, ports, and public works. The policies of the Coastal Act constitute the statutory standards applied to planning and regulatory decisions made by the Commission and by local governments, pursuant to the Coastal Act.

California's coastal management program is carried out through a partnership between state and local governments. Implementation of Coastal Act policies is accomplished primarily through the preparation of local coastal programs (LCPs) that are required to be completed by each of the 15 counties and 60 cities (128 LCP segments) located in whole or in part in the coastal zone. Completed LCPs must be submitted to the

Commission for review and approval. An LCP includes a Land Use Plan (LUP) which is typically the Coastal Element or Coastal Land Use Plan of the General Plan, including any maps necessary to administer it; and the Implementation Plan which comprises the zoning ordinances, zoning district maps, and Specific Plans or Planned Community Development Plans necessary to implement the land use plan. Coastal Act policies are the standards by which the Commission evaluates the adequacy of LCPs. Amendments to certified LUPs and LCPs only become effective after approval by the Commission (see discussion below regarding the City of Newport Coastal Land Use Plan). To ensure that coastal resources are effectively protected in light of changing circumstances, such as new information or changing development pressures and impacts, the Commission is required to review each certified LCP at least once every five years.

Development within the coastal zone requires a coastal development permit be issued by either the Commission or a local government that has a Commission-certified LCP. After certification of an LCP, coastal development permit authority is delegated to the appropriate local government, but the Commission retains original permit jurisdiction over certain specified lands (such as tidelands and public trust lands). The Commission also has appellate authority over development approved by local governments in specified geographic areas as well as certain other developments. While the City of Newport Beach has a certified Coastal Land Use Plan (CLUP), discussed in further detail below, it does not have an Implementation Plan or certified LCP and therefore the Commission retains permit authority on development in the City's coastal zone.

## **(2) Regional Level**

### **(a) Southern California Association of Governments (SCAG)**

SCAG is the designated regional planning agency for six counties: Los Angeles, Orange, San Bernardino, Riverside, Ventura and Imperial. SCAG is a joint powers agency with responsibilities pertaining to regional issues. SCAG's current land use policies are set forth in the 2012 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), and the Compass Growth Vision, in conjunction with its constituent members and other regional planning agencies.

#### ***(i) Regional Transportation Plan/Sustainable Communities Strategy***

On April 4, 2012, the Regional Council of the Southern California Association of Governments (SCAG) adopted the 2012-2035 RTP/SCS: Towards a Sustainable Future. The 2012-2035 RTP/SCS is a long-range regional transportation plan that provides a blueprint to help achieve a coordinated and balanced regional transportation system in the SCAG region, which is composed of six counties: Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura. The RTP/SCS is the culmination of a multi-year effort involving stakeholders from across the SCAG Region, and includes short- and long-range population, housing, and employment projections for local, subregional, and regional geographies that are utilized for regional planning efforts.

#### ***(ii) Southern California Compass Blueprint***

In an effort to maintain the region's prosperity, continue to expand its economy, house its residents affordably, and protect its environmental setting as a whole, SCAG has collaborated with interdependent sub-regions, counties, cities, communities and neighborhoods in a process referred to by SCAG as Southern California Compass, which resulted in the development of a shared Growth Vision for Imperial, Los Angeles, Orange, Riverside, San Bernardino and Ventura Counties. SCAG began Compass Blueprint in 2002,

spearheaded by the Growth Vision Subcommittee, which consists of civic leaders from throughout the region. The shared regional vision sought to address issues such as congestion and housing availability, which may threaten the region's livability.

The underlying goal of the growth visioning effort is to make the SCAG region a better place to live, work, and play for all residents. To organize the strategies for improving the quality of life in the SCAG region, four principles were established by the Growth Vision Subcommittee. These goals are contained in the Compass Blueprint Growth Vision Report. The principles are intended to promote and maximize regional mobility, livability, prosperity and sustainability. Decisions regarding growth, transportation, land use and economic development should support and be guided by these principles. Specific policy and planning strategies also are provided as a way to achieve each of the principles.

In addition, the Compass Blueprint 2% Strategy provides guidance for how and where SCAG can implement the Growth Vision goals for the region's future. The strategy calls for modest changes to current land use and transportation trends on 2% of the land area of the region. As indicated on the 2% Strategy Opportunity Areas map for Orange County, the project site is not located within a Compass 2% Strategy Opportunity Area.

#### **(b) Airport Environs Land Use Plan for John Wayne Airport**

In 1975, the Airport Land Use Commission (ALUC) of Orange County adopted an Airport Environs Land Use Plan (AELUP, amended April 17, 2008) that included John Way Airport (JWA), Fullerton Municipal Airport, and the Joint Forces Training Base Los Alamitos. The AELUP is a land use compatibility plan that is intended to protect the public from adverse effects of aircraft noise, ensure the people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable space. The AELUP identifies standards for development in the airport's planning area based on noise contours, accident potential zones, and building heights. The ALUC is an agency authorized under state law to assist local agencies in ensuring compatible land uses in the vicinity of airports. Primary areas of concern for ALUCs are noise, safety hazards, and airport operational integrity. ALUCs are not implementing agencies in the manner of local governments, nor do they issue permits for a project such as those required by local governments. However, pursuant to California Public Utilities Code Section 21676, local governments are required to submit all general plan amendments and zone changes that occur in the ALUC planning areas for consistency review by ALUC. If such an amendment or change is deemed inconsistent with the ALUC plan, a local government may override the ALUC decision by a two-thirds vote of its governing body, if it makes specific findings that the proposed action is consistent with the purposes stated in Section 21670(a)(2) of the Public Utilities Code: "to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards in areas around public airports to the extent that these areas are not already devoted to incompatible uses."

The project site is approximately three miles south-southwest of JWA and a portion of the site is located within the boundaries of the AELUP for JWA, as illustrated in Figure 1 of the AELUP. As shown in Figure S5 of the City's General Plan Safety Element, *JWA Clear Zone/Runway Protection Zones and Accident Potential Zones*, the project site is not located within any designated airport Safety Compatibility Zones. Additionally, no portion of the project site falls within the future 60-dBA CNEL aircraft operation noise contours for JWA, as shown in Figure N4, *Future Noise Contours*, of the Newport Beach General Plan Safety Element. The

proposed project's consistency with applicable AELUP land use policies is provided below under Project Impacts.

### **(3) Local Level**

#### **(a) Newport Beach General Plan**

Future development of all land in the City of Newport Beach is guided by the City's General Plan. The General Plan consists of a series of state-mandated and optional Elements that guide and direct the City's physical, social, and economic growth. Elements included in the City of Newport Beach General Plan include Land Use, Harbor and Bay, Housing, Historical Resources, Circulation, Recreation, Arts and Cultural, Natural Resources, Safety, and Noise. An update to the City's General Plan was approved by the City Council on July 25, 2006. And, pursuant to City Charter Section 423, as the General Plan Update involved exceedance of specific development thresholds that were in effect at the time, voter approval was also required and occurred on November 7, 2006.

##### ***(i) Land Use Element***

The Land Use Element of the Newport Beach General Plan provides guidance regarding the ultimate pattern of development as well as development allocations for land uses throughout the City. It is based on and correlates the policies from all Elements into a set of coherent development policies, which serve as the central organizing Element for the City's General Plan as a whole. Cumulatively, the Land Use Element's policies directly affect the establishment and maintenance of the neighborhoods, districts, corridors, and open spaces that distinguish and contribute to Newport Beach's livability, vitality, and image. Policies related to urban form are also contained in the Land Use Element. Policies germane to the proposed project with regard to land use and planning, as well as an analysis of the project's consistency with these policies, are provided below under Project Impacts.

#### **(b) Newport Beach Local Coastal Program Coastal Land Use Plan**

The City's Coastal Land Use Plan (CLUP) component of its Local Coastal Program (LCP) was first approved by the Coastal Commission on October 13, 2005, and was adopted on December 13, 2005. The CLUP was amended by the Coastal Commission on February 5, 2009, and adopted by the City on July 14, 2009. The City is currently preparing the Implementation Plan. Because the City does not have an adopted Implementation Plan, the City's LCP has not been certified by the Coastal Commission and it does not have the ability to issue CDPs. All coastal development permit applications in the City must be submitted to and are processed by the California Coastal Commission following City approval. In consultation with Coastal Commission staff, the City is currently drafting its Implementation Plan. Oversight is being provided by a City Council ad-hoc committee to guide staff and facilitate enhanced public participation. The City anticipates completing and submitting the draft Implementation Plan to the Coastal Commission in mid-2014.

The Coastal Land Use Plan was derived from the Land Use Element of the General Plan and is intended to identify the distribution of land uses in the coastal zone. Because the 2006 City of Newport Beach General Plan was prepared in consideration of the CLUP approved in 2005, many of the CLUP policies were directly incorporated into the General Plan Land Use, Natural Resources, Recreation, and Public Safety Elements. The CLUP organizes the coastal resources planning and management policies under the following chapters: Chapter 2 – *Land Use and Development*, Chapter 3 – *Public Access and Recreation*, and Chapter 4 – *Coastal Resource Protection*. A brief summary of these CLUP components and their relationship to the project site is

provided below. Policies of the CLUP applicable to the proposed project, as well an analysis of the proposed project's consistency with these policies, are provided below under Project Impacts.

### ***Chapter 2: Land Use and Development***

Chapter 2 of the CLUP was derived from the Land Use Element of the City's General Plan and is intended to identify the distribution of land uses in the Coastal Zone. It provides the Land Use Map, discusses the Coastal Development Review process, and identifies specific policies by development category. The Coastal Land Use Plan Map designates the project site as CM-A (Recreational and Marine Commercial with 0.3 maximum floor-area ratio [FAR]) south of the East Coast Highway centerline and CM-B (Recreational and Marine Commercial with 0.5 maximum FAR) north of the East Coast Highway Centerline. The CM category is intended to provide for commercial development on or near Newport Bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive businesses, encourage visitor-serving and recreational uses, and encourage physical and visual access to the Bay on waterfront commercial and industrial building sites on or near the Bay.

### ***Chapter 3: Public Access and Recreation***

The CLUP identifies two basic types of public access: vertical access (or access down to the shoreline or bayfront) and lateral access (or access along the shoreline or bayfront). The City has developed an extensive system of access to ocean beaches and the bay. Virtually all of the Pacific Ocean shoreline beaches are public and Newport Bay is accessible via public beaches, parks, shoreline trails, walkways and boardwalks. The City requires all new development that causes or contributes to adverse public access impacts to provide easements or dedications in areas where public access is inadequate. The project site is located adjacent to Upper Newport Bay, and as such is subject to the City's public access and recreation requirements.

### ***Chapter 4: Coastal Resource Protection***

Chapter 4 of the CLUP addresses coastal resource protection with respect to biological resources, wetlands and deepwater areas, water quality, scenic and visual resources, and paleontological and cultural resources. As these issues are applicable to the proposed project, they are addressed in Section 4.A, *Aesthetics/Visual Resources*, Section 4.C, *Biological Resources*, Section 4.D, *Cultural Resources*, and Section 4.H, *Hydrology and Water Quality*, of this Draft EIR.

#### **(c) Newport Beach Municipal Code**

Title 20, *Planning and Zoning*, of the Newport Beach Municipal Code (NBMC), otherwise known as the Newport Beach Zoning Code (Zoning Code), is the primary tool for implementing the City's General Plan. It provides development standards (i.e., setbacks, building height, site coverage, parking, and sign requirements). In addition to guiding the uses, designs, and improvements of development projects, the Zoning Code provides detailed guidance for private development based on, and consistent with, the land use policies established in the General Plan. As a tool for implementing the General Plan for specific development projects within specified Planned Community (PC) zoning districts in the City, the City utilizes the Planned Community Development Plan (PCDP). The PCDP for a specified project site is prepared on a

project-by-project basis to implement the General Plan in a manner that responds to site-specific conditions and constraints, but that still meets the intent of the applicable land use designations for the property.

### 3. PROJECT IMPACTS

#### a. Methodology

The analysis of potential land use impacts considers consistency of the project with applicable local and regional plans, policies, and regulations. The determination of consistency is based upon a review of the previously identified planning documents that regulate land use or guide land use decisions pertaining to the project site. CEQA Guidelines Section 15125(d) requires that an EIR discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans. The proposed project is considered consistent with applicable plans if it is compatible with the general intent of the plans and would not preclude or substantially impede attainment of relevant goals and policies. Determinations of significance are based not on inconsistency alone, but on instances where inconsistencies with plans, policies, and regulations also result in physical impacts on the environment.

#### b. Significance Thresholds

Appendix G of the *CEQA Guidelines* provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including land use and planning. Based on the following issue areas identified in Appendix G of the *CEQA Guidelines*, a significant impact to land use and planning would occur if the project would result in one or more of the following:

- Threshold 1: Physically divide an established community (refer to Chapter 6, *Other Mandatory CEQA Considerations*, and the Initial Study contained in Appendix A. No impact would occur in this regard.);
- Threshold 2: Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect (refer to Impact Statement 4.I-1 below); or
- Threshold 3: Conflict with any applicable habitat conservation plan or natural community conservation plan (refer to Chapter 6, *Other Mandatory CEQA Considerations*, and the Initial Study contained in Appendix A. No impact would occur in this regard. Also refer to Section 4.C, *Biological Resources*, of this Draft EIR for a discussion of impacts and mitigation measures related to biological resources.).

#### c. Proposed Legislative and Administrative Approvals

The proposed project involves legislative and administrative approvals to provide the framework for a future integrated, mixed-use bayfront project implementing the current CM designations on the site, while allowing for residential uses. Such a mixed-use project requires amendments to the General Plan and Coastal Land Use Plan to change the current CM designations to a Mixed-Use Horizontal (MU-H) designation, modify the existing PC-9 zoning district boundary, and establish a Planned Community Development Plan (PCDP)

with appropriate zoning regulations governing land use and development of the site consistent with the City of Newport Beach General Plan and Coastal Land Use Plan.

The project proposes to apply the Mixed-Use Horizontal 1 (MU-H1) General Plan Land Use designation and MU-H Coastal Land Use Plan designation to the following specified planning areas established in the PCDP: Mixed-Use Area (Planning Area 1), Private Marina Access and Beach (Planning Area 3), and Marina and Bayside Village Storage and Guest Parking (Planning Area 4). Refer to **Figure 2-4, Existing and Proposed Land Use Designations and Requested Entitlements**, in Chapter 2, *Project Description*, of this Draft EIR for an illustration of the project Planning Areas and proposed land use designations and requested entitlements. The requested MU-H/MU-H1 designations would provide for a horizontally distributed mix of uses, which would include visitor-serving recreational and marine commercial retail, office, marine office, boat services, marine services, and enclosed dry stack boat storage along with a vertical and horizontal mix of multi-family residential over retail and multi-family residential flats, as regulated by the proposed PCDP.

In addition to the land use amendments noted above, other requested approvals that are proposed include a lot line adjustment (LLA) and Traffic Impact Analysis (TIA).

#### **(a) General Plan Amendment**

The proposed General Plan Amendment will change the existing 6.332-acre Recreational and Marine Commercial (CM 0.5) designated portions of the project site consisting of Mixed-Use Area (Planning Area 1), Existing Private Marina Access and Beach (Planning Area 3), and Marina and Bayside Village Storage and Guest Parking (Planning Area 4) as shown in **Figure 2-3, Planning Areas**, in Chapter 2, *Project Description*, of this Draft EIR, to Mixed-Use Horizontal 1 (MU-H1) by reallocating unused residential density from Parcels 1 and 2 to Parcel 3 of Parcel Map 93 111 (refer to **Figure 2-2, Existing Conditions and Project Boundary Map**, in Chapter 2, *Project Description*, of this Draft EIR). The City of Newport Beach allows reallocation of residential density between parcels, provided they are transferred within the same General Plan Statistical Area; the reallocation of unused residential density from Parcels 1 and 2 to Parcel 3 would occur entirely within Statistical Area K-1, as illustrated in Figure 2-5 in Chapter 2, *Project Description*, of this Draft EIR. The transfer of residential density would be accomplished through the establishment of two new General Plan Anomaly areas within General Plan Statistical Area K-1, proposed as Anomaly Areas 80 and 81. The General Plan Amendment will also change the existing designation of the Lot Line Adjustment (see discussion below) area from Multiple-Unit Residential (RM) to MU-H1, in order to be consistent with the remainder of Planning Area 1. Refer to Figure 2-4 for an illustration of existing and proposed General Plan Land Use designations.

#### **(b) Coastal Land Use Plan Amendment**

The proposed Coastal Land Use Plan Amendment will change the existing 6.332-acre Recreational and Marine Commercial (CM-B) designated portions of the project site consisting of Mixed-Use Area (Planning Area 1), Private Marina Access and Beach (Planning Area 3), and Marina and Bayside Village Storage and Guest Parking (Planning Area 4), as shown in Figure 2-3, to a Mixed-Use Horizontal (MU-H) designation. Refer to Figure 2-4 for an illustration of existing and proposed CLUP designations for the project site.

**(c) PC-9 Amendment (Zone Change)**

Expand the existing boundaries of PC-9 to include the proposed Lot Line Adjustment area (see description below) and the portion of the project site located south of the East Coast Highway centerline, as illustrated in Figure 2-2.

**(d) Back Bay Landing Planned Community Development Plan (PC-9)**

The purpose of the Planned Community Development Plan (PCDP) is to establish appropriate zoning regulations governing land use and development of the site, consistent with the proposed General Plan and Coastal Land Use Plan designations. The PCDP provides a vision for the land uses on-site and sets the development standards and design guidelines that will guide the next level of approvals at the Site Development Review and Coastal Development Permit approval process, as well as the long-term operation of the developed site. The regulations will guide a future project applicant and provide a basis for community expectations. The Back Bay Landing PCDP is intended to provide the framework for integrated mixed-use bayfront development that would be designed as a traditional seaside village, while maintaining compatibility with the architecture and overall community character of Newport Beach as well as the bay- and harbor-oriented recreational and marine commercial and residential areas of Newport Beach.

Subject to parking and other site constraints, the PCDP would allow for coastal-dependent and coastal-related uses, including up to 61,534 square feet of visitor-serving retail/restaurant/marine boat sales, rental and service repair and recreational commercial (kayak and stand up paddle board [SUP] rentals); a new 32,500-square-foot, full-service enclosed dry stack boat storage structure with racks or bays (up to a maximum of 140 boat spaces) and launching facilities; as well as a maximum of 49 residential units within a maximum of 85,644 square feet integrated in either two levels of residential over ground floor commercial uses, wrapped around a parking structure with three levels above ground and one semi-subterranean level, or in a three-level flat configuration adjacent to the northwest bayfront. Included within the 61,534 square feet of visitor-serving commercial retail is up to 4,000 square feet of replacement storage area (resident and boater lockers) and marina restrooms with laundry facilities would be sited on the eastern project boundary. Additionally, a gated entry with new parking spaces would provide parking for existing marina tenants and mobile home resident guests, along with significant new coastal access and “view” improvements.

The Back Bay Landing PCDP would provide development standards and design guidelines that would ensure the project maintains a traditional village scale and atmosphere at the intersection of Bayside Drive and East Coast Highway, and serves as a visitor destination in its own right as well as providing substantial new public access to and along the bayfront, linking Balboa Marina to the south with Newport Dunes and the regional trail system to the east. The Project Applicant has also proposed a bayfront promenade of a minimum width of 12 feet along with bayfront vistas, plazas, and a 65-foot public, ADA-accessible coastal view tower.

**(e) Lot Line Adjustment**

The proposed Lot Line Adjustment (LLA) is requested to accommodate an improved driveway location designed to improve ingress and egress to the mixed-use project and facilitate parking for Bayside Village Mobile Home Park guests. In conjunction with the LLA, the current General Plan land use designation (RM) and Coastal Land Use Plan designation (RM-C) of the property to be adjusted will be amended consistent



with the Mixed-Use Horizontal (MU-H and MU-H1) designation requested on the balance of the project site. Refer to Figures 2-2 and 2-3 for a depiction of the portion of the project site affected by the proposed LLA.

**(f) Traffic Impact Analysis**

A project-specific Traffic Impact Analysis (TIA) has been prepared for the proposed future development pursuant to City’s Traffic Phasing Ordinance.

**d. Analysis of Project Impacts**

**(1) Consistency with Applicable Plans and Policies**

Threshold	Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?
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*Impact 4.I-1 Implementation of the proposed project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the City’s General Plan and Local Coastal Program CLUP, SCAG regional plans, Airport Environs Land Use Plan, the California Coastal Act, or the City’s Municipal Code) adopted for the purpose of avoiding or mitigating an environmental effect. This impact is considered less than significant.*

**(a) Newport Beach General Plan**

The proposed project involves a number of legislative approvals including proposed amendments to the City’s General Plan, as discussed above in this Section under Project Design Features. While future development proposed for the site would not be consistent with current CM 0.5 and RM General Plan designations within Planning Areas 1, 3, and 4, upon approval of the requested amendments the future development program would be in compliance with the use, intensity, and density requirements of the MU-H1 land use designation, and the development limits of the proposed Anomaly Locations 80 and 81. Additionally, **Table 4.I-1, General Plan Consistency Analysis**, below, evaluates the proposed project’s consistency with the applicable policies of the Newport Beach General Plan Land Use Element. As shown in Table 4.I-1, the proposed project would not conflict with the relevant policies of the General Plan Land Use Element. Therefore, based on the above, impacts related to consistency with the City’s General Plan Land Use Element would be less than significant.

Table 4.I-1

General Plan Consistency Analysis

Applicable Policies	Project Consistency Statement
<b>Chapter 3 Land Use Element</b>	
<b>Role and Character of Newport Beach (“Who We Are”)</b>	
<p><b>Policy LU 1.1: Unique Environment.</b> Maintain and enhance the beneficial and unique character of the different neighborhoods, business districts, and harbor that together identify Newport Beach. Locate and design development to reflect Newport Beach’s topography, architectural diversity, and view sheds.</p>	<p><b>Consistent.</b> The proposed project would create a unique development component of the Back Bay community by providing a well designed, mixed-use bayfront project that includes coastal-dependent commercial and recreational opportunities at the Upper Newport Bay site while protecting existing views of scenic resources in the area, and creating new coastal view opportunities.</p>
<p><b>Policy LU 1.3: Natural Resources.</b> Protect the natural setting that contributes to the character and identify of Newport Beach and the sense of place it provides for its residents and visitors. Preserve open space resources, beaches, harbor, parks, bluffs, preserves, and estuaries as visual, recreational and habitat resources.</p>	<p><b>Consistent.</b> The proposed project would not adversely affect open space resources, beaches, harbor, parks, bluffs, preserves, or estuaries as visual, recreational and habitat resources. Refer to Section 4.A, <i>Aesthetics/Visual Resources</i>, Section 4.L, <i>Public Services</i>, and Section 4.C, <i>Biological Resources</i>, of this Draft EIR for a discussion of impacts and mitigation measures related to visual, recreational, and biological resources, respectively.</p>
<p><b>Policy LU 1.5: Economic Health.</b> Encourage a local economy that provides adequate commercial, office, industrial, and marine-oriented opportunities that provide employment and revenue to support high-quality community services.</p>	<p><b>Consistent.</b> The proposed project would include various commercial uses, including marine-oriented retail, marine office, and restaurant uses that would provide employment opportunities and revenue to support high-quality community services.</p>
<b>Uses to be Accommodated (“What Uses Contribute to Our Community?”)</b>	
<p><b>Policy LU 2.1: Resident-Serving Land Uses.</b> Accommodate uses that support the needs of Newport Beach’s residents including housing, retail, services, employment, recreation, education, culture, entertainment, civic engagement, and social and spiritual activity that are in balance with community natural resources and open spaces.</p>	<p><b>Consistent.</b> The proposed project allows for the future development of a range of uses that are intended to support the needs of both existing off-site residents and future on-site residents through the provision of commercial retail uses, restaurants, residential units, and recreational facilities and other public amenities.</p>
<p><b>Policy LU 2.2: Sustainable and Complete Community.</b> Emphasize the development of uses that enable Newport Beach to continue as a self-sustaining community and minimize the need for residents to travel outside of the community for retail, goods and services, and employment.</p>	<p><b>Consistent.</b> The proposed project would allow for the future development of a mixed-use commercial and residential project on the project site that would provide a mix of complementary uses that would reduce the need for on-site and nearby off-site residents to travel outside the community for goods and services and employment opportunities.</p>

**Table 4.I-1 (Continued)**

**General Plan Consistency Analysis**

<b>Applicable Policies</b>	<b>Project Consistency Statement</b>
<p><b>Policy LU 2.3: Range of Residential Choices.</b> Provide opportunities for the development of residential units that respond to community and regional needs in terms of density, size, location, and cost. Implement goals, policies, programs, and objectives identified within the City’s Housing Element.</p>	<p><b>Consistent.</b> The proposed project would provide additional housing opportunities on the project site, which currently does not contain residential units of a size and cost as well as location that is responsive to community and regional needs. Refer to Section 4.K, <i>Population, Housing, and Employment</i>, of this Draft EIR for further discussion of the proposed project’s housing impacts and consistency with the General Plan Housing Element.</p>
<p><b>Policy LU 2.4: Economic Development.</b> Accommodate uses that maintain or enhance Newport Beach’s fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents.</p>	<p><b>Consistent.</b> The proposed project would provide expanded commercial revenue opportunities on the project site while also maintaining or improving the quality of life of current and future residents by providing additional housing, employment, shopping, service and recreational opportunities in the area.</p>
<p><b>Policy LU 2.5: Harbor and Waterfront Uses.</b> Preserve the uses of the Harbor and the waterfront that contribute to the charm and character of Newport Beach and provide needed support for recreational and commercial boaters, visitors, and residents, with appropriate regulations necessary to protect the interests of all users as well as adjoining residents.</p>	<p><b>Consistent.</b> Future development would include various coastal-dependent uses that would preserve and expand upon the existing marine-related services on-site. Future dry stack boat storage facilities, waterfront restaurant uses, public bayfront promenade and coastal viewing tower, and stand-up paddleboard/kayak facilities would provide necessary support for boaters, visitors, and residents utilizing waterfront resources, while maintaining existing uses, facilities, and quality of life in the surrounding community.</p>
<p><b>Policy LU 2.6: Visitor Serving Uses.</b> Provide uses that serve visitors to Newport Beach’s ocean, harbor, open spaces, and other recreational assets, while integrating them to protect neighborhoods and residents.</p>	<p><b>Consistent.</b> The proposed project would provide a variety of public visitor-serving uses and amenities as part of future development on-site, which would be integrated into a cohesive, self-contained mixed-use project that expands access to the bayfront site while protecting neighboring residents.</p>
<p><b>Policy LU 2.8: Adequate Infrastructure.</b> Accommodate the types, densities, and mix of land uses that can be adequately supported by transportation and utility infrastructure (water, sewer, storm drainage, energy, and so on) and public services (schools, parks, libraries, seniors, youth, police, fire, and so on).</p>	<p><b>Consistent.</b> Future development on-site would not exceed the capacity of public services, utilities, and other infrastructure serving the project area. Refer to Section 4.L, <i>Public Services</i>, Section 4.M, <i>Transportation/Traffic</i>, and Section 4.N, <i>Utilities and Service Systems</i>, of this Draft EIR for a discussion of impacts and mitigation measures related to public services, transportation, and utilities, respectively.</p>

**Table 4.I-1 (Continued)**

**General Plan Consistency Analysis**

Applicable Policies	Project Consistency Statement
<b>Organization and Form of Uses (“How are Land Uses Distributed?”)</b>	
<p><b>Policy LU 3.1: Neighborhoods, Districts, Corridors, and Open Spaces.</b> Maintain Newport Beach’s pattern of residential neighborhoods, business and employment districts, commercial centers, corridors, and harbor and ocean districts.</p>	<p><b>Consistent.</b> The proposed project would not substantially affect the development pattern in the project area, or result in substantial adverse effects to existing residential neighborhoods, business and employment districts, commercial centers, corridors, or harbor and ocean districts, and would continue the residential pattern of development in Parcels 1 and 2 while supporting an expansion of recreational and marine commercial.</p>
<p><b>Policy LU 3.2: Growth and Change.</b> Enhance existing neighborhoods, districts, and corridors, allowing for re-use and infill with uses that are complementary in type, form, scale, and character. 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, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service.</p>	<p><b>Consistent.</b> The project site is a developed property with limited land uses on-site, and is currently underutilized relative to the allowable development under the existing Recreational and Marine Commercial (CM) General Plan Land Use designation for the site. Future development of a mixed-use project on the site would provide expanded commercial uses and related employment and tax revenues, as well as provide residential uses that would help the City meet its RHNA allocation of 1,769 residential units for the planning period of 2006–2014. Although all of the 49 units proposed as part of a future project would not be constructed during this planning period, the project would assist the City in making progress to meet its RHNA goals.</p> <p>With respect to public services (fire, police, schools, parks, and libraries), the analysis provided in Section 4.M, <i>Transportation/Traffic</i>, Section 4.L, <i>Public Services</i>, and Section 4.N, <i>Utilities and Service Systems</i>, of this Draft EIR demonstrates that the proposed land uses can be adequately served.</p>
<p><b>Policy LU 3.5: Coastal-Dependent and Related Businesses.</b> Design and site new development to avoid impacts to existing coastal-dependent and coastal-related developments. When reviewing proposals for land use changes, give full consideration to the impact on coastal-dependent and coastal-related land uses, including not only the proposed change on the subject property, but also the potential to limit existing coastal-dependent and coastal-related land uses on adjacent properties.</p>	<p><b>Consistent.</b> The proposed project would not result in adverse impacts to existing coastal-dependent and related businesses, including the existing Bayside Village Marina, kayak and stand-up paddleboard rental and launch facilities, or Pearson’s Port fish market. These uses would be maintained or enhanced as a result of future development on-site.</p>

**Table 4.I-1 (Continued)**

**General Plan Consistency Analysis**

<b>Applicable Policies</b>	<b>Project Consistency Statement</b>
<p><b>Policy LU 3.6: Waterfront Access.</b> Use public beaches for public recreational uses and prohibit uses on beaches that interfere with public access and enjoyment of coastal resources. Encourage the expansion and improvement of access to the waterfront and water-related uses that provide important links to waterfront uses such as beaches, launching facilities, public docks, and other similar public water area uses.</p>	<p><b>Consistent.</b> The proposed project would enhance public bayfront access relative to existing conditions through the provision of a new public bayfront promenade, multi-use trail, dry stack boat storage and launch facilities, kayak and stand-up paddleboard rental and launch facilities, public coastal view tower, and on-site circulation improvements and parking facilities.</p>
<p><b>Policy LU 3.7: Natural Resource or Hazardous Areas.</b> Require that new development is located and designed to protect areas with high natural resource value and protect residents and visitors from threats to life or property.</p>	<p><b>Consistent.</b> The proposed project would not result in substantial adverse impacts to areas with high natural resource value and would not expose people to threats to life or property associated with seismic activity, flooding, fires, hazardous materials, or other hazards. Refer to Section 4.E, <i>Geology and Soils</i>, Section 4.G, <i>Hazards and Hazardous Materials</i>, Section 4.H, <i>Hydrology and Water Quality</i>, and Section 4.L, <i>Public Services</i>, for a detailed discussion of impacts and mitigation measures related to these issues.</p>
<p><b>Policy LU 3.8: Project Entitlement Review with Airport Land Use Commission.</b> Refer the adoption or amendment of the General Plan, Zoning Code, specific plans, and Planned Community development plans for land within the John Wayne Airport planning area, as established in the JWA Airport Environs Land Use Plan (AELUP), to the Airport Land Use Commission (ALUC) for Orange County for review, as required by Section 21676 of the California Public Utilities Code. In addition, refer all development projects that include buildings with a height greater than 200 feet above ground level to the ALUC for review.</p>	<p><b>Consistent.</b> The proposed project requires an amendment to the City's General Plan and Zoning Code, and therefore would be subject to ALUC review.</p>
<p><b>Land Use Diagram</b></p>	
<p><b>Policy LU 4.1: Land Use Diagram.</b> Accommodate land use development consistent with the Land Use Plan. Figure LU1 depicts the general distribution of uses throughout the City and Figure LU2 through Figure LU15 depict specific use categories for each parcel within defined Statistical Areas. Table LU1 (Land Use Plan Categories) specifies the primary land use categories, types of uses, and, for certain categories, the densities/intensities to be permitted. The permitted densities/intensities or amount of development for land use categories for which this is not included in Table LU1,</p>	<p><b>Consistent.</b> As noted above, the proposed project consists of legislative approvals that would allow for a future mixed-use development on the project site, subject to subsequent project entitlements. If approved, these legislative changes would modify the existing General Plan Land Use designations for the project site from CM 0.5 (and RM within the proposed LLA area) to MU-H1, which would allow for the proposed range of land uses and densities. As also discussed above, the proposed project includes the addition of two Anomaly Locations applicable to the project site, which would</p>

**Table 4.I-1 (Continued)**

**General Plan Consistency Analysis**

<b>Applicable Policies</b>	<b>Project Consistency Statement</b>
<p>are specified on the Land Use Plan, Figure LU4 through Figure LU15. These are intended to convey maximum and, in some cases, minimums that may be permitted on any parcel within the designation or as otherwise specified by Table LU2 (Anomaly Locations).</p> <p>The density/intensity ranges are calculated based on actual land area, actual number of dwelling units in fully developed residential areas, and development potential in areas where the General Plan allows additional development.</p> <p>To determine the permissible development, the user should:</p> <ul style="list-style-type: none"> <li>▪ Identify the parcel and the applicable land use designation on the Land Use Plan, Figure LU4 through Figure LU15;</li> <li>▪ Refer to Figure LU4 through Figure LU15 and Table LU1 to identify the permitted uses and permitted density or intensity or amount of development for the land use classification. Where densities/intensities are applicable, the maximum amount of development shall be determined by multiplying the area of the parcel by the density/intensity.</li> <li>▪ For anomalies identified on the Land Use Map by a symbol, refer to Table LU2 to determine the precise development limits.</li> <li>▪ For residential development in the Airport Area, refer to the policies prescribed by the Land Use Element that define how development may occur.</li> </ul>	<p>apply a development limit of 171,289 square feet of mixed-use square footage, inclusive of a maximum of 49 residential dwelling units. As such, the project would be consistent with this policy upon approval of the proposed General Plan Amendment.</p>
<p><b>Community Character (“Maintaining the Character of Our Neighborhoods and Districts”)</b></p>	
<p><b>Mixed-Use Districts and Neighborhoods.</b></p>	
<p><b>Policy LU 5.3.1: Mixed-Use Buildings.</b> Require that mixed-use buildings be designed to convey a high level of architectural and landscape quality and ensure compatibility among their uses in consideration of the following principles:</p> <ul style="list-style-type: none"> <li>▪ Design and incorporation of building materials and features to avoid conflicts among uses, such as noise, vibration, lighting, odors, and similar impacts;</li> <li>▪ Visual and physical integration of residential and</li> </ul>	<p><b>Consistent.</b> The project PCDP provides development standards and design guidelines to ensure that future on-site development will convey a high level of architectural and landscape quality and ensure compatibility among uses. Furthermore, future development would be subject to Site Development Review, which would require that a future project is consistent with the stated principles of this policy.</p>

**Table 4.I-1 (Continued)**

**General Plan Consistency Analysis**

Applicable Policies	Project Consistency Statement
<p>nonresidential uses;</p> <ul style="list-style-type: none"> <li>▪ Architectural treatment of building elevations and modulation of their massing;</li> <li>▪ Separate and well-defined entries for residential units and nonresidential businesses;</li> <li>▪ Design of parking areas and facilities for architectural consistency and integration among uses;</li> <li>▪ Incorporation of extensive landscaping appropriate to its location; urbanized streetscapes, for example, would require less landscape improvements along the street frontage but would integrate landscaping into interior courtyards and common open spaces.</li> </ul>	
<p><b>Policy LU 5.3.2: Mixed-Use Building Location and Size of Nonresidential Uses.</b> Require that 100 percent of the ground floor street frontage of mixed-use buildings be occupied by retail and other compatible nonresidential uses, unless specified otherwise by policies LU 6.1.1 through LU 6.20.6 for a district or corridor.</p>	<p><b>Consistent.</b> All future mixed-use buildings on-site would be occupied entirely by non-residential uses on the first floor, that are deemed compatible with residential uses above. Furthermore, no residential-only structures would be located adjacent to the project site’s East Coast Highway frontage.</p>
<p><b>Policy LU 5.3.3: Parcels Integrating Residential and Nonresidential Uses.</b> Require that properties developed with a mix of residential and nonresidential uses be designed to achieve high levels of architectural quality in accordance with policies LU 5.1.9 and LU 5.2.1 and planned to ensure compatibility among the uses and provide adequate circulation and parking. Residential uses should be seamlessly integrated with nonresidential uses through architecture, pedestrian walkways, and landscape. They should not be completely isolated by walls or other design elements.</p>	<p><b>Consistent.</b> The proposed project is intended to allow for a future mixed-use development on-site that includes recreational and marine commercial and residential uses, achieves a high level of architectural quality, and provides adequate vehicular and non-vehicular circulation improvements and parking capacity on-site. Residential uses would be seamlessly integrated with non-residential uses through architectural consistency, pedestrian walkways and other connections, and extensive landscaping. No proposed future land uses would be isolated by walls or other design elements.</p>
<p><b>Policy LU 5.3.4: Districts Integrating Residential and Nonresidential Uses.</b> Require that sufficient acreage be developed for an individual use located in a district containing a mix of residential and nonresidential uses to prevent fragmentation and ensure each use’s viability, quality, and compatibility with adjoining uses.</p>	<p><b>Consistent.</b> The proposed project would allow for an integrated, self-contained mixed-use “village” on the project site that is designed to be compatible both internally and with surrounding development in the area.</p>
<p><b>All Commercial and Mixed-Use Districts.</b></p>	
<p><b>Policy LU 5.3.5: Pedestrian-Oriented Architecture and Streetscapes.</b> Require that buildings located in</p>	<p><b>Consistent.</b> The proposed project is intended to allow for a mixed-use development that is pedestrian-oriented</p>

**Table 4.I-1 (Continued)**

**General Plan Consistency Analysis**

Applicable Policies	Project Consistency Statement
<p>pedestrian-oriented commercial and mixed-use districts (other than the Newport Center and Airport Area, which are guided by Goals 6.14 and 6.15, respectively, specific to those areas) be designed to define the public realm, activate sidewalks and pedestrian paths, and provide “eyes on the street” in accordance with the following principles:</p> <ul style="list-style-type: none"> <li>▪ Location of buildings along the street frontage sidewalk, to visually form a continuous or semi-continuous wall with buildings on adjacent parcels;</li> <li>▪ Inclusion of retail uses characterized by a high level of customer activity on the ground floor; to insure successful retail-type operations, provide for transparency, elevation of the first floor at or transitioning to the sidewalk, floor-to-floor height, depth, deliveries, and trash storage and collection;</li> <li>▪ Articulation and modulation of street-facing elevations to promote interest and character;</li> <li>▪ Inclusion of outdoor seating or other amenities that extend interior uses to the sidewalk, where feasible;</li> <li>▪ Minimization of driveways that interrupt the continuity of street facing building elevations, prioritizing their location to side streets and alleys where feasible.</li> </ul>	<p>and creates a high level of visual interest and activity within on-site plazas, the public coastal view tower, and bayfront promenade. Site Development Review, which is required for any future development proposal on-site, would ensure that the design principles of this policy are achieved.</p>
<p><b>Policy LU 5.3.6: Parking Adequacy and Location.</b> Require that adequate parking be provided and is conveniently located to serve tenants and customers. Set open parking lots back from public streets and pedestrian ways and screen with buildings, architectural walls, or dense landscaping.</p>	<p><b>Consistent.</b> The proposed project includes a multi-level parking structure on-site that would be designed to accommodate maximum allowable development on the property and provide adequate separation from public streets and pedestrian walkways.</p>



**Table 4.I-1 (Continued)**

**General Plan Consistency Analysis**

Applicable Policies	Project Consistency Statement
<b>All Neighborhood, Districts, and Corridors</b>	
<p><b>Policy LU 5.6.1: Compatible Development.</b> Require that buildings and properties be designed to ensure compatibility within and as interfaces between neighborhoods, districts, and corridors.</p>	<p><b>Consistent.</b> Proposed land uses have been sited to provide for land use compatibility by requiring transitional building heights, setbacks, landscaping and other visual buffers, limits to night lighting, a bayfront promenade and internal pedestrian walkways, and a public bicycle and pedestrian trail that links on-site land uses and ties into off-site City and County regional trail systems.</p>
<p><b>Policy LU 5.6.4: Conformance with the Natural Environmental Setting.</b> Require that sites be planned and buildings designed in consideration of the property’s topography, landforms, drainage patterns, natural vegetation, and relationship to the Bay and coastline, maintaining the environmental character that distinguishes Newport Beach.</p>	<p><b>Consistent.</b> The proposed project was designed to conform to, and take advantage of, the bayfront location and flat topography of the project site. The project site is almost entirely paved and therefore lacks significant natural vegetation or natural drainages features, and as such future development of the site would have no effect on such resources. Also refer to Section 4.A, <i>Aesthetics/Visual Resources</i>, of this Draft EIR.</p>

Source: PCR Services Corporation, 2013

**(b) Newport Beach Local Coastal Program Coastal Land Use Plan**

As discussed above, the proposed project involves a number of legislative approvals including a proposed amendment to the City’s CLUP, as discussed above in this Section under Project Design Features. While future development proposed for the site would not be consistent with current CM-B and RM CLUP designations within Planning Areas 1, 3, and 4, upon approval of the requested amendments the future development program would be in compliance with the use, intensity, and density requirements of the MU-H land use designation. In addition, **Table 4.I-2, Coastal Land Use Plan Consistency Analysis**, below, evaluates the proposed project’s consistency with the applicable policies of the City’s CLUP. As shown in Table 4.I-2, the proposed project would not conflict with the relevant policies of the City’s CLUP and as such impacts in this regard would be less than significant.

Table 4.I-2

Coastal Land Use Plan Consistency Analysis

<b><u>2.0 Land Use and Development</u></b>	
<b><u>2.1 Land Use</u></b>	
<b>2.1.1 Land Use Categories</b>	
<b>Policy 2.1.1-1:</b> The land use categories in Table 2.1.1-1 establish the type, density and intensity of land uses within the coastal zone. If there is a conflict between the development limits of the Land Use Element and the Coastal Land Use Plan, the provision that is most protective of coastal resources shall take precedence. However, in no case, shall the policies of the Coastal Land Use Plan be interpreted to allow a development to exceed a development limit established by the General Plan or its implementing ordinances.	<b>Consistent.</b> The proposed project consists of legislative approvals that would allow for a future mixed-use development on the project site, subject to subsequent project entitlements. If approved, these legislative changes would modify the existing CLUP Land Use designations for Planning Areas 1, 3, and 4 of the project site from CM-B (and RM-C within the proposed LLA area) to MU-H, which would allow for the proposed range of land uses and densities. Planning Area 2 would retain its existing CLUP Land Use designation of CM-A (0.3 FAR).
<b>2.1.9 Coastal Land Use Plan Map</b>	
<b>Policy 2.1.9-1.</b> Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations.	<b>Consistent.</b> The proposed legislative approvals include amendments to the City’s CLUP in order to allow for future development of proposed uses. Upon approval of the requested amendments, the proposed project would be consistent with the CLUP Map. Furthermore, the proposed project would be consistent with the applicable policies and regulations of the LCP (including CLUP policies, as discussed in this and other sections of this Draft EIR).
<b><u>2.2 General Development Policies</u></b>	
<b>2.2.1 Location of New Development</b>	
<b>Policy 2.2.1-1:</b> Continue to allow redevelopment and infill development within and adjacent to the existing developed areas in the coastal zone subject to the density and intensity limits and resource protection policies of the Coastal Land Use Plan.	<b>Consistent.</b> The proposed project would allow for future infill development of the project site, which is surrounded on three sides by existing urban development. Upon approval of the requested amendments, the proposed project would be consistent with the development limits and resource protection policies contained in the CLUP, as discussed in this and other sections of this Draft EIR.
<b>Policy 2.2.1-2:</b> Require new development be located in areas with adequate public services or in areas that are capable of having public services extended or expanded without significant adverse effects on coastal resources.	<b>Consistent.</b> Future development on-site would be served by adequate public services as discussed in detail in Section 4.I, <i>Public Services</i> , of this Draft EIR.
<b>Policy 2.2.1-3:</b> Provide commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads.	<b>Consistent.</b> The proposed project would allow for the future development of a mixed-use commercial/residential project at the project site, thereby reducing off-site vehicle trips and associated use of coastal access roads in the area.

**Table 4.I-2 (Continued)**

**Coastal Land Use Plan Consistency Analysis**

<b><u>2.0 Land Use and Development</u></b>	
<b>2.2.2 Coastal Development Review</b>	
<b>Policy 2.2.2-4.</b> Implement building design and siting regulations to protect coastal resources and public access through height, setback, floor area, lot coverage, building bulk, and other property development standards of the Zoning Code intended to control building placement, height, and bulk.	<b>Consistent.</b> The project’s PCDP prescribes building design and siting regulations for the project site, including building height, setback, floor area, lot coverage, building bulk, and other property development standards and design guidelines that would serve to protect coastal resources and public access.
<b><u>2.3 Visitor-serving and Recreational Development</u></b>	
<b>2.3.1 Commercial</b>	
<b>Policy 2.3.1-1.</b> Permit visitor-serving retail and eating and drinking establishments in all commercially designated areas.	<b>Consistent.</b> The proposed project would allow for the future development of a mixed-use project on-site that would allow a range of land uses including visitor-serving retail and eating and drinking establishments.
<b>Policy 2.3.1-2.</b> Continue to provide waterfront-oriented commercial uses, including eating and drinking establishments and recreation and entertainment establishments, as a means of providing public access to the waterfront.	<b>Consistent.</b> The proposed project would promote the provision of bayfront-oriented commercial uses, including eating and drinking establishments and recreational uses such as kayak, stand-up paddleboard, and boat rental businesses.
<b>2.3.2 Open Space and Tidelands/Submerged Lands</b>	
<b>Policy 2.3.2-1.</b> Continue to use public beaches for public recreational uses and prohibit uses on beaches that interfere with public access and enjoyment of coastal resources.	<b>Consistent.</b> Bayfront areas on the project site would not only continue to be publicly accessible, but the proposed project will have expanded public access and be improved with recreational enhancements such as a new bayfront promenade, kayak, stand-up paddleboard, and boat rental facilities, and dry stack boat storage and launching facilities.
<b>2.3.3 Lower Cost Visitor and Recreational Facilities</b>	
<b>Policy 2.3.3-4.</b> Encourage visitor-serving and recreational developments that provide public recreational opportunities.	<b>Consistent.</b> The proposed project includes a number of public recreational amenities, such as the new bayfront promenade, dry stack boat storage and launch facilities, kayak and stand-up paddleboard rental and launch facilities, public coastal view tower, and multi-use trail along Bayside Drive.
<b><u>2.4 Coastal-dependent/related Development</u></b>	

**Table 4.I-2 (Continued)**

**Coastal Land Use Plan Consistency Analysis**

<b><u>2.0 Land Use and Development</u></b>	
<b>2.4.1 Commercial</b>	
<b>Policy 2.4.1-1.</b> Give priority to coastal-dependent uses over other uses on or near the shoreline.	<b>Consistent.</b> The proposed project would allow for future development of marine-related commercial uses, including dry stack boat storage and launch facilities, marine-related retail and office space, and kayak and stand-up paddleboard rental and launch facilities, which are coastal-dependent.
<b>Policy 2.4.1-3.</b> Discourage re-use of properties that result in the reduction of coastal-dependent commercial uses. Allow the re-use of properties that assure coastal-dependent uses remain, especially in those areas with adequate infrastructure and parcels suitable for redevelopment as an integrated project.	<b>Consistent.</b> The proposed project would not reduce existing on-site coastal-dependent commercial uses, such as kayak and stand-up paddleboard rental and launch facilities, boat storage, and Pearson’s Port fish market, as these uses would continue as part of a future development project on the property, and would be supplemented by additional marine-related retail, office, and service uses.
<b>Policy 2.4.1-4.</b> Design and site new development to avoid impacts to existing coastal-dependent and coastal-related developments. When reviewing proposals for land use changes, give full consideration to the impact on coastal-dependent and coastal-related land uses including not only the proposed change on the subject property, but also the potential to limit existing coastal-dependent and coastal-related land uses on adjacent properties.	<b>Consistent.</b> The project would not adversely impact existing coastal-dependent and coastal-related developments, as the project would only result in future changes to the project site which provide such use where none exist, and would not limit or otherwise directly or indirectly affect such uses. Furthermore, the proposed land use and zoning amendments would not preclude development of coastal-dependent uses, but would instead require such uses in conjunction with residential uses as part of a future mixed-use development.
<b>Policy 2.4.1-5.</b> Maintain the Recreational and Marine Commercial (CM) land use category and allow CM uses in the Mixed Use land use categories (MU-V, MU-H, and MU-W) in areas on or near the bay to encourage a continuation of coastal-dependent and coastal-related uses.	<b>Consistent.</b> The proposed project would maintain the existing CM land use designation within Planning Area 2, and would also allow CM uses within the proposed MU-H-designated portion of the site, in order to encourage a continuation of coastal-dependent and coastal-related uses.
<b>Policy 2.4.1-6.</b> Protect and encourage facilities that serve marine-related businesses and industries unless present and foreseeable future demand for such facilities is already adequately provided for in the area. Encourage coastal-dependent industrial facilities to locate or expand within existing sites and allowed reasonable long-term growth.	<b>Consistent.</b> Future development on-site would include various marine-related businesses including dry stack boat storage and launch facilities, marine-related retail and office space, kayak and stand-up paddleboard rental and launch facilities, and boat rentals.
<b><u>2.7 Residential Development</u></b>	
<b>Policy 2.7-1.</b> Continue to maintain appropriate setbacks and density, floor area, and height limits for residential development to protect the character of established neighborhoods and to protect coastal access and coastal	<b>Consistent.</b> Residential structures to be developed as part of a future project on-site would be subject to the development standards contained in the project’s PCDP, which specifies setbacks and density, floor area, and

**Table 4.I-2 (Continued)**

**Coastal Land Use Plan Consistency Analysis**

<b><u>2.0 Land Use and Development</u></b>	
resources.	height limits that are intended, in part, to protect the character of established neighborhoods and to protect coastal access and coastal resources.
<b><u>2.8 Hazards and Protective Devices</u></b>	
<b>2.8.1 General</b>	
<b>Policy 2.8.1-2.</b> Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.	<p><b>Consistent.</b> The proposed mixed use bayfront project will be subject to the development standards set forth in the proposed PCDP. Pursuant to the PCDP, structures to be constructed for the future project will be set back from the existing improved bayfront perimeter by 15 feet and protected by a new seawall/bulkhead. This will stabilize and eliminate ongoing erosion, which is presently impeding access to and navigation within the existing marina and increasing the need for more frequent dredging. In addition, the seawall/bulkhead will provide physical support and protection for the proposed bayfront promenade, which will provide new public access where none exists at the present and connect the public boat slips south of East Coast Highway with the new mixed use marine commercial development and existing marina to the north.</p> <p>Additionally, since the site is located near sea level along a tidally-influenced coastal waterway, the potential exists for risks to life and property associated with tsunamis and flooding during large storm events. However, as discussed in Section 4.E, <i>Geology and Soils</i>, and Section 4.H, <i>Hydrology and Water Quality</i>, of this Draft EIR, impacts related to tsunamis and flooding would be less than significant given compliance with City emergency procedures and design regulations.</p>
<b>Policy 2.8.1-3.</b> Design land divisions, including lot line adjustments, to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.	<p><b>Consistent.</b> The proposed LLA would apply to the central portion of the project site, within the existing adjacent mobile home park, and would not involve hazardous areas or increase risks to life or property from coastal and other hazards.</p>

**Table 4.I-2 (Continued)**

**Coastal Land Use Plan Consistency Analysis**

<b><u>2.0 Land Use and Development</u></b>	
<p><b>Policy 2.8.6-5.</b> Permit revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls and other structures altering natural shoreline processes or retaining walls when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply, unless a waiver of future shoreline protection was required by a previous coastal development permit.</p>	<p><b>Consistent.</b> The proposed future seawall/bulkhead, consistent with the CLUP Policy and Coastal Act section 30235, is necessary for the protection of existing structures, including marina facilities and marina parking, and public utilities, which are threatened by ongoing erosion; the seawall/bulkhead will also provide support for, and protection of, the proposed public bayfront promenade which will extend along the bayfront and connect with regional coastal trails and Newport Dunes to the east. In addition, the proposed project is occurring within an urban harbor at a location isolated from the nearest open coastal shoreline and longshore littoral sand transport mechanism.</p>
<p><b>Policy 2.8.6-6.</b> Design and site protective devices to minimize impacts to coastal resources, minimize alteration of natural shoreline processes, provide for coastal access, minimize visual impacts, and eliminate or mitigate adverse impacts on local shoreline sand supply.</p>	<p><b>Consistent.</b> The proposed future seawall/bulkhead will be subject to additional City CEQA review, Site Development Review and permitting, as well as processing of a Coastal Development Permit through the California Coastal Commission for the seawall/bulkhead and the future project level applications for the Back Bay Landing project. Any submitted design will conform to the then-current minimum elevation requirements set by the City of Newport Beach, and as described in the Back Bay Landing Project Description and PCDP to be at a minimum elevation of at least 10 ft. MLLW. This minimum is presently consistent with the City of Newport Beach Harbor Committee Report on Global Warming and Sea Level Rise Effects on Newport Harbor, but will be subject to future City and Coastal Commission requirements applicable at the time of project permitting. The location of the future seawall/bulkhead will minimize impacts to coastal resources, alteration of natural shoreline processes and eliminate or mitigate adverse impacts on local shoreline sand supply for several reasons:</p> <ol style="list-style-type: none"> <li>1. The future seawall/bulkhead will be located landward of the mean high tide line and landward of any potential wetlands or Waters of the U.S.;</li> <li>2. The seawall/bulkhead is proposed along the edge of an existing, developed marina parking lot (Bayside Village Marina) within an urban harbor at a location isolated from the nearest open coastal shoreline and longshore littoral sand transport mechanism;</li> <li>3. Such seawall/bulkhead will provide protection from bayfront erosion and the sloughing off of tidal slope areas and associated siltation of adjacent navigable channels in the private marina;</li> <li>4. The seawall/bulkhead will provide improved</li> </ol>

**Table 4.I-2 (Continued)**

**Coastal Land Use Plan Consistency Analysis**

<b><u>2.0 Land Use and Development</u></b>	
	bayfront access and protection/support for a new minimum 12-foot wide public walkway/promenade.
<b>Policy 2.8.6-8.</b> Limit the use of protective devices to the minimum required to protect existing development and prohibit their use to enlarge or expand areas for new or existing development. "Existing development" for purposes of this policy shall consist only of a principle structure, e.g., resident dwelling, required garage, or second residential unit, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs, landscaping, etc.	<b>Consistent.</b> The proposed protective devices would not be used to enlarge or expand area for new development. Moreover, as stated above, such seawall/bulkhead is consistent with Section 30235 of the Coastal Act which states that, "...seawalls...shall be permitted when required to serve coastal-dependent uses or to protect existing structures." The proposed future development of BBL includes improvement of access to existing (e.g., the marina and marina parking) as well as new (dry stack storage) coastal dependent uses.
<b>Policy 2.8.6-9.</b> Require property owners to record a waiver of future shoreline protection for new development during the economic life of the structure (75 years) as a condition of approval of a coastal development permit for new development on a beach, shoreline, or bluff that is subject to wave action, erosion, Hooding, landslides, or other hazards associated with development on a beach or bluff. Shoreline protection may be permitted to protect existing structures that were legally constructed prior to the certification of the LCP, unless a waiver of future shoreline protection was required by a previous coastal development permit.	<b>Consistent.</b> The proposed future seawall/bulkhead (shoreline protection) is necessary to protect existing structures on the Back Bay Landing site, including parking and accessways to the Bayside Village/Marina, a Coastal-dependent use, and a main water vault. These public and private improvements were constructed prior to the Coastal Act of the LCP so the policy is not applicable and/or unnecessary.
<b>Policy 2.8.6-10.</b> Site and design new structures to avoid the need for shoreline and bluff protective devices during the economic life of the structure (75 years).	<b>Consistent.</b> See discussion above; the bayfront protective device is needed irrespective of the location of any new structures at BBL. The future Back Bay Landing project cannot be sited or designed to avoid the need for a seawal1]bulkhead, since the shoreline protective device is needed to protect the existing marina as well as the proposed dry stack storage facility.

<b><u>3.0 Public Access and Recreation</u></b>	
<b>3.1.1 Shoreline Access</b>	
<b>Policy 3.1.1-1.</b> Protect, and where feasible, expand and enhance public access to and along the shoreline and to beaches, coastal waters, tidelands, coastal parks, and trails.	<b>Consistent.</b> The proposed project would result in increased public coastal access and coastal recreational opportunities through the implementation of project-related improvements including a new bayfront

**Table 4.I-2 (Continued)**

**Coastal Land Use Plan Consistency Analysis**

<b><u>3.0 Public Access and Recreation</u></b>	
	promenade; multi-use public trail, and public coastal view tower.
<p><b>Policy 3.1.1-9.</b> Protect, expand, and enhance a system of public coastal access that achieves the following:</p> <ul style="list-style-type: none"> <li>▪ Maximizes public access to and along the shoreline;</li> <li>▪ Includes pedestrian, hiking, bicycle, and equestrian trails;</li> <li>▪ Provides connections to beaches, parks, and recreational facilities;</li> <li>▪ Provides connections with trail systems of adjacent jurisdictions; Provides access to coastal view corridors;</li> <li>▪ Facilitates alternative modes of transportation;</li> <li>▪ Minimizes alterations to natural landforms;</li> <li>▪ Protects environmentally sensitive habitat areas;</li> <li>▪ Does not violate private property rights.</li> </ul>	<p><b>Consistent.</b> Future development on-site would enhance coastal public access by providing a new bayfront promenade; multi-use public trail with connections to local and regional trails in the area and access to Newport Dunes recreation area, Back Bay View Park, Castaways, Park, Westcliff Park, and Upper Newport Bay Ecological Reserve; and public coastal view tower. Furthermore, the project would not result in alterations to natural landforms, would not adversely affect environmentally sensitive habitat areas, and would not violate private property rights.</p> <p>It should be noted that the project applicant explored an expanded bayfront access option that would have increased public coastal access along the Upper Newport Bay waterfront compared to the proposed project. As shown below in <b>Figure 4.I-1, Alternative Access Alignment</b>, this option would not only provide public bayfront access in Planning Areas 1 and 2, but would extend the public bayfront promenade through Planning Areas 3 and 4, which is currently developed with a private bayfront road accessible only by Bayside Village Marina members and Bayside Village Mobile Home Park residents, as well as a private beach that is for the exclusive use of the mobile home park residents. While maximizing the provision of public coastal access is a stated objective of the proposed project, this potential alignment of the project’s new bayfront access was determined to be infeasible for several reasons as evaluated in the context of Coastal Act section 30214. First, the existing bayfront access road is not publicly accessible and is a private easement for the sole use of marina lessees (enabling access to northernmost boat slips, etc.) and residents of the mobile home park, and as such it is gate-controlled at both ends (the western terminus adjacent to Planning Area 1 and eastern terminus at the south end of Planning Area 4, see Figure 4.I-1). Allowing additional access to this area as part of a future development would exceed the capacity of the narrow walkway to sustain additional public use and would adversely impact the privacy of the adjacent mobile home owners and guests. Additionally, the bayfront bulkhead/access road is non-continuous, as the mobile home park’s private beach bisects the structure near the center of Planning Area 3, as shown in Figure 4.I-1. In order to provide continuous public access across Planning Area 3, an elevated walkway would need</p>



**Table 4.I-2 (Continued)**

**Coastal Land Use Plan Consistency Analysis**

<b><u>3.0 Public Access and Recreation</u></b>	
	to be constructed over the existing private beach or people would need to traverse the beach to continue along the promenade. Neither of these approaches are feasible given the encroachment on private property and adverse impact to the use and enjoyment of the beach by residents. Lastly, the adjoining property to the east of Planning Area 4, where a continuous coastal access path would need to connect, is owned and operated by Newport Dunes, which is not under the control of the project applicant. As such, providing continuous public coastal access through the project site that connects directly to public bayfront access to the east is not feasible.
<b>Policy 3.1.1-11.</b> Require new development to minimize impacts to public access to and along the shoreline.	<b>Consistent.</b> The proposed project would result in increased public access to and along the bayfront through implementation of various public improvements, including the bayfront promenade and coastal view tower.
<b>Policy 3.1.1-12.</b> Implement building design and siting regulations to protect public access through setback and other property development regulations of the Zoning Code that control building placement.	<b>Consistent.</b> The project’s PCDP established various development standards for future development that includes setbacks and other standards to ensure that adequate public access to coastal areas is provided.
<b>Policy 3.1.1-17.</b> Require new development in waterfront commercial areas to provide public access easements to and along the waterfront. Where appropriate, integrate public access easements into the project designs, such as restaurants with outdoor waterfront dining areas and boarding areas for charter and excursion vessels.	<b>Consistent.</b> The proposed project would provide a new public bayfront promenade, consistent with this policy, and will identify and integrate such public access easement into the future project’s design of retail and dry stack boat storage areas.
<b>Policy 3.1.1-26.</b> Consistent with the policies above, provide maximum public access from the nearest public roadway to the shoreline and along the shoreline with new development except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources or (2) adequate access exists nearby.	<b>Consistent.</b> The project access road from Bayside Drive would be publicly accessible and would provide direct access to the Upper Newport Bay coastline.
<b>Policy 3.1.1-28.</b> Encourage the creation of waterfront public spaces and beaches, with adjacent water access and docking facilities that serves as the identity and activity “centers” of Newport Harbor for special events of community/regional interest.	<b>Consistent.</b> The new public bayfront promenade and public coastal view tower would identify the future mixed-use project as an iconic waterfront activity center, which would include dry stack boat storage and launching facilities, kayak and stand-up paddleboard rental and launch facilities, and boat rentals to provide connectivity with the Harbor.
<b>3.1.4 Bay/Harbor Encroachments</b>	

Table 4.I-2 (Continued)

## Coastal Land Use Plan Consistency Analysis

<b>3.0 Public Access and Recreation</b>	
<b>Policy 3.1.4-7.</b> Design and site bulkheads to protect the character of the existing shoreline profiles and avoid encroachment onto public tidelands.	<b>Consistent.</b> The proposed bulkhead/seawall structure would be constructed landward of the Highest High Water contour elevation, and as such it would preserve the existing shoreline in front of it. The proposed bulkhead, therefore, would not encroach onto public tidelands.
<b>Policy 3.1.4-8.</b> Limit bulkhead expansion or encroachment into coastal waters to the minimum extent necessary to repair, maintain, or replace an existing bulkhead and do not allow the backfill to create new usable residential land areas.	<b>Consistent.</b> The proposed bulkhead would not encroach into coastal waters, as indicated above, and backfill areas would be used for development of the new bayfront promenade. Backfilled land behind the bulkhead would not be used to create new usable residential areas.
<b>3.1.5 Private/Gated Communities</b>	
<b>Policy 3.1.5-1.</b> Prohibit new development that incorporate gates, guardhouses, barriers or other structures designed to regulate or restrict access where they would inhibit public access to and along the shoreline and to beaches, coastal parks, trails, or coastal bluffs.	<b>Consistent.</b> The proposed project would not include gates or other barriers that would restrict public access to and along the project site shoreline. The proposed PCDP requires that public access to the shoreline be provided as part of any future development on-site.
<b>3.2 Recreation and Support Facilities</b>	
<b>3.2.1 Recreational Opportunities</b>	
<b>Policy 3.2.1-1.</b> Protect, and where feasible, expand and enhance recreational opportunities in the coastal zone.	<b>Consistent.</b> Proposed recreational amenities and marine-related uses would enhance and expand existing recreational opportunities in the coastal zone.
<b>Policy 3.2.1-3.</b> Provide adequate park and recreational facilities to accommodate the needs of new residents when allowing new development.	<b>Consistent.</b> Future residential uses on-site would have access to a number of recreational opportunities, including on-site amenities such as a private swimming pool for residents, public multi-use trail, kayak and stand-up paddleboard rental and launch facilities, dry stack boat storage and launching facilities, public coastal view tower, and, boat rentals.
<b>Policy 3.2.1-5.</b> Continue to allow recreational commercial uses in commercial areas adjacent to beaches and the bay.	<b>Consistent.</b> Proposed future uses would include commercial recreational uses use as kayak and stand-up paddleboard rental and launch facilities and dry stack boat storage and launching.
<b>3.3 Vessel Launching, Berthing, and Storage</b>	
<b>3.3.1 Vessel Launching</b>	
<b>Policy 3.3.1-2.</b> Protect, and where feasible, expand and enhance low-cost public launching facilities, such as trailer launch ramps, boat hoists, commercial landing	<b>Consistent.</b> The proposed project would include a new dry stack boat storage and launch facility on-site that would expand and enhance launching facilities available

**Table 4.I-2 (Continued)**

**Coastal Land Use Plan Consistency Analysis**

<b>3.0 Public Access and Recreation</b>	
facilities, and organized recreational boating launch facilities.	in Upper Newport Bay.
<b>3.3.2 Berthing and Storage</b>	
<b>Policy 3.3.2-2.</b> Protect, and where feasible, enhance and expand marinas and dry boat storage facilities.	<b>Consistent.</b> The proposed project would include a new dry stack boat storage and launch facility on-site that would expand and enhance dry boat storage facilities available in Upper Newport Bay.
<b>3.3.3 Harbor Support Facilities</b>	
<b>Policy 3.3.3-1.</b> Protect, and where feasible, expand and enhance facilities necessary to support vessels berthed or moored in the harbor, such as boat haul out facilities.	<b>Consistent.</b> The proposed future dry stack boat storage facility would provide haul out and service/repair services to support vessels moored or berthed in the harbor.
<b>Policy 3.3.3-2.</b> Protect, and where feasible, expand and enhance existing harbor support uses serving the needs of existing waterfront uses, recreational boaters, the boating community, and visiting vessels.	<b>Consistent.</b> The proposed future dry stack boat storage facility would provide service/repair services to help serve the needs of existing and proposed waterfront uses, recreational boaters, the boating community, and visiting vessels.
<b>4.2.3 Dredging, Diking, and Filling</b>	
<p><b>Policy 4.2.3-1.</b> Permit the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes in accordance with other applicable provisions of the LCP, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects and limited to the following:</p> <ul style="list-style-type: none"> <li>A. Construction or expansion of port/marine facilities.</li> <li>B. Construction or expansion of coastal-dependent industrial facilities, including commercial fishing facilities, and commercial ferry facilities.</li> <li>C. In open coastal waters, other than wetlands, including estuaries and streams, new or expanded boating facilities, including slips, access ramps, piers, marinas, recreational boating, launching ramps, and pleasure ferries, and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.</li> <li>D. Maintenance of existing and restoration of previously dredged depths in navigational</li> </ul>	<p><b>Consistent.</b> Any future dredging activities, if necessary as part of future project implementation to provide a new boat storage and launch facility on-site, would be carried out in accordance with all applicable provisions of the LCP and other regulations, and would implement mitigation measures as necessary to address potential impacts. Refer to Section 4.C, <i>Biological Resources</i>, of this Draft EIR for a discussion of impacts and mitigation measures related to marine resources.</p>

**Table 4.I-2 (Continued)**

**Coastal Land Use Plan Consistency Analysis**

<p>channels, turning basins, vessel berthing, anchorage, and mooring areas, and boat launching ramps. The most recently updated U.S. Army Corps of Engineers maps shall be used to establish existing Newport Bay depths.</p> <p>E. Incidental public service purposes which temporarily impact the resources of the area, such as burying cables and pipes, inspection of piers, and maintenance of existing intake and outfall lines.</p> <p>F. Sand extraction for restoring beaches, except in environmentally sensitive areas.</p> <p>G. Restoration purposes.</p> <p>H. Nature study, aquaculture, or similar resource-dependent activities.</p> <p>1. I. In the Upper Newport Bay Marine Park, permit dredging, diking, or filling only for the purposes of wetland restoration, nature study, or to enhance the habitat values of environmentally sensitive areas.</p>	
<p><b>4.2.4 Dredge Spoils Disposal</b></p>	
<p><b>Policy 4.2.4-3.</b> Dredged materials suitable for beneficial reuse shall be transported for such purposes to appropriate areas and placed in a manner that minimizes adverse effects on the environment.</p>	<p><b>Consistent.</b> To the extent feasible and appropriate, dredged materials suitable for beneficial reuse would be transported and placed in a manner that minimizes adverse effects on the environment.</p>
<p><b>4.6 Environmental Review</b></p>	
<p><b>Policy 4.6-1.</b> Review all new development subject to California Environmental Quality Act (CEQA) and coastal development permit requirements in accordance with the principles, objectives, and criteria contained in CEQA, the State CEQA Guidelines, the Local Coastal Program, and any environmental review guidelines adopted by the City.</p>	<p><b>Consistent.</b> The future development of the project site with proposed uses would require comprehensive review in accordance with the principles, objectives, and criteria contained in CEQA, the State CEQA Guidelines, the Local Coastal Program, and any environmental review guidelines adopted by the City. As concluded in this and other sections of this Draft EIR, the proposed project would be consistent with the applicable goals and policies of the City's General Plan and Local Coastal Program (CLUP), and would comply with all applicable requirements of CEQA and Coastal Development Permit requirements.</p>
<p><b>Policy 4.6-5.</b> Where development is proposed within or adjacent to ESHA, wetlands or other sensitive resources, require the City staff member(s) and/or contracted employee(s) to consider the individual and cumulative impacts of the development, define the least environmentally damaging alternative, and recommend modifications or mitigation measures to avoid or</p>	<p><b>Consistent.</b> As discussed in detail in Section 4.C, <i>Biological Resources</i>, of this Draft EIR, future development on-site would not result in significant project-related or cumulative impacts to an ESHA, including the nearby De Anza Bayside Marsh Peninsula, which is identified in the City's General Plan as an Environmental Study Area (ESA). Mitigation measures</p>

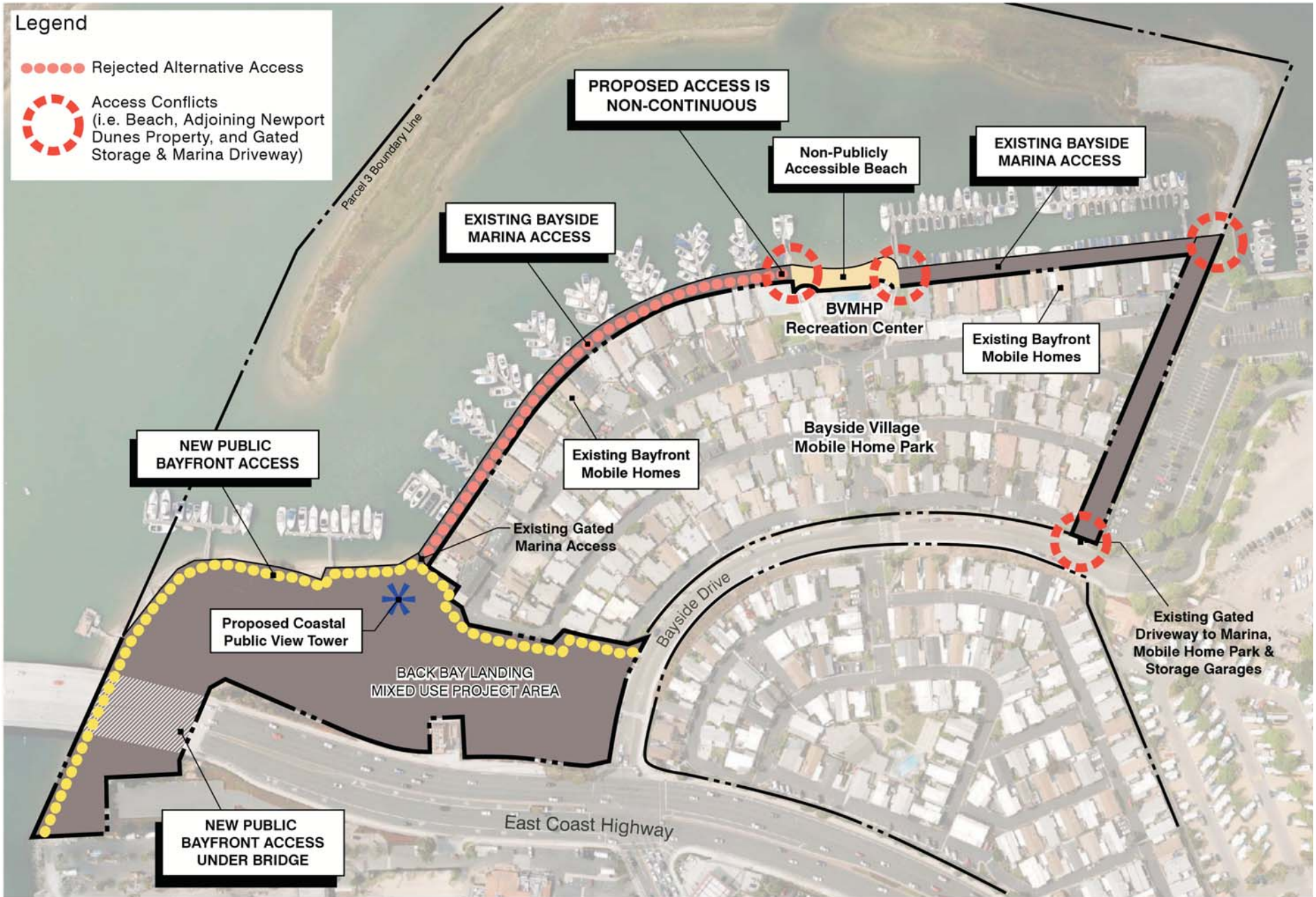
**Table 4.I-2 (Continued)**

**Coastal Land Use Plan Consistency Analysis**

<p>minimize impacts. The City may impose a fee on applicants to recover the cost of review of a proposed project when required by this policy.</p>	<p>provided in Section 4.C would avoid or minimize potential impacts to sensitive biological resources in the project area.</p>
<p><b>Policy 4.6-6.</b> Where development is proposed within or adjacent to ESHA, wetlands or other sensitive resources, require the City staff member(s) and/or contracted employee(s) to include the following in any recommendations of approval: an identification of the preferred project alternative, required modifications, or mitigation measures necessary to ensure conformance with the Coastal Land Use Plan. The decision making body (Planning Director, Planning Commission, or City Council) shall make findings relative to the project’s conformance to the recommendations of the City staff member(s) and/or contracted employee(s).</p>	<p><b>Consistent.</b> The proposed project would be required to implement a number of mitigation measures and water quality-related BMPs during and following future project construction in order to minimize potential adverse impacts to ESHAs in the project area and ensure conformance with the CLUP in this regard.</p>
<p><b>Policy 4.6-8.</b> Coordinate with the California Department of Fish and Game, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and other resource management agencies, as applicable, in the review of development applications in order to ensure that impacts to ESHA and marine resources, including rare, threatened, or endangered species, are avoided or minimized such that ESHA is not significantly degraded, habitat values are not significantly disrupted, and the biological productivity and quality of coastal waters is preserved.</p>	<p><b>Consistent.</b> As part of future project-specific approvals, a number of permits would be required from various regulatory agencies including but not limited to the California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, Regional Water Quality Control Board, and U.S. Army Corps of Engineers. The project conditions required by these permits would ensure that impacts to ESHA and marine resources, including rare, threatened, or endangered species, are avoided or minimized such that ESHA is not significantly degraded, habitat values are not significantly disrupted, and the biological productivity and quality of coastal waters is preserved.</p>
<p><b>Policy 4.6-9.</b> Require applications for new development, where applicable, to include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains statements that the project site is suitable for the proposed development and that the development will be safe from geologic hazard for its economic life. For development on coastal bluffs, including bluffs facing Upper Newport Bay, such reports shall include slope stability analyses and estimates of the long-term average bluff retreat rate over the expected life of the development. Reports are to be signed by an appropriately licensed professional and subject to review and approval by qualified city staff member(s) and/or contracted employee(s).</p>	<p><b>Consistent.</b> As discussed in Section 4.E, <i>Geology and Soils</i>, of this Draft EIR, a preliminary geotechnical engineering evaluation has been prepared for the project that identifies the geologic hazards affecting the project site, provides necessary mitigation measures, and concludes that the project site is suitable for the proposed development and that the development will be safe from geologic hazards. The project site does not contain any coastal bluffs.</p>

Source: PCR Services Corporation, 2013

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**(c) SCAG Regional Transportation Plan/Sustainable Communities Strategy**

**Table 4.I-3**, *SCAG RTP/SCS Consistency Analysis*, below, evaluates the proposed project’s consistency with the applicable goals and policies of the SCAG RTP/SCS related to land use and planning. As shown in Table 4.I-3, the proposed project would not conflict with the relevant goals and policies of the SCAG RTP/SCS regarding land use and planning and as such impacts in this regard would be less than significant.

**Table 4.I-3**  
**SCAG RTP/SCS Consistency Analysis**

<b>SCAG RTP/SCS Goals</b>	<b>Project Consistency</b>
<b>Goal 8:</b> Encourage land use and growth patterns that facilitate transit and non-motorized transportation.	<b>Consistent.</b> The proposed project would be supportive of non-vehicular transportation, as it would provide on-site pedestrian and bicycle facilities, as well as kayak and stand-up paddleboard rental and launch facilities, and boat rentals. Additionally, the proposed project would be located adjacent to an existing public transit stop on the north side of East Coast Highway.
<b>SCAG RTP/SCS Policies</b>	<b>Project Consistency</b>
<b>Policy 3:</b> RTP/SCS land use and growth strategies in the RTP/SCS will respect local input and advance smart growth initiatives.	<b>Consistent.</b> The proposed project would not affect, or be affected by, SCAG RTP/SCS land use and growth strategies. The proposed project, as discussed in this and other Sections of this Draft EIR, would be consistent with the City’s General Plan, the growth projections for which have been considered in SCAG’s long-range planning documents, including the RTP/SCS.

*Source: PCR Services Corporation, 2013*

**(d) SCAG Compass Blueprint**

**Table 4.I-4**, *SCAG Compass Blueprint Consistency Analysis*, below, evaluates the proposed project’s consistency with the applicable principles and related policies of the SCAG Compass Blueprint. As shown in Table 4.I-4, the proposed project would not conflict with the relevant principles and policies of the SCAG Compass Blueprint and as such impacts in this regard would be less than significant.

Table 4.I-4

SCAG Compass Blueprint Consistency Analysis

SCAG Compass Blueprint Growth Visioning Principles	Project Consistency
<p><b>Principle #1:</b> Improve mobility for all residents.</p> <ul style="list-style-type: none"> <li>▪ Encourage transportation investments and land use decisions that are mutually supportive.</li> <li>▪ Locate new housing near existing jobs and new jobs near existing housing.</li> <li>▪ Promote a variety of travel choices.</li> </ul>	<p><b>Consistent.</b> The proposed project would include on-site traffic improvements to support future development, and future development associated with the project would be consistent with the goals and policies of the City’s General Plan Circulation Element. The proposed project includes a variety of uses including residential units, commercial uses, restaurants, and recreational amenities intermixed within the project site, which is intended to foster vehicle trip reduction for on-site uses. The proposed project includes various pedestrian and bicycle-related facilities that offer non-vehicular transportation options within the project area. Additionally, the proposed project would provide opportunities for increased public transit ridership due to the close proximity of the site to an existing public transit stop. Thus, the project would be consistent with this principle.</p>
<p><b>Principle #2:</b> Foster livability in all communities.</p> <ul style="list-style-type: none"> <li>▪ Promote infill development and redevelopment to revitalize existing communities.</li> <li>▪ Promote developments that provide a mix of uses.</li> <li>▪ Promote “people-scaled,” pedestrian-friendly communities.</li> </ul>	<p><b>Consistent.</b> The project site is surrounded by existing urban development, and itself is an underutilized developed commercial property. As such, future development of the project site would be considered infill development. The proposed project provides for a variety of uses including residential units, retail stores, restaurants, and marine-related commercial uses, as well as public recreational amenities. The proposed project includes a number of pedestrian and bicycle-related facilities that offer several non-vehicular transportation options within the project area. Furthermore, the project site is located in close proximity to an existing public transit stop on the north side of East Coast Highway.</p>
<p><b>Principle #3:</b> Enable prosperity for all people.</p> <ul style="list-style-type: none"> <li>▪ Provide a variety of housing types in each community to meet the housing needs of all income levels.</li> <li>▪ Ensure environmental justice regardless of race, ethnicity or income class.</li> </ul>	<p><b>Consistent.</b> The proposed project includes a multi-family dwelling product type that is generally more affordable than traditional single-family dwelling the Newport Beach. The proposed project would be implemented as market conditions allow, and would not result in increased environmental risks or burdens for any particular race, ethnicity, or income class.</p>

**Table 4.I-4 (Continued)**

**SCAG Compass Blueprint Consistency Analysis**

SCAG Compass Blueprint Growth Visioning Principles	Project Consistency
<p><b>Principle #4:</b> Promote sustainability for future generations.</p> <ul style="list-style-type: none"> <li>▪ Preserve rural, agricultural, recreational and environmentally sensitive areas.</li> <li>▪ Focus development in urban centers and existing cities.</li> </ul>	<p><b>Consistent.</b> The proposed project would not result in substantial adverse impacts to rural, agricultural, recreational, and environmentally sensitive areas given the urbanized nature of the project site and implementation of applicable BMPs and mitigation measures as part of future site development. As noted above, the project site is surrounded by urban development and the East Coast Highway corridor within the corporate boundaries of the City of Newport Beach.</p>
<p><i>Source: PCR Services Corporation, 2013</i></p>	

**(e) Airport Environs Land Use Plan**

As noted above, the AELUP is a land use compatibility plan that is intended to protect the public from adverse effects of aircraft noise, ensure the people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable space. The AELUP identifies standards for development in the airport’s planning area based on noise contours, accident potential zones, and building heights. As such, a project’s consistency with the AELUP for JWA is evaluated relative to three factors, including the potential for the project to result in (1) adverse impacts associated with aircraft noise, (2) safety hazards to people and structures on the ground from aircraft operations, and (3) safety hazards to aircraft associated with building heights.

As discussed above under Environmental Setting, the project site is over three miles south-southwest of JWA, but a portion of the site is located within the boundaries of the AELUP for JWA and is subject to the provisions contained therein. However, as shown in Figure S5 of the City’s General Plan Safety Element, *JWA Clear Zone/Runway Protection Zones and Accident Potential Zones*, the project site is not located within any designated airport Safety Compatibility Zones. Additionally, no portion of the project site falls within the future 60-dBA CNEL aircraft operation noise contours for JWA, as shown in Figure N4, *Future Noise Contours*, of the General Plan Safety Element.

Based on the project site’s location well outside the 60-dBA airport noise contour, substantial distance from any designated airport Safety Compatibility Zones, and relatively low-scale development limits on-site (i.e., up to 35 feet with one tower feature up to 65 feet in height), as well as the analysis provided in Sections 4.G, *Hazards and Hazardous Materials*, and 4.J, *Noise*, of this Draft EIR, the proposed project would be consistent with the AELUP noise standards, standards and operations, and building height restrictions. However, since the proposed project requires an amendment to the City’s General Plan and adoption of its own zoning (Back Bay Landing PDCP), a consistency determination by ALUC is required prior to the Newport Beach City Council taking action on the project. The proposed project has not yet been before ALUC for a determination of consistency. If ALUC determines that the project is not consistent with the AELUP, the Newport Beach City Council may override this finding by a two-thirds vote. If an override is made, a significant unavoidable adverse impact would result and a Statement of Overriding Considerations would be required to be made by

the City Council at the time action on the project is taken. However, given the relatively low intensity of allowable future development on-site (particularly the limited building heights), and substantial distance from JWA, the proposed project is not expected to be found inconsistent with the AELUP, and impacts are considered less than significant.

**(f) California Coastal Act**

The California Coastal Act contains various policies that relate to land use and planning. An analysis of the proposed project’s consistency with each of the applicable policies contained in the Coastal Act is presented below in **Table 4.I-5, California Coastal Act Consistency Analysis**. As indicated in Table 4.I-5, the proposed project would not conflict with the applicable policies of the Coastal Act with respect to land use and planning. As such, impacts in this regard would be less than significant.

**Table 4.I-5**

**California Coastal Act Consistency Analysis**

Coastal Act Policy	Project Consistency Statement
<p><b>Article 2: Public Access</b></p>	
<p><b>Section 30210 Access; recreational opportunities; posting</b>                      In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.</p>	<p><b>Consistent.</b> The proposed PCDP provides development standards and design guidelines that would require a village orientation of the project at Bayside Drive and East Coast Highway, designed not only to attract visitors to the mixed-use waterfront village, but also to encourage significant new public waterfront access to and along the bayfront, between Balboa Marina to the south and Newport Dunes and the regional trail system to the east. The PCDP proposes a 12-foot-wide public bayfront promenade/trail to be constructed along the length of the seawall/bulkhead to the boundary with the Bayside Village Mobile Home Park, and continuing along the project entrance to Bayside Drive. The public bayfront promenade/trail would comply with the following requirements:</p> <ol style="list-style-type: none"> <li>1. An easement for public access shall be provided to the City along the entire length of the proposed public bayfront promenade.</li> <li>2. The public bayfront promenade shall be accessible to pedestrians and bicyclists, and shall extend along the waterfront under the Coast Highway-Newport Bay Bridge and shall connect to an existing trail system on the south side of East Coast Highway.</li> <li>3. The bayfront promenade shall interface with restaurants and outdoor dining areas, the coastal public view tower, the enclosed dry stack boat storage, residential and marine boat service areas to the maximum extent feasible. Amenities such as seating, coastal plazas, vista</li> </ol>

**Table 4.I-5 (Continued)**

**California Coastal Act Consistency Analysis**

<b>Coastal Act Policy</b>	<b>Project Consistency Statement</b>
	<p>points, trash enclosures, lighting, and other pedestrian-oriented improvements shall be provided along its length where appropriate.</p> <ol style="list-style-type: none"> <li>4. Bayside Drive shall be improved with new Class 1 (Off-road) and Class III (Shared Use) bikeway, as shown in Figures 2-11 and 2-12, to accommodate both cyclists and pedestrians. This improvement shall serve as an enhanced link between the new public bayfront promenade and the existing City and County trail systems and the Newport Dunes recreation area.</li> <li>5. Trails shall be located and designed consistent with Coastal Land Use Plan (CLUP) Policy 3.1.1-1 and the Coastal Act, with appropriate routing to protect the privacy of existing Bayside Village Mobile Home Park residents, consistent with Public Resources Code section 30214 (the California Coastal Act).</li> </ol> <p>In addition, the PCDP would allow for coastal-dependent and coastal-related uses, including up to 61,534 square feet of visitor-serving retail/restaurant/marine boat sales, rental and service repair and recreational commercial (kayak and stand up paddle board [SUP] rentals); a new 32,500-square-foot, full-service enclosed dry stack boat storage structure with racks or bays (up to a maximum of 140 boat spaces) and launching facilities.</p>
<p><b><u>Section 30211</u> Development not to interfere with access.</b></p> <p>Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.</p>	<p><b>Consistent.</b> The proposed PCDP requires that future development provide public access directly to the bayfront shoreline. Further, the proposed project includes various improvements that would foster coastal access for the public, including a new public bayfront promenade accessible to pedestrians and bicyclists, a new public coastal view tower, linkages to existing City and County trail systems and the Newport Dunes recreation area by means of new public bayfront access and coastal-dependent recreational and commercial uses serving the public. The site would be open to the public year-round. The PCDP also requires access points from the bayfront promenade to the shoreline.</p>
<p><b><u>Section 30212</u> New development projects.</b></p> <p>(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,</p>	<p><b>Consistent.</b> Future development on-site would not be restricted in terms of access, with public access provided to all on-site coastal resources and recreational facilities. Vehicular access to the project site would be provided to the project driveway from East Coast Highway via Bayside Drive, which are both public roadways.</p>

**Table 4.I-5 (Continued)**

**California Coastal Act Consistency Analysis**

<b>Coastal Act Policy</b>	<b>Project Consistency Statement</b>
<p>(2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.</p> <p>(b) For purposes of this section, "new development" does not include:</p> <ol style="list-style-type: none"> <li>(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.</li> <li>(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.</li> <li>(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.</li> <li>(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.</li> <li>(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach. As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.</li> </ol> <p>(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.</p>	<p>Vehicular access would not be restricted, and on-site parking would be provided for the public. In this manner, the proposed improvements would facilitate public vehicular access to the coast from East Coast Highway. Furthermore, the site would be accessible by new or improved non-vehicular facilities such as the new public bayfront promenade and new multi-use public trail along Bayside Drive.</p> <p>As discussed above, the project applicant explored an expanded bayfront access option that would have increased public coastal access along the Upper Newport Bay waterfront compared to the proposed project. As shown above in Figure 4.I-1, this option would not only provide public bayfront access in Planning Areas 1 and 2, but would extend the public bayfront promenade through Planning Areas 3 and 4, which is currently developed with a private bayfront road accessible only by Bayside Village Marina members and Bayside Village Mobile Home Park residents, as well as a private beach that is for the exclusive use of the mobile home park residents. While maximizing the provision of public coastal access is a stated objective of the proposed project, this potential alignment of the project's new bayfront access was determined to be infeasible for several reasons as evaluated in the context of Coastal Act section 30214. First, the existing bayfront access road is not publicly accessible and is a private easement for the sole use of marina lessees (enabling access to northernmost boat slips, etc.) and residents of the mobile home park, and as such it is gate-controlled at both ends (the western terminus adjacent to Planning Area 1 and eastern terminus at the south end of Planning Area 4, see Figure 4.I-1). Allowing additional access to this area as part of a future development would exceed the capacity of the narrow walkway to sustain additional public use and would adversely impact the privacy of the adjacent mobile home owners and guests. Additionally, the bayfront bulkhead/access road is non-continuous, as the mobile home park's private beach bisects the structure near the center of Planning Area 3, as shown in Figure 4.I-1. In order to provide continuous public access across Planning Area 3, an elevated walkway would need to be constructed over the existing private beach or people would need to traverse the beach to continue along the promenade. Neither of these approaches are feasible given the encroachment on private property and adverse impact to the use and enjoyment of the beach by residents. Lastly, the adjoining property to the east of Planning Area 4, where a continuous coastal access path would need to connect, is owned and operated by</p>

**Table 4.I-5 (Continued)**

**California Coastal Act Consistency Analysis**

<b>Coastal Act Policy</b>	<b>Project Consistency Statement</b>
	Newport Dunes, which is not under the control of the project applicant. As such, providing continuous public coastal access through the project site that connects directly to public bayfront access to the east is not feasible.
<p><b><u>Section 30213</u> Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals</b></p> <p>Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.</p> <p>The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.</p>	<p><b>Consistent.</b> Future development would include a variety of coastal-dependent, visitor-serving recreational amenities such as public bayfront promenade, public coastal view tower, new multi-use trail with local and regional trail connections, kayak and stand-up paddleboard rental and launch facilities, dry stack boat storage and launching, and boat rentals. Of these recreational amenities, the new bayfront promenade, coastal view tower, and multi-use trail would be provided for use by the public free of charge. The proposed project would not provide any hotel uses or other overnight lodging, and as such this provision is not applicable to the proposed project.</p>
<p><b><u>Section 30214</u> Implementation of public access policies; legislative intent</b></p> <p>a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:</p> <ol style="list-style-type: none"> <li>(1) Topographic and geologic site characteristics.</li> <li>(2) The capacity of the site to sustain use and at what level of intensity.</li> <li>(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.</li> <li>(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.</li> </ol> <p>b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California</p>	<p><b>Consistent.</b> Future development would provide public access to coastal resources and recreational opportunities on-site at a scale and intensity appropriate for the project site's size and location. Access would be provided to both on-site residents and the community at-large and the proposed access improvements and amenities are expected to increase coastal recreation overall activity on-site; however, access to adjacent private properties such as the Bayside Village Mobile Home Park and Bayside Village Marina would be restricted in order to prevent project-related impacts associated with the increased activity in the area.</p>

**Table 4.I-5 (Continued)**

**California Coastal Act Consistency Analysis**

<b>Coastal Act Policy</b>	<b>Project Consistency Statement</b>
<p>Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.</p> <p>c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.</p>	
<p><b>Article 3: Recreation</b></p>	
<p><b>Section 30220 Protection of certain water-oriented activities</b> Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.</p>	<p><b>Consistent.</b> The proposed project would maintain and enhance existing water-oriented activities and facilities on-site through the provision of dry stack boat storage and launching facilities, kayak and stand-up paddleboard rental and launch facilities, and boat rentals.</p>
<p><b>Section 30221 Oceanfront land; protection for recreational use and development</b> Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.</p>	<p><b>Consistent.</b> Future development would include a number of recreational uses and amenities that are well suited for the project site’s waterfront location, including dry stack boat storage and launching facilities, kayak and stand-up paddleboard rental and launch facilities, and boat rentals. Such uses and amenities would represent an increase in recreational opportunities at the site. Further, the project would provide additional non-vehicular connections to parks, trails, and other recreational options that already exist in the project area.</p>
<p><b>Section 30222 Private lands; priority of development purposes</b> The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.</p>	<p><b>Consistent.</b> Future development would include a variety of coastal-dependent, visitor-serving recreational amenities such as public bayfront promenade, public coastal view tower, kayak and stand-up paddleboard rental and launch facilities, dry stack boat storage and launching, and boat rentals. These amenities would be provided to the public for unrestricted use, though access the residential uses on the project site would be restricted to residents.</p>



**Table 4.I-5 (Continued)**

**California Coastal Act Consistency Analysis**

<b>Coastal Act Policy</b>	<b>Project Consistency Statement</b>
<p><b><u>Section 30223 Upland areas</u></b>                      Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.</p>	<p><b>Consistent.</b> Future development pursuant to the proposed legislative and administrative approvals would not adversely affect any upland areas necessary to support coastal recreational uses. In fact, areas of the project site currently used for kayak and stand-up paddleboard rental/launching would be preserved and enhanced as part of future on-site development, as required by the project’s PCDP.</p>
<p><b><u>Section 30224 Recreational boating use; encouragement; facilities</u></b>                      Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.</p>	<p><b>Consistent.</b> The proposed project would increase recreational boating use of coastal waters through the provision of dry stack boat storage and launching facilities and boat rentals.</p>
<p><b>Article 4: Marine Environment</b></p>	
<p><b><u>Section 30234 Commercial fishing and recreational boating facilities</u></b>                      Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.</p>	<p><b>Consistent.</b> Recreational boating facilities such as dry stack boat storage and launching facilities and boat rental services would be permitted as part of future development of the site. The proposed project would expand upon the existing recreational boating-related facilities that currently exist on-site, including boat storage and kayak rental and launch facilities. The proposed project would not affect commercial fishing, including those associated with the adjacent Pearson’s Port fish market, as no physical changes or alterations in access to this facility would result from future project implementation.</p>
<p><b>Article 6: Development</b></p>	
<p><b><u>Section 30250 Location; existing developed area</u></b>                      a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions,</p>	<p><b>Consistent.</b> The project site is currently developed with urban uses, including an RV and marine equipment storage lot, kayak and stand-up paddleboard rental facilities, a floating fish market, and the Bayside Village Marina parking lot and restroom building. The project site is almost entirely surrounded by urban development and future development of allowable uses would occur entirely on previously urbanized land.</p>

**Table 4.I-5 (Continued)**

**California Coastal Act Consistency Analysis**

<b>Coastal Act Policy</b>	<b>Project Consistency Statement</b>
<p>other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.</p> <p>b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.</p> <p>c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.</p>	
<p><b>Section 30252 Maintenance and enhancement of public access</b></p> <p>The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.</p>	<p><b>Consistent.</b> The proposed project would enhance and provide new public coastal access through the provision of several on-site facilities and improvements, including unrestricted vehicular access and parking facilities, a new public bayfront promenade, public coastal view tower, and multi-use public trail along Bayside Drive with connections to other local and regional trail facilities. Additionally, the project site is situated adjacent to an existing public transit stop on the north side of East Coast Highway, which would facilitate the use of public transit to and from the future on-site development. This is because the future project would provide new at-grade pedestrian access points along East Coast Highway to the project site interior, which do not currently exist.</p>
<p><b>Section 30255 Priority of coastal-dependent developments</b></p> <p>Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.</p>	<p><b>Consistent.</b> The proposed project includes a variety of coastal-dependent uses and features, including dry stack boat storage and launching facilities, kayak and stand-up paddleboard rental and launch facilities, and boat rentals, as well as waterfront retail and marine-related commercial uses.</p>

Source: PCR Services Corporation, 2013.

### **(g) Newport Beach Municipal Code**

The current zoning designation of the project site is Planned Community (PC-9) north of the East Coast Highway (i.e., Planning Areas 1, 3, and 4) and Commercial Recreational and Marine (CM) south of the East Coast Highway centerline (i.e., Planning Area 2). In order to accommodate a future mixed-use project that includes residential uses, an amendment to the PC-9 zoning designation would be required to modify the PC-9 boundary to include both the proposed LLA area (a portion of existing Bayside Village Mobile Home Park) and Planning Area 2. The proposed PCDP would be adopted as the Regulatory Plan for the project site and would be applicable to the entire project site, replacing the existing PC-9 and CM zoning regulations. The project's PCDP would implement the Newport Beach General Plan and would serve as the controlling zoning designation for the project site. As such, the PCDP would act as the regulatory document that the City of Newport Beach would use to implement the proposed project and help maintain consistency with and carry out the goals and policies of the General Plan.

The PCDP outlines the allowed density, list of permitted uses, development standards (e.g., parking requirements, setbacks, building heights, lighting, etc.), infrastructure requirements, and implementation programs. The regulations outlined in the PCDP are also intended to provide a range of permitted development options and maintain flexibility to accommodate changes in the economy, land value, and demand. Future implementation of the proposed project would also be required to adhere to the project's design guidelines, which would ensure the orderly design and development of a future project's buildings and other site improvements. Compliance with the project PCDP (and NBMC, as applicable, where the PCDP is silent on a particular standard or regulation) would preclude the potential for conflicts with the NBMC, and as such impacts in this regard would be less than significant.

## **4. CUMULATIVE IMPACTS**

Development of the proposed project is not anticipated to result in cumulatively significant land use impacts relative to compliance with the applicable principles, goals, objectives, and/or policies of the Coastal Act, SCAG RTP/SCS, SCAG Compass Blueprint, JWA AELUP, or the City of Newport Beach General Plan Land Use Element, CLUP, or Municipal Code. Any future development occurring as part of the proposed project in addition to identified cumulative development must undergo the Site Development Review process in order to preclude potential planning policy conflicts. Each project would be analyzed independent of other land uses, as well as within the context of existing and planned developments to ensure that the goals, objectives and policies of the General Plan and all other applicable policies and development guidelines are consistently upheld. Thus, the proposed project along with identified cumulative projects would not result in cumulatively considerable land use impacts, and the project's contribution to such impacts would not be considerable.

## **5. MITIGATION MEASURES**

The proposed project would not conflict with relevant land use plans, policies and regulations, therefore, impacts related to land use and planning would be less than significant and no mitigation measures are required.

## **6. LEVEL OF SIGNIFICANCE AFTER MITIGATION**

The proposed project would not conflict with or substantially impede attainment of relevant goals, policies and regulations associated with the City's General Plan, CLUP, and Municipal Code, SCAG plans and programs, JWA AELUP, and the California Coastal Act. As such, impacts would be less than significant.