

6. OTHER MANDATORY CEQA CONSIDERATIONS

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A. SIGNIFICANT UNAVOIDABLE IMPACTS

Section 15126.2(b) of the *CEQA Guidelines* requires that an EIR describe significant environmental impacts that cannot be avoided, including those effects that can be mitigated but not reduced to a less than significant level. The environmental impacts of the proposed project are described in detail in Chapter 4, *Environmental Impact Analysis*, of this Draft EIR. As discussed in Chapter 4, the proposed project is not anticipated to result in any significant unavoidable impacts with implementation of applicable mitigation measures and/or compliance with applicable regulations.

B. SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

According to Sections 15126(c) and 15126.2(c) of the *CEQA Guidelines*, an EIR is required to address any significant irreversible environmental changes that would occur should the proposed project be implemented. As stated in *CEQA Guidelines* Section 15126.2(c):

“[u]ses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter likely. Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also, irreversible damage can result from environmental accidents associated with the project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.”

The future implementation of the proposed project would necessarily consume limited, slowly renewable, and non-renewable resources. This consumption would occur during the construction phase of the proposed project and would continue throughout its operational lifetime. Project development would require a commitment of resources that would include: (1) building materials, (2) fuel and operational materials/resources, and (3) the transportation of goods and people to and from the project site. Project construction would also require the consumption of resources that are non-replenishable or may renew so slowly as to be considered non-renewable. These resources would include the following construction supplies: certain types of lumber and other forest products; aggregate materials used in concrete and asphalt such as sand, gravel and stone; metals such as steel, copper, and lead; petrochemical construction materials such as plastics; and water. Furthermore, nonrenewable fossil fuels such as gasoline and oil would also be consumed in the use of construction vehicles and equipment, as well as the transportation of goods and people to and from the project site.

Future project operation would continue to expend nonrenewable resources that are currently consumed within the City of Newport Beach. These include energy resources such as electricity and natural gas, petroleum-based fuels required for vehicle-trips, fossil fuels, and water. Fossil fuels would represent the primary energy source associated with both construction and ongoing operation of the proposed project, and the existing, finite supplies of these natural resources would be incrementally reduced. Project operation would occur in accordance with Title 24, Part 6 of the California Code of Regulations, as well as numerous local regulations and proposed project design features (per the proposed PCDP) which establish conservation practices that would limit the amount of energy consumed by the proposed project. However,

the energy requirements associated with the proposed project would still represent a long-term commitment of essentially nonrenewable resources.

Continued use of such resources would be on a relatively small scale and consistent with regional and local growth forecasts in the area, as well as state and local goals for reductions in the consumption of such resources. Further, the proposed project would not affect access to existing resources, nor interfere with the production or delivery of such resources.

The project includes numerous project design features that would reduce the consumption of non-renewable resources (refer to Chapter 2, *Project Description*, of this Draft EIR). Given the proposed land use plan that provides complementary land uses in proximity to one another and the project's non-vehicular transportation improvements (required by the proposed PCDP), the project would support pedestrian access to a considerable range of retail destinations, employment centers, and recreational facilities both within and outside the project boundaries. The project also provides convenient access to the regional transportation system as it is located in proximity to the adjacent OCTA transit stop and East Coast Highway (SR-1), and relatively close to SR-73 (approximately 2.5 miles to the north) and the Interstate 405 freeway (approximately 5 miles to the north). These factors would contribute to a land use pattern that is considered to reduce the consumption of non-renewable resources. Hence, the consumption of the nonrenewable resources would not result in significant irreversible changes to the environment.

C. GROWTH-INDUCING IMPACTS

Section 15126.2(d) of the *CEQA Guidelines* requires an EIR to discuss the ways the proposed project could foster economic or population growth or the construction of additional housing, directly or indirectly, in the surrounding environment. Growth-inducing impacts include the removal of obstacles to population growth (e.g., the expansion of a wastewater treatment plant allowing more development in a service area) and the development and construction of new service facilities that could significantly effect the environment individually or cumulatively. In addition, growth must not be assumed as beneficial, detrimental, or of little significance to the environment.

The proposed project would allow for the future development of 85,644 square feet of residential uses (up to 49 residential units) and 94,034 square feet of visitor-serving commercial/marine-related uses and storage. The future development of new residential units and visitor-serving commercial/marine-related uses would not cause a progression of growth beyond the project area itself. The project site is located in an area surrounded by urbanized land, and is served by current infrastructure (e.g., roads and utilities), and community service facilities (e.g., police, fire, parks, schools, and libraries). The project's infrastructure improvements would consist of tie-ins to, and extensions of, the existing utility main-lines already serving the project area as well as the proposed reroute of the City's existing 30-inch transmission water main which crosses the project site.

The proposed project's 49 residential units would directly generate a residential population of approximately 131 new residents and 94,034 square feet of visitor-serving commercial/marine-related uses and storage that would indirectly increase the population in the project area both on- and off-site. This increase of population would be incremental and would not exceed the established SCAG regional, subregional, and local growth forecasts for the City of Newport Beach.

Therefore, the project would not spur additional growth in the City of Newport Beach other than that already anticipated in the SCAG growth forecasts, and would not eliminate impediments to growth. Therefore, the project would not foster growth inducing impacts.

D. POTENTIAL SECONDARY EFFECTS

Section 15126.4(a)(1)(D) of the *CEQA Guidelines* requires mitigation measures to be discussed in less detail than the significant effects of the proposed project if the mitigation measure(s) would cause one or more significant effects in addition to those that would be caused by the project as proposed. With regard to this section of the *CEQA Guidelines*, the proposed project mitigation measures that could cause potential impacts were evaluated. The following provides a discussion of the potential secondary effects that could occur as a result of the implementation of the project mitigation measures. For the reasons stated below, it is concluded that the project's mitigation measures would not result in significant secondary impacts.

1. Aesthetics/Visual Resources

Impacts regarding aesthetics and visual resources are less than significant and no mitigation measures are required. Therefore, no secondary impacts would occur due to the implementation of mitigation measures for this environmental topic.

2. Air Quality

Impacts regarding air quality are less than significant and no mitigation measures are required. Therefore, no secondary impacts would occur due to the implementation of mitigation measures for this environmental topic.

3. Biological Resources

Mitigation Measures C-1 requires monitoring, construction delays, minimum separation distances, and if necessary cessation of construction activities to avoid impacts to least terns in the area. Similarly, Mitigation Measure C-2 requires surveys for nesting migratory birds in the project area, and avoidance of nests during the nesting season. Mitigation Measures C-3 and C-4 require monitoring for marine mammals in the area for in-water work and vehicle speed limitations for boats operating in the area. Mitigation Measures C-5 through C-7 require monitoring, avoidance, protection, and if necessary replacement of eelgrass habitat for impacts to eelgrass during in-water or near-shore construction activities. Mitigation Measure C-8 requires surveys to determine the presence or absence of the invasive *Caulerpa* seaweed species. Mitigation Measures C-9 through C-11 require implementation of stormwater Best Management Practices (BMPs) to minimize water quality-related indirect impacts to wetlands and open water habitat. Mitigation Measure C-12 requires that a project-specific jurisdictional delineation be prepared for future development on-site to determine the exact extent of impacts to wetlands. These mitigation measures would minimize or avoid overall losses of sensitive resources and would not result in any significant secondary effects.

4. Cultural Resources

Mitigation Measure D-1 requires future site-specific archaeological surveys and assessments as warranted by sensitivity, and collection and documentation of recovered resources, if any. Similarly, Mitigation Measure D-2 requires monitoring, recovery, and documentation of any recovered paleontological resources.

Mitigation Measure D-3 requires consultation with the County Coroner and Native American tribes in the event human remains are encountered during project implementation. These measures are intended to preserve on-site cultural resources and would not have any secondary adverse effects either on- or off-site.

5. Geology/Soils

Mitigation Measure E-1 requires that a site-specific, design-level geotechnical investigation be prepared for each development parcel by a registered geotechnical engineer. This mitigation measure would only have the potential to affect future on-site development and would ensure seismic safety for future residents and building occupants, and would have no additional effects beyond those evaluated in Section 4.E, *Geology and Soils*, of this Draft EIR.

6. Greenhouse Gas Emissions

Mitigation Measures F-1 through F-14 require that a number of energy, water, and traffic reduction measures in order to minimize GHG emissions. Such measures include requirements for energy- and water-efficient appliances, fixtures, and landscaping during project operation, and use of high efficiency construction equipment and limitation of construction vehicle idling times. These measures would reduce impacts to the environment through reducing emissions sources and would not have any adverse secondary effects.

7. Hazards and Hazardous Materials

Mitigation Measure G-1 requires that a remediation/removal plan be submitted and implemented for the existing on-site 550-gallon UST. Mitigation Measures G-2 and G-3 require testing and proper disposal of contaminated dredged soils and dewatering discharges. Mitigation Measures G-4 and G-5 require surveys for lead-based paint and asbestos in all on-site structures to be demolished. Preparation of a Construction Management Plan to address construction-related hazards is required by Mitigation Measure G-6, while Mitigation Measures G-7 and G-8 require preparation of a Traffic Control Plan for construction activities and coordination with the police and fire departments regarding temporary street or lane closures during construction. Thus, implementation of hazards and hazardous materials-related mitigation measures would not result in significant secondary effects.

8. Hydrology and Water Quality

Impacts regarding hydrology and water quality are less than significant and no mitigation measures are required. Therefore, no secondary impacts would occur due to the implementation of mitigation measures for this environmental topic.

9. Land Use and Planning

No mitigation measures are feasible with respect to land use that could reduce the severity of impacts relative to consistency with land use plans, policies, and regulations. As such, no potential secondary effects would result.

10. Noise

Mitigation Measure J-1 requires that temporary sound barriers be employed during construction activities in order to reduce noise effects at nearby sensitive receptor locations. Mitigation Measure J-1 requires that an acoustical analysis of the architectural plans of the proposed residential building be prepared by a qualified acoustical engineer, prior to issuance of building permits, to ensure that the building construction (i.e., exterior wall, window, and door) would provide adequate sound insulation to meet the acceptable interior noise level of 45 dBA CNEL. Therefore, no secondary impacts would result.

11. Population and Housing

Impacts related to population and housing would be less than significant and therefore no mitigation measures are required. As such, no potential secondary effects would result.

12. Public Services

Impacts regarding public services would be less than significant and no mitigation measures are required. Therefore, no secondary impacts would occur due to the implementation of mitigation measures for this environmental topic.

13. Transportation/Traffic

Mitigation Measures M-1 through M-3 require future City review of project-specific access and circulation plans to verify adequate site distances, signage and striping, and final design of an optional secondary entrance-only access off of East Coast Highway. These measures would reduce traffic access and safety hazards associated with future project implementation and would not result in additional effects beyond those evaluated in Section 4.M, *Transportation/Traffic*, of this Draft EIR.

14. Utilities and Service Systems

Mitigation Measures N-1 and N-2 require payment of water and sewer connection fees prior to occupancy of a future project on-site. Mitigation Measures N-3 and N-4 require that recycling of construction-related waste is implemented on-site during future construction activities. These measures would verify adequacy of water and sewer infrastructure to serve future development and reduce solid waste disposal rates; therefore, no secondary adverse effects would result from their implementation.

E. EFFECTS FOUND NOT TO BE SIGNIFICANT

Section 15128 of the *CEQA Guidelines* states that an EIR shall contain a brief statement indicating reasons that various possible significant effects of a project were determined not to be significant and not discussed in detail in the Draft EIR. An Initial Study was prepared for the project and is included in Appendix A of this Draft EIR. The Initial Study provides a detailed discussion of the potential environmental impact areas and the reasons that each topical area is or is not analyzed further in the Draft EIR. The City of Newport Beach determined that the project would not result in potentially significant impacts related to Aesthetics (scenic resources), Agricultural Resources, Air Quality (odors), Biological Resources (conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community, Conservation Plan, or other approved local, regional, or state habitat conservation plan), Geology and Soils (rupture of a known earthquake fault,

landslides, expansive soil, and incapable soils), Hazards and Hazardous Materials (routine, transport, use, or disposal of hazardous materials, emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school, private airstrip, and wildland fires), Hydrology and Water Quality (deplete groundwater supplies or interfere with groundwater recharge and located within a 100-year flood plain), Land Use and Planning (divide an established community and conflict with any applicable habitat conservation plan or natural community conservation plan), Mineral Resources, Noise (vicinity of a private airstrip), Population, Housing, and Employment (displace existing housing and people), Transportation and Traffic (change in air traffic patterns) and Utilities (Solid Waste). The basis for these conclusions is discussed below.

1. Aesthetics

There are no rock outcroppings or any other scenic resources on-site. There are some ornamental trees in on-site landscaped areas and throughout the parking areas, but the trees are not considered scenic resources. The trees are typical of landscaped ornamental trees in urban areas of southern California, and the project landscape plan includes additional ornamental trees. Therefore, the removal of some of the trees on-site would not substantially damage scenic resources, and impacts would be less than significant.

The State of California Department of Transportation designates scenic highway corridors. The project site is not within a state scenic highway, nor is the project site visible from any (officially designated or eligible) scenic highway, and there are no state scenic highways adjacent to or near the project site. State Route 1 (SR-1), also known as Pacific Coast Highway (or as East or West Coast Highway within the City of Newport Beach), is located adjacent to and south of the project site. Although SR-1 is deemed eligible for state scenic highway designation, it is currently not officially designated.¹ It should be noted that although East Coast Highway is not a designated state scenic highway, the City of Newport Beach General Plan and CLUP designate it as a Coastal View Road. Nonetheless, the project would not damage scenic resources in a state scenic highway, and therefore impacts would be less than significant.

2. Agricultural and Forestry Resources

The project site is mapped as Urban and Built-Up Land on the Orange County Important Farmland 2010 map issued by the Division of Land Resource Protection. The site is in an urbanized area of the City and is developed with a vehicle storage lot and marine-related recreation uses. The project would not convert farmland to nonagricultural use, and no impact would occur.

The project site and surrounding development are not zoned for agricultural purposes. The project site is currently zoned PC-9 and CM. Under Williamson Act contracts, private landowners voluntarily restrict their land to agricultural land and compatible open-space uses; in return, their land is taxed based on actual use rather than potential market value. There are no Williamson Act contracts in effect on or adjacent to the site, and the project would not conflict with such a contract. No impact would occur.

Forest land is defined as “land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public

¹ California Department of Transportation. “Officially Designated Scenic Highways and Historic Parkways.” http://www.dot.ca.gov/hq/LandArch/scenic_highways/index.htm. Accessed September 2012.

benefits” (California Public Resources Code Section 12220[g]). Timberland is defined as “land...which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees” (California Public Resources Code Section 4526). The site is zoned Planned Community (PC-9) and Marine Commercial (CM), and there is no zoning on the site for forest land, timberland, or timberland production. Further, no forest land exists within or near the project boundaries. No impact would occur.

The site is developed with asphalt-paved parking lots, storage garages, and recreational vehicle, boat, and marine equipment storage areas. There is no forest land located on-site. The project would not convert forest land to non-forest use, and no impact would occur.

There is no agricultural production on or adjacent to the project site. Future development on-site would not indirectly result in conversion of farmland to non-agricultural use or forest land to non-forest use, and no impact would occur.

3. Air Quality

Potential sources of odors during construction activities include the use of architectural coatings and solvents. The activities and materials associated with project construction would be typical of construction projects of similar type and size. Any odors that may be generated during construction or operation of the project would be localized and temporary in nature and would not be sufficient to affect a substantial number of people or result in a nuisance as defined by SCAQMD Rule 402. As such, impacts with regard to odors would be less than significant.

According to the SCAQMD *Air Quality Analysis Guidance Handbook*, land uses associated with odor complaints typically include agricultural uses, wastewater treatment plants, food processing plants, chemical plants, composting, refineries, landfills, dairies, and fiberglass molding. The project involves the future development of restaurant, retail, and residential uses (and associated parking) and would not introduce any major odor-producing uses that would have the potential to affect a substantial number of people. Only limited odors associated with project operations would be generated by on-site solid waste generation and storage, the use of certain cleaning agents, and/or restaurant uses, all of which would be consistent with existing conditions on-site and in the surrounding area. Odor impacts during project operations would be less than significant.

4. Biological Resources

The project site is located within the Coastal Subarea of the Orange County Central-Coastal Natural Communities Conservation Plan (NCCP). However, the site is designated as “Developed” in the NCCP, and is not within an area designated as a preserve under the NCCP. The closest designated NCCP preserve is Upper Newport Bay Ecological Reserve located approximately 1,000 feet northeast of the project site at the closest point. The project site is not located within the plan areas of any habitat conservation plans other than the NCCP. It should be noted that while the De Anza Bayside Marsh Peninsula (within Planning Area 5 of the project site) is designated as an Environmentally Sensitive Area (ESA) in the City’s General Plan and CLUP, no physical changes to this portion of the site are contemplated under the proposed project. As such, no impact would occur in this regard.

5. Geology and Soils

Fault rupture is defined as the displacement that occurs along the surface of a fault during an earthquake. Based on criteria established by the California Geological Survey (CGS), faults can be classified as active, potentially active, or inactive.² Active faults are those having historically produced earthquakes or shown evidence of movement within the past 11,000 years (during the Holocene Epoch).³ Potentially active faults have demonstrated displacement within the last 1.6 million years (during the Pleistocene Epoch), but do not displace Holocene Strata. Inactive faults do not exhibit displacement younger than 1.6 million years before the present. In addition, there are buried thrust faults, which are low angle reverse faults with no surface exposure. Due to their buried nature, the existence of buried thrust faults is usually not known until they produce an earthquake.

The seismically active Southern California region is crossed by numerous active and potentially active faults and is underlain by several blind thrust faults. Alquist-Priolo Earthquake Fault Zones (formerly Special Study Zones) have been established throughout California by CGS. These zones, which extend from 200 to 500 feet on each side of a known active fault, identify areas where potential surface rupture along an active fault could prove hazardous and identify where special studies are required to characterize hazards to habitable structures.

The project site is not located within an established Alquist-Priolo Fault zone. The nearest active faults to the project site are the Newport-Inglewood Fault Zone (L.A. Basin and Off-shore segments) located 2.5 and 2.8 miles from the site respectively, and the San Joaquin Hills Blind Thrust, located approximately 6.4 miles from the project site.⁴ Active faults with the potential for surface rupture are not known to be located beneath the project site. Therefore, the potential to expose people to impacts from fault rupture resulting from seismic activity during the design life of the buildings is considered less than significant.

No slope areas considered susceptible to landslides or other slope failure exist on-site. Although the raised Coast Highway corridor bisecting the project site is sloped down to ground level on either side of the bridge approach, the roadway was engineered and constructed to industry standards, and therefore the potential for slope failure in this area is considered low. Given the distance of natural slope areas from the project site and relatively flat topography on-site, less than significant impacts related to landslides are anticipated to occur.

Expansive soils are typically associated with fine-grained clayey soils that have the potential to shrink and swell with repeated cycles of wetting and drying. The project area is characterized by sandy granular soils that exhibit low clay content and very low expansion potential.⁵ Although not anticipated, expansive soils, if encountered within the project site, would be removed and/or replaced as part of standard construction practices pursuant to the City of Newport Beach and/or CBC building requirements. Therefore, project

² California Department of Conservation, California Geological Survey. "California Geological Survey - Alquist-Priolo Earthquake Fault Zoning Act," http://www.consrv.ca.gov/cgs/rghm/ap/Pages/main.aspx#what_is_fault. Accessed September 2012.

³ *Ibid.*

⁴ Leighton Consulting, Inc. "Preliminary Geotechnical Engineering Evaluation For The Proposed Back Bay Landing - Mixed-Use Waterfront Development Legislative Approvals (GPA, CLUPA, Etc.), Bayside Drive And Pacific Coast Highway, Newport Beach, California." March 2, 2012.

⁵ *Ibid.*

implementation would result in less than significant impacts associated with expansive soils and substantial risks to life or property would not occur.

The project site is located in an urbanized area served by existing wastewater infrastructure, and therefore no septic tanks or alternative wastewater disposal systems would be required. As such, the project would not result in impacts related to the ability of soils to support septic tanks or alternative wastewater disposal systems. No impacts would occur.

5. Hazards and Hazardous Materials

Hazardous materials may be used during the construction phase of the project's development components. Hazardous materials that may be used include, but are not limited to, fuels (gasoline and diesel), paints and paint thinners and possibly herbicides and pesticides. Generally these materials would be used in concentrations that would not pose significant threats during the transport, use and storage of such materials. Furthermore, it is assumed that potentially hazardous materials would be contained, stored, and used in accordance with manufacturers' instructions and handled in compliance with applicable standards and regulations, including California Occupational Safety and Health Administration requirements, and Title 8 and 22 of the Code of California Regulations. Accordingly, risks associated with hazards to the public or environment posed by the transport, use or disposal of hazardous materials during construction are considered less than significant due to compliance with applicable standards and regulations.

Over the long-term, the project would not involve facilities that include the storage, use, disposal, or generation of substantial amounts of hazardous materials or wastes. While ongoing landscape and building maintenance activities may involve the occasional use of hazardous materials, potentially toxic or hazardous compounds associated with such maintenance activities typically consist of readily available solvents, cleaning compounds, paint, herbicides, and pesticides. These hazardous materials are regulated by stringent federal and state laws mandating the proper transport, use, and storage of hazardous materials in accordance with product labeling. Similarly, proposed dry-stack boat storage on-site may involve the use and storage of vehicle fuels such as gasoline and diesel fuel for boats, and possibly propane fuel for forklifts. However, the use and storage of these substances is not considered to present a health risk when used in accordance with manufacturer specifications and with compliance to applicable regulations.

Overall, construction and operation of the project would result in a less than significant impact with regard to routine transport, use, or disposal of hazardous materials relative to the safety of the public or the environment.

There are no schools within 0.25-mile of the project site. Newport Harbor High School is the closest school to the project site; however, it is ½-mile from the project site at the closest point. No impact would occur.

There are no private airstrips in the vicinity of the project area. Therefore, the project would not result in airport-related safety hazards for the people residing or working in the area. No impact would occur.

There is no native habitat or extensive vegetation susceptible to wildland fires on the site. As illustrated in Figure S4 of the City of Newport Beach General Plan Safety Element, the proposed project is located in an area designated as "low/none wildfire hazard." Future development would not place buildings or structures at any risk from wildland fires, and therefore no impacts would occur.

6. Hydrology and Water Quality

Implementation of the project would not deplete groundwater supplies or interfere substantially with groundwater recharge. The proposed project would incrementally decrease (by 5%) the amount of impervious surfaces on-site.⁶ Therefore, the proposed project would not result in a net increase in impermeable surface area on-site and would not adversely affect groundwater recharge or increase runoff volumes conveyed from the site during storm events. Additionally, the lack of increase in impervious surfaces on-site would be consistent with Policy HB 8.20 (Impervious Surfaces) of the Newport Beach General Plan Harbor and Bay Element, which requires new development to minimize the creation of and increase of impervious surfaces. Furthermore, the project site is not in a designated groundwater recharge area and does not serve as a primary source of groundwater recharge. Impacts would be less than significant.

The Federal Emergency Management Agency (FEMA) maintains and updates the National Flood Insurance Program (NFIP) maps, which identify community flood hazard zone designations. The project site has been designated as Zone X, meaning that it is outside of 100-year and 500-year flood zones. No impact would occur.

The project area is not located within a 100- or 500-year floodplain. Thus, no impacts would occur.

7. Land Use and Planning

While there are several developed residential, commercial, and public facility uses within the project vicinity, no established communities are located within the affected portions of project site that could be physically divided by future development. Therefore, no impacts related to the physical division of an established community would result from the proposed project.

The project would have no potential to conflict with a Habitat Conservation Plan or Natural Community Conservation Plan, since the project site is not located within or adjacent to a designated reserve area. As such, no impact would occur.

8. Mineral Resources

There are no known local mineral resources within the project area. No known State-designated mineral resource areas have been identified within the project area. The project does not incorporate heavy industrial uses of any type or propose mineral development activities. Further, implementation of the project would not impede the potential for direct use or future exploration of mineral resources. Therefore, the project would result in no impact regarding mineral resources.

9. Noise

The project area is not located in the vicinity of a private airstrip. Therefore, the project would not expose people residing or working in the project area to excessive noise levels from such uses. No impact would occur.

⁶ Fuscoe Engineering, Inc. "Preliminary Water Quality Management Plan (P-WQMP) Back Bay Landing Redevelopment Project." August 9, 2012.

10. Population and Housing

Project implementation would not displace existing housing or people. Although project implementation would result in the removal of existing residential units (i.e., three mobile homes within the proposed LLA area), it would not displace substantial numbers of existing housing or people, since such removal would be limited to three housing units that would be offset by the future provision of up to 49 dwelling units on-site. Therefore, despite the removal of three existing housing units as part of the proposed project, impacts to existing housing or local populations would be less than significant.

11. Transportation/Traffic

The project does not allow for any future structures that would interfere with air traffic patterns, as the maximum height of future project components would be 55 feet above grade (i.e., the proposed observation tower); nor would the project increase use of any airport in more than a de minimus way. Thus, no impact regarding air traffic patterns would occur with project implementation.

12. Utilities and Service Systems

(a) Solid Waste

The City of Newport Beach has achieved over 50-percent waste diversion since 2004 through recycling and other measures and is in compliance with the California Integrated Waste Management Act of 1989 (AB939).⁷ The proposed project would comply with applicable regulations related to solid waste, including those pertaining to waste reduction and recycling. As all solid waste collection from the project site would be managed by Waste Management, Inc., which is in compliance with federal, state, and local statutes and regulations, the proposed project would be consistent with respective regulatory measures.

⁷ CalRecycle. "Jurisdiction Diversion/Disposal Rate Summary (1995 - 2006)". <http://www.calrecycle.ca.gov/LGCentral/reports/diversionprogram/JurisdictionDiversion.aspx>. Accessed September 2012.