

2. *Introduction*

2.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The California Environmental Quality Act (CEQA) requires that all state and local governmental agencies consider the environmental consequences of projects over which they have discretionary authority prior to taking action on those projects. This Draft Environmental Impact Report (DEIR) has been prepared to satisfy CEQA, as set forth in the Public Resources Code Section 21000, et seq., and the State CEQA Guidelines, 14 California Code of Regulations, Section 15000, et seq. The Environmental Impact Report (EIR) is the public document designed to provide decision makers and the public with an analysis of the environmental effects of the proposed project, to indicate possible ways to reduce or avoid environmental damage and to identify alternatives to the project. The EIR must also disclose significant environmental impacts that cannot be avoided; growth inducing impacts; effects not found to be significant; and significant cumulative impacts of all past, present and reasonably foreseeable future projects.

Pursuant to CEQA Section 21067, the Lead Agency means “the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.” The City of Newport Beach has the principal responsibility for approval of the Hyatt Regency Newport Beach Expansion project. For this reason, the City of Newport Beach is the CEQA Lead Agency for this project.

The intent of the DEIR is to provide sufficient information on the potential environmental impacts of the Hyatt Regency Newport Beach expansion (proposed project) to allow the City of Newport Beach to make an informed decision regarding approval of the project. Specific discretionary actions to be reviewed by the City are described later in Section 4.3.3, *Project Approvals*.

This DEIR has been prepared in accordance with requirements of the:

- California Environmental Quality Act (CEQA) of 1970, as amended (Public Resources Code Section 21000 et seq.)
- State Guidelines for the Implementation of the CEQA of 1970 (herein referenced as CEQA Guidelines), as amended (California Code of Regulations Sections 15000 et seq.)

The overall purpose of this DEIR is to inform the lead agency, responsible agencies, decision makers and the general public of the environmental effects of the development and operation of the proposed project. This DEIR addresses the potential environmental effects of the project, including effects that may be significant and adverse, evaluates a number of alternatives to the project, and identifies mitigation measures to reduce or avoid adverse effects.

2.2 NOTICE OF PREPARATION AND INITIAL STUDY

The City of Newport Beach determined that an EIR would be required for the proposed project and issued a Notice of Preparation (NOP) and Initial Study on December 17, 2006 (See Appendix A). Comments received during the public review period, which extended from December 18, 2006 to January 16, 2007, are contained in Appendix B.



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The NOP process is used to help determine the scope of the environmental issues to be addressed in the DEIR. Based on this process and the Initial Study for the project, certain environmental categories were identified as having the potential to result in significant impacts. Issues considered Potentially Significant are addressed in this DEIR. Issues identified as Less Than Significant or No Impact are not addressed beyond the discussion contained in the Initial Study. Refer to the Initial Study in Appendix A for discussion of how these initial determinations have been made.

2.3 SCOPE OF THIS DEIR

Based upon the Initial Study and Environmental Checklist Form, the City of Newport Beach staff determined that a DEIR should be prepared for the proposed project. The scope of the DEIR was determined based upon the City's Initial Study, comments received in response to the NOP, and comments received at the scoping meeting conducted by the City. Pursuant to Sections 15126.2 and 15126.4 of the State CEQA Guidelines, the DEIR should identify any potentially significant adverse impacts and recommend mitigation that would reduce or eliminate these impacts to levels of insignificance.

The information contained in the Project Description establishes the basis for analyzing future project-related environmental impacts. However, further environmental review by the City may be required as more detailed information and plans are submitted on a project by project basis.

2.3.1 Impacts Considered Less Than Significant

Four environmental impact categories are identified here as not being significantly affected by, or affecting the proposed project and as such are not discussed in detail in this DEIR. This determination was made by the City of Newport Beach in its preparation of the Initial Study. The following topical issues are not addressed in the DEIR:

- Agricultural Resources
- Mineral Resources
- Population and Housing
- Recreation

2.3.2 Potentially Significant Adverse Impacts

Thirteen environmental factors have been identified as potentially significant impacts if the proposed project is implemented. These factors are:

- Aesthetics
- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Public Services
- Transportation and Traffic
- Utilities and Service Systems

2.3.3 Unavoidable Significant Adverse Impacts

This DEIR identifies one significant and unavoidable adverse impact, as defined by CEQA that would result from implementation of the proposed project. Unavoidable adverse impacts may be considered significant on a project-specific basis, cumulatively significant, and/or potentially significant. Potentially significant impacts are those that fall within the responsibility of another agency and implementation of the mitigation measures cannot feasibly be assured by the City. If the City, as the Lead Agency, determines that unavoidable significant adverse impacts will result from the project, the City must prepare a “Statement of Overriding Considerations” before it can approve the project. A Statement of Overriding Considerations states that the decision-making body has balanced the benefits of the proposed project against its unavoidable significant environmental effects and has determined that the benefits of the project outweigh the adverse effects and, therefore, the adverse effects are considered to be acceptable. The impact that was found in the DEIR to be significant and unavoidable is:

Noise

Construction-related noise. Pursuant to the City of Newport Beach Municipal Code, construction activities are limited to weekdays between 7:00 a.m. and 6:30 p.m. and Saturdays from 8:00 a.m. to 6:00 p.m. The City’s Code (Section 10.28.040), however, permits exceptions to these constructions hours when the maintenance, repair, or improvement is of a nature that cannot feasibly be conducted during normal business hours. The proposed project would comply with the City’s Municipal Code, and with the exception of possible night construction for sewer and storm drain improvements in Jamboree Road (to avoid daytime lane closures), construction would occur within the limited weekday and Saturday hours as specified in the City’s Code. Regardless of compliance with the ordinance, the combination of construction activities (ranging from 42 to 83 dBA) for approximately 23 months would result in noise levels that would be considered a nuisance to surrounding residential and recreation uses. Construction noise for the improvements in Jamboree Road that are likely to occur during nighttime hours would also be considered a significant, unavoidable impact.



2.4 INCORPORATION BY REFERENCE

The following documents are incorporated by reference in this DEIR, consistent with Section 15150 of the State CEQA Guidelines, and are available for review at the City of Newport Beach.

- *City of Newport Beach General Plan Update EIR*. Prepared by EIP Associates. 2006.
- *Local Coastal Program, Coastal Land Use Plan*. Prepared by City of Newport Beach. 2005.

2.5 FINAL EIR CERTIFICATION

This DEIR is being circulated for public review for a period of 45 days. Interested agencies and members of the public are invited to provide written comments on the DEIR to the City address shown on the title page of this document. Upon completion of the 45-day review period, the City of Newport Beach will review all written comments received and prepare written responses for each comment. A Final EIR (FEIR) will then be prepared incorporating all of the comments received, responses to the comments and any changes to the DEIR that result from the comments received. This FEIR will then be presented to the City of Newport Beach for potential certification as the environmental document for the project. All persons who commented on the DEIR will be notified of the availability of the FEIR and the date of the public hearing before the City.

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The DEIR is available to the general public for review at the following locations:

- City of Newport Beach Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663
- City of Newport Beach Libraries:
 - Central Library
1000 Avocado Avenue
Newport Beach, CA 92660
 - Mariners Branch
1300 Irvine Avenue
Newport Beach, CA 92660

2.6 ISSUES TO BE RESOLVED

Section 15123(b)(3) of the CEQA Guidelines requires that an EIR contain issues to be resolved including the choice among alternatives and whether or how to mitigate significant impacts. With regard to the proposed project, the major issues to be resolved include decisions by the Lead Agency as to the following:

1. Whether this DEIR adequately describes the environmental impacts of the project.
2. Whether the benefits of the project override those environmental impacts which cannot be feasibly avoided or mitigated to a level of insignificance.
3. Whether the proposed land use changes are compatible with the character of the existing area.
4. Whether the identified goals, policies, or mitigation measures should be adopted or modified.
5. Whether there are other mitigation measures that should be applied to the project besides the Mitigation Measures identified in the DEIR.
6. Whether there are any alternatives to the project that would substantially lessen any of the significant impacts of the proposed project and achieve most of the basic project objectives.

2.7 AREAS OF CONTROVERSY

In accordance with the CEQA Guidelines, the DEIR shall identify areas of controversy known to the lead agency, including issues raised by agencies and the public. Table 2-1 summarizes the issues identified by responses to the NOP and a reference to the section of this DEIR in which these issues are evaluated. Responsible agencies, including Caltrans, the Southern California Gas Company, South Coast Air Quality Management District, California Coastal Commission, and Native Heritage Commission have submitted comments regarding analyses that should be included in the DEIR. Potential areas of controversy are likely related to comments as submitted by surrounding residents. As summarized below, concerns include the project's potential to result in impacts to existing views, increased traffic, noise impacts, and air quality impacts. General opposition to the proposed project was also expressed in the letters that are included in Appendix B of the DEIR.

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**Table 2-1
NOP Comment Summary**

Commenting Agency/Person	Comment Type	Comment Summary	Issue Addressed In:
City of Irvine (1/18/07)	Traffic	<ul style="list-style-type: none"> • Recommends that traffic consultant contact the City of Irvine traffic division to ensure that appropriate version of ITAM 3.01 is used to analyze portion of traffic analysis that lies with Irvine city limits. • Requests that appropriate mitigation be identified for any impacts that may occur on Irvine arterials or intersections. 	Section 5.11, <i>Transportation/Traffic</i>
California Coastal Commission (1/16/07)		<ul style="list-style-type: none"> • States that 2005 City of Newport Beach Coastal Land Use Plan (CLUP) does not specifically allow limited use/fractional ownership time share units in the Visitor Serving Commercial zone. Land use and development in the coastal zone should be consistent with the CLUP. • Requests that the City of Newport Beach submit an amendment to the CLUP to permit time share units. • States that the proposed project requires a Coastal Development Permit from the Coastal Commission. • Proposed project is required to meet the City of Newport Beach CLUP policies for coastal resource protection. • Documentation of Biological resources present should be provided to determine if the area is in an Environmentally Sensitive Habitat Area (ESHA). Development within the ESHA must be resource dependent, and development adjacent to ESHA must be compatible with the continuance of the ESHA. • EIR should analyze the consistency of the proposed project with the applicable policies of the CLUP and Chapter 3 policies of the Coastal Act and address impacts accordingly. 	Section 5.3, <i>Biological Resources</i> , and 5.8, <i>Land Use and Planning</i>



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Southern California Gas Company (12/18/06)	Utilities and Service Systems	<ul style="list-style-type: none"> Natural gas service can be provided from an existing gas main in area. Service provision is contingent upon contractual arrangements and various regulatory agency conditions. 	Section 5.12 <i>Utilities and Service Systems</i>
South Coast Air Quality Management District (12/21/06)	Air Quality	<ul style="list-style-type: none"> Air Quality analysis should address potential construction and long-term operational impacts. Analysis of local air quality impacts including comparison to localized significance thresholds (LSTs) is recommended. A mobile source health risk assessment is recommended for projects generating/attracting vehicle trips, especially heavy-duty diesel-fueled vehicles. All feasible mitigation measures should be utilized for significant adverse air quality impacts. EIR preparer should reference the AQMD's CEQA Air Quality Handbook, other guidance publications, and website for assistance. 	Section 5.2, <i>Air Quality</i>
State of California, Governor's Office of Planning and Research (12/14/06)	Not applicable	<ul style="list-style-type: none"> Confirmed receipt of NOP and noted distribution of NOP to appropriate state agencies and departments. 	Not applicable
Native American Heritage Commission (12/19/06)	Cultural Resources	<ul style="list-style-type: none"> Recommends record search by appropriate California Historic Resource Information Center and archaeological inventory survey if determined appropriate by records search Recommends contacting Native American Heritage Commission (NAHC) for input on potential tribal resources. Provisions should be included for potential discovery of subsurface archaeological resources or human remains. 	Section 5.4, <i>Cultural Resources</i>

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State of California Department of Transportation (Caltrans) (1/16/07)	Transportation and Traffic	<ul style="list-style-type: none"> EIR should evaluate potential traffic circulation and increase demand on State Transportation Facilities. Requests the use of the Highway Capacity Manual (HCM) method for analysis of traffic impacts to State Transportation Facilities. Any activity in Caltrans' right-of-way will require an encroachment permit 	Section 5.11, <i>Transportation/Traffic</i>
Island Lagoon Homeowners Association (Terry Smith, Community Manager)(1/10/07) and the following Sea Island Community Residents: Donna Marie Acker Donna Albertson C.L. Alexander Steve and Kathy Anter Michael & Jeanette Arterian Martha G. Beauchang (sp?) Richard & Rita Berube Charles & Sylvia Berreman Robert C. Browning PP and AA Cleise (sp?) Frank C. Buckley William J. Corkett Yvette M. ____ (sp?) Louis and Christianne D'Ambrosio ____ A. DeVito (sp?) Mike Fossier Robert E. George Marie J. Griffith William D. Griffith K. Courtenay Hawkins, Jr. Linda W. Kelly Suresh A. Khemlani James Liberty & Tiffany Ward Liberty Karen L. Lucian Amal Malek Mervat Malek Karen and Roger Mohrhoff Geral S. Morris and Gay G. Morris James and Katherine Murphy Don M. & Cynthia S. Norman Naonia Anabtauri (sp?) O. Don Ostler John & Erin Patton Sam P. Ponzio Enid Rice (sp?)	Noise	<ul style="list-style-type: none"> Concern about increased noise levels 	Section 5.9, <i>Noise</i>
	Aesthetics	<ul style="list-style-type: none"> Concerned about adverse effect on views from Sea Island/Island Lagoon Community 	Section 5.1, <i>Aesthetics</i>
	Traffic and Air Quality	<ul style="list-style-type: none"> Concern about increase in traffic and air quality 	Section 5.2, <i>Air Quality</i> Section 5.11, <i>Transportation and Traffic</i>
	Aesthetics	<ul style="list-style-type: none"> Potential adverse conditions due to additional light and glare 	Section 5.1, <i>Aesthetics</i>
	General	<ul style="list-style-type: none"> Express strong opposition to project, and concern that project will lower property values and lower the quality of life for Sea Island community residents 	Economic issues are not the purview of CEQA. Specific issues addressed as noted above.



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NOP Comment Summary

Commenting Agency/Person	Comment Type	Comment Summary	Issue Addressed In:
Adrienne Rosen Anne Schopick Bruce J. Schwartz Maria and Andrew Serednycky (sp?) Robert J. Shackleton Cynthia Ann Sills Jay Adam Sills Thomas S. Tedesco Paul & Eila Ulyett Alix Vincent Michael & Sue Ellen Volpe Tong Sung Yoon & Young Ku Yoon			

2.8 MITIGATION MONITORING

Public Resources Code Section 21081.6 requires that agencies adopt a monitoring or reporting program for any project for which it has made findings pursuant to Public Resources Code 21081 or adopted a Negative Declaration pursuant to 21080(c). Such a program is intended to ensure the implementation of all mitigation measures adopted through the preparation of an EIR or Negative Declaration.

The Mitigation Monitoring Program for the Hyatt Regency Newport Beach Expansion will be completed as part of the Final EIR and will be completed prior to consideration of the project by the City of Newport Beach City Council.