

# 1. INTRODUCTION

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This document is a Draft Environmental Impact Report (Draft EIR) that has been prepared at the direction and under the supervision of the City of Newport Beach (City) in accordance with the California Environmental Quality Act (CEQA) and the Guidelines for California Environmental Quality Act (CEQA Guidelines), as amended.<sup>1,2</sup> Bayside Village Marina, LLC, the project applicant, is seeking legislative approvals for the future development of the Back Bay Landing Project (herein referred to as the “proposed project”). The Back Bay Landing project is proposed to be an integrated, mixed-use waterfront village on 6.974 acres in the City of Newport Beach.

A detailed discussion of the proposed project is provided in Chapter 2, *Project Description*, of this Draft EIR.

## 1. PURPOSE OF THE EIR

The City of Newport Beach, as the Lead Agency under CEQA, is responsible for preparing the EIR for the proposed Back Bay Landing Project (State Clearinghouse No. 2012101003). This EIR has been prepared in conformance with CEQA (California Public Resources Code Section 21000 et seq.) and the *CEQA Guidelines* (California Code of Regulations, Title 14, Section 15000 et seq.). The principal *CEQA Guidelines* sections governing content of this document are Sections 15120 through 15132 (Content of an EIR).

In accordance with Section 15121 of the *CEQA Guidelines*, a primary purpose of this EIR is to provide decision-makers and the public with specific information regarding the environmental effects associated with the proposed project, identify ways to minimize the significant effects and describe reasonable alternatives to the proposed project. In addition, this EIR is the primary reference document in the formulation and implementation of a mitigation monitoring and reporting program for the proposed project.

The City, which has the principal responsibility of processing and approving the proposed project, will use and consider information in this EIR, along with other information that may be presented during the CEQA process, during the decision to approve, disapprove, or modify the proposed project. Significant environmental impacts cannot always be mitigated to a level considered less than significant; in those cases, impacts are considered significant and unavoidable. In accordance with Section 15093(b) of the *CEQA Guidelines*, if a public agency approves a project that has significant impacts that are not substantially mitigated (i.e., significant unavoidable impacts), the agency shall state in writing the specific reasons for approving the project, based on the Final EIR and any other information in the public record for the project. This is termed, per Section 15093(b) of the *CEQA Guidelines*, a “statement of overriding considerations.”

This document analyzes the environmental effects of the proposed project to the degree of specificity appropriate to the currently proposed actions (which are legislative and minor administrative approvals only), as required by Section 15146 of the *CEQA Guidelines*. This analysis considers the actions associated with the proposed project, to determine the short-term and long-term effects associated with their

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<sup>1</sup> *Public Resources Code Section 21000-21178.*

<sup>2</sup> *California Code of Regulations Title 14, Chapter 3, Section 15000-15387.*

implementation. This EIR discusses both the direct and indirect impacts of this proposed project, as well as the cumulative impacts associated with other past, present, and reasonably foreseeable future projects. CEQA requires the preparation of an objective, full disclosure document to inform agency decision makers and the general public of the direct and indirect environmental effects of the proposed action; provide mitigation measures to reduce or eliminate significant adverse effects; and identify and evaluate reasonable alternatives to the proposed project.

This Draft EIR is intended to serve as a Project EIR under CEQA. Section 15161 of the *CEQA Guidelines* states that a Project EIR should focus primarily on changes in the environment that would result from development of the proposed project. The proposed actions are all legislative approvals, with the exception of the traffic impact study and lot line adjustment; however, no approvals which would directly allow site development are proposed at this time. A Project EIR must examine all phases of a project, including planning, construction, and operation. Future development in accordance with the legislative actions addressed in this EIR is also addressed in this EIR, to the extent possible based on the available information. This Project EIR is intended to provide the environmental information necessary for the City to make a final decision on the requested entitlements for this proposed project. This EIR is also intended to support discretionary reviews and decisions by other agencies.

## 2. COMPLIANCE WITH CEQA

The Draft EIR is subject to a 45-day public review period by responsible and trustee agencies, members of the public and other interested parties. In accordance with the provision of Sections 15085(a) and 15087(a)(1) of the *CEQA Guidelines*, the City, serving as the Lead Agency will: 1) circulate a Notice of Availability of a Draft EIR to all residents within a minimum of 300 feet of the project site, in addition to public agencies, interested individuals, and/or organizations that commented on the Notice of Preparation (NOP), 2) publish a notice in the Daily Pilot, a newspaper of general circulation in the project area, 3) post a notice at the project site and at the Newport Beach City Hall, and 4) prepare and transmit a Notice of Completion (NOC) to the State Clearinghouse. Proof of publication is available at the City. The NOA indicates the Draft EIR will be available for review at: the City's website - <http://www.newportbeachca.gov/ceqadocuments>; the City Planning Division offices located at 100 Civic Center Drive, Newport Beach, CA 92660; the Newport Beach Public Library – Central Library located at 1000 Avocado Avenue, Newport Beach, CA 92660; the Newport Beach Public Library – Mariners Branch located at 1300 Irvine Avenue, Newport Beach, CA 92660; the Newport Beach Public Library – Balboa Branch located at 100 East Balboa Boulevard, Newport Beach, CA 92660; and the Newport Beach Public Library – Corona del Mar Branch located at 420 Marigold Avenue, Corona Del Mar, CA 92625. All comments on the Draft EIR should be addressed to:

Jaime Murillo, Senior Planner  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660  
Re: Back Bay Landing Project  
Or via e-mail at: [jmurillo@newportbeachca.gov](mailto:jmurillo@newportbeachca.gov)

Any public agency or members of the public desiring to comment on the Draft EIR must submit their comments in writing to Mr. Jaime Murillo at the above referenced mailing or e-mail address prior to the end of the public review period. Upon the close of the public review period, the Lead Agency will then proceed to

evaluate and prepare written responses to all relevant written comments received from both citizens and public agencies during the public review period. The City's responses at this point in the process will be limited to issues relating to the adequacy of the EIR, and not the relative merits of the proposed project.

The Final EIR will consist of the Draft EIR, corrections and additions to the Draft EIR, responses to comments addressing concerns raised by responsible agencies or reviewing parties and a mitigation monitoring and reporting program (MMRP). After the Final EIR is completed and at least 10 days prior to its certification, a copy of the response to comments made by public agencies on the Draft EIR will be provided to the respective agency.

### **3. EIR SCOPING PROCESS**

In compliance with the *CEQA Guidelines*, the City has provided opportunities for the public to participate in the environmental review process. During the preparation of the Draft EIR, an effort was made to contact various federal, State, regional, and local government agencies and other interested parties to solicit comments and inform the public of the proposed project. This included, as further described below, the distribution of a Notice of Preparation (NOP) and public scoping meeting.

#### **a. Notice of Preparation**

Pursuant to the provision of Section 15082 of the *CEQA Guidelines*, the City circulated a NOP to public agencies, special districts, and members of the public for a 30-day period commencing October 1, 2012 and ending October 30, 2012. Copies of the NOP were also subsequently distributed to additional property owners and filed at the County Clerk's office on October 4, 2012, and consequently the public comment period was extended to November 15, 2012. The purpose of the NOP was to formally communicate the City's intent to prepare a Draft EIR for the proposed project, and to solicit input regarding the scope and content of the environmental information to be included in the EIR. A brief description of the proposed project was included in the NOP, along with physical locations where the Initial Study for the proposed project could be reviewed and the website address where an electronic copy of the Initial Study could be reviewed. The NOP indicated that the City of Newport Beach determined that there is substantial evidence that significant effects may occur from the project, thereby necessitating the preparation of an EIR. The EIR addresses the following topical areas with potentially significant impacts as identified in the NOP: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Population and Housing, Public Services, Recreation, Transportation/Traffic, Utilities and Service Systems, and Cumulative Impacts. The Initial Study and NOP are provided in Appendix A, *Initial Study/Notice of Preparation/NOP Comment Letters*, of this Draft EIR.

#### **b. NOP and Scoping Results**

The Initial Study/NOP was distributed to the public and various public agencies in order to receive input on the scope and content of the environmental analysis to be provided in this EIR. The City advertised a public scoping meeting in association with publication and distribution of the NOP. The meeting was held on October 17, 2012 at the Newport Beach Central Library, located at 1000 Avocado Avenue, Newport Beach, CA 92660. The meeting was held to provide interested individuals/groups and public agencies the opportunity to provide input to the lead agency regarding the scope and focus of the EIR as described in the NOP. In an effort to ensure comments were accurately recorded, the City requested that all comments be

submitted in writing by either completing a comment form available at the meeting or providing written comments by mail, fax, or via e-mail. Comments on the scope and content of the EIR were received from the following agencies, organizations, and individuals:

### **Federal Agencies**

No comments were received from any federal agencies.

### **State Agencies**

- Governor's Office of Planning and Research
- South Coast Air Quality Management District
- State Lands Commission
- Department of Transportation
- Department of Toxic Substances Control
- Department of Fish and Game
- Native American Heritage Commission

### **Utilities**

- Orange County Sanitation District
- Southern California Gas Company

### **Local Agencies**

- City of Irvine

### **Organizations**

- Bayside Village Homeowner Association
- California Cultural Resource Preservation Alliance, Inc.

### **Individuals**

- Unidentified commenter ("BarryW5@aol.com")
- Sharon Haire
- Margo O'Connor
- Allyson Presta
- Larry Van Pelt
- Phil Drachman

## 4. SUMMARY OF NOP COMMENTS

The following list summarizes the environmental concerns raised by public agencies, organizations, or individuals in response to the NOP (the numerical reference in parenthesis is the EIR section in which the analysis is provided). All NOP comments received are contained in Appendix A of this Draft EIR.

- Construction-related and operational air pollutant emissions and related air quality and health effects (refer to Section 4.B, *Air Quality*, of this Draft EIR);
- Tsunami risks to the project site and project effects on emergency evacuation (refer to Section 4.G, *Hazards and Hazardous Materials*, of this Draft EIR);
- Effects of cumulative development in the area (refer to Chapter 4, *Environmental Impact Analysis*, of this Draft EIR);
- Reduced parking capacity in the project area (refer to Section 4.I, *Land Use and Planning*, of this Draft EIR);
- Decreased security for existing residents (refer to Section 4.L, *Public Services*, of this Draft EIR);
- Project-related noise level increases in the project area (refer to Section 4.J, *Noise*, of this Draft EIR);
- Increased traffic on area streets and vehicular traffic access limitations (refer to Section 4.M, *Transportation/Traffic*, of this Draft EIR);
- Loss of private community amenities associated with conceptual waterfront pedestrian access alternative (refer to Chapter 5, *Alternatives*, of this Draft EIR);
- Construction-related and operational impacts to State Route 1 (E. Coast Highway) in the project vicinity (refer to Section 4.I, *Land Use and Planning*, and Section 4.M, *Transportation/Traffic*, of this Draft EIR);
- Potential presence of undiscovered Native American or other cultural resources on-site (refer to Section 4.D, *Cultural Resources*, of this Draft EIR);
- Project-related direct and indirect impacts to marine and terrestrial biological resources in the project area (refer to Section 4.C, *Biological Resources*, of this Draft EIR);
- Potential presence of hazardous materials in on-site soil and/or groundwater from historic site activities (refer to Section 4.G, *Hazards and Hazardous Materials*, of this Draft EIR);
- View obstruction associated with increased building heights on-site (refer to Section 4.A, *Aesthetics*, of this Draft EIR);
- Project-related effects to and from the existing Orange County Sanitation District pump station located adjacent to the project site (refer to Section 4.A, *Aesthetics*, Section 4.B, *Air Quality*, Section 4.G, *Hazards and Hazardous Materials*, and Section 4.M, *Transportation/Traffic*, of this Draft EIR);
- Potential direct and indirect impacts to adjacent public trust lands and resources (refer to Section 4.C, *Biological Resources*, Section 4.H, *Hydrology and Water Quality*, Section 4.I, *Land Use and Planning*, and Section 4.L, *Public Services*, of this Draft EIR); and
- Project-related emissions of greenhouse gases and associated impacts to global climate change and sea level rise (refer to Section 4.F, *Greenhouse Gas Emissions*, of this Draft EIR).

## 5. FORMAT OF THE EIR

The EIR includes the following eight technical sections, followed by appendices:

- ES Executive Summary.** This section presents a summary of the proposed project and alternatives, potential impacts and mitigation measures, and impact conclusions regarding significant unavoidable adverse impacts and effects not found to be significant.
1. **Introduction.** This section provides: a description of the purpose of the EIR; CEQA compliance information relative to the proposed project and the EIR; a brief overview of the environmental review process; and, outlines the organization of the EIR.
  2. **Project Description.** Describes the location, details, and the objectives for the proposed project.
  3. **Basis for Cumulative Analysis.** This section contains a list of related projects anticipated to be built within the project vicinity.
  4. **Environmental Impact Analysis.** This section contains the environmental setting, project and cumulative impact analyses, mitigation measures, and conclusions regarding the level of significance after mitigation for each of the following environmental issues: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Population and Housing, Public Services, Transportation/Traffic, and Utilities and Service Systems.
  5. **Alternatives.** This section evaluates the environmental effects of the project alternatives, including the No Project Alternative. It also identifies the environmentally superior project.
  6. **Other Environmental Considerations.** This section includes a discussion of issues required by CEQA that are not covered in other chapters. This includes unavoidable adverse impacts, impacts found not to be significant, irreversible environmental changes, potential secondary effects caused by the implementation of the mitigation measures for the proposed project, and growth inducing impacts.
  7. **Document Preparation and References.** This section lists all of the persons, public agencies, and organizations that were consulted or contributed to the preparation of this EIR, as well as all the references and sources used in the preparation of the document.

This EIR includes the environmental analysis prepared for the project and appendices as follows:

- Appendix A –Notice of Preparation/Initial Study/NOP Comment Letters
- Appendix B – Air Quality Data
- Appendix C – Marine Biological Resources Assessment
- Appendix D – Cultural Resources Assessments
- Appendix E – Preliminary Geotechnical Evaluation
- Appendix F – Greenhouse Gas Data

- Appendix G – Phase I Environmental Site Assessment
- Appendix H – Preliminary Water Quality Management Plan
- Appendix I – Noise Data
- Appendix J – Public Service and Utility Correspondence
- Appendix K – Traffic Impact Analysis
- Appendix L – Hydrology/Hydromodification/Utilities Technical Memorandum