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STAFF REPORT: REGULAR CALENDAR

Map Adoption No.: MA-2017-001

Local Government: City of Newport Beach

Local Government Staff: Kimberly Brandt, Director
Community Development Department

Location: Coastal Zone area within the City of Newport Beach,
Orange County.

Map Description: Draft Post LCP Certification Permit and Appeal Jurisdiction Map, prepared by staff to depict the geographic areas where the Commission retains permit authority and where appeals of local government coastal development permit approvals are allowed within the City of Newport Beach LCP segment.

Staff Recommendation: Approval

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission **approve** the draft map prepared by staff, which show the geographic areas where the Commission retains permit authority pursuant to California Coastal Act Section 30519(b) and where appeals of the City of Newport Beach coastal development permit actions are allowed pursuant to Coastal Act Section 30603(a)(1) and (2).¹

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EXHIBITS

Exhibit 1 – Post LCP Certification Permit and Appeal Jurisdiction Index Map: County of Orange

Exhibit 2 – Draft Post LCP Certification Permit and Appeal Jurisdiction Map: City of Newport Beach

Exhibit 3 – Map 2, Balboa Island

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¹ The California Coastal Act is found in the Public Resources Code, sections 30000 *et seq.*

I. RECOMMENDED MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the draft City of Newport Beach Post LCP Certification Permit and Appeal Jurisdiction Map prepared by staff for MA-2017-001 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the draft City of Newport Beach Post LCP Certification Permit and Appeal Jurisdiction (Post Cert.) map and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Map Adoption MA-2017-001 and adopts the findings set forth below on grounds that the draft map depicts the areas where the Commission retains permit authority pursuant to Coastal Act Section 30519(b), and where appeals of City of Newport Beach coastal development permits are allowed pursuant to Coastal Act Section 30603(a)(1) and (a)(2).

II. STAFF NOTE

Local jurisdictions without adopted Post Certification (Post Cert.) maps, such as the City of Newport Beach, require map adoption in conjunction with and following Commission actions to certify its Local Coastal Program (LCP).² After the initial adoption, map revisions can be made from time to time to incorporate updates that reflect changing conditions in the Coastal Zone environment upon which the boundaries are based, and to make corrections or refinements including but not limited to those made possible by the use of more accurate data and modern mapping technology. The timing of revisions to a city or county's Post Cert. map is usually coordinated with LCP updates.

The use of geographic information system (GIS) software is presently an integral part of the map adoption, revision, and update process underway throughout the Coastal Zone, and maps that the Commission adopts through these actions will be distributed primarily in digital form in order to allow the widest possible use of consistent, official information within the Coastal Zone community.

² The City of Newport Beach's LCP was certified by the Commission on January 13, 2017 and began administering their Local Coastal Program on 1/30/2017.

III. BACKGROUND

After the Commission certifies a local government's LCP, permit authority within that jurisdiction is delegated to that local government. However, pursuant to Section 30519(b) of the Coastal Act, the Commission retains permit authority after LCP certification over developments occurring on tidelands, submerged lands, and public trust lands, whether filled or unfilled, lying within the Coastal Zone. The Commission may transfer permit authority to the local government for public trust lands that are determined by the Commission to be filled, developed, and committed to urban uses pursuant to Section 30613 of the Coastal Act.³

In addition to the Commission's retained permit jurisdiction, subsections (a) and (b) of Section 30603 of the Coastal Act define certain areas and types of development for which actions by the local government may be appealed to the Commission. Geographic appeal jurisdiction is retained, for example, on lands within 100 feet of streams' top of bank or wetlands, lands subject to the public trust that are no longer within the Commission's retained jurisdiction, lands within 300 feet of coastal bluffs, beaches, or the Mean High Tide Line (MHTL), and lands between the sea and the First Public Road (FPR) paralleling the sea.

The Commission's administrative regulations (14 CCR Section 13576) provide that a map, or maps, portraying the areas of continuing Commission permit and appeal jurisdiction be adopted in conjunction with the final LCP certification. An update procedure is also described and provides the basis for revision and re-adoption of maps by the Commission. Within these regulations is implicit the idea that, while the adopted maps should portray the various jurisdiction boundaries as accurately as possible, they remain only a depiction, a cartographic representation and not a static definition of the Commission's jurisdiction, and should not be used on their own without field determination procedures to establish a precise boundary location. Conditions on the ground may change, and thus conditions on the ground control permit and appeal jurisdiction boundary location regardless of how accurate the mapped boundary may be at the time of adoption of this map. This type of scenario warrants revision of the maps using the update procedures.

Since one basis for appeal jurisdiction of a local government's action to the Commission after certification of an LCP under subsection (a) of Coastal Act Section 30603 is whether the approved development is between the sea and the first public road, during formulation of the regulations governing the delineation of post LCP certification jurisdiction areas, the Commission also recognized that the variation and complexity of the Coastal Zone is such that a literal interpretation of the FPR definition could result in the inclusion of large areas within the Commission's post LCP certification appeal jurisdiction in which the grounds for appeal set forth in former Coastal Act Section 30603(b)⁴ may not be an issue. The regulations therefore provide that the Commission may evaluate these areas and limit the geographic area where local government permit application actions may be appealed to the Commission based on the

³ At this time the City of Newport Beach has not requested that the Commission transfer permit authority for any filled, former tidelands located within the City; however the City has indicated that they plan to pursue such a request at a future hearing.

⁴ As that provision existed in 1989, the last time Section 13577(i) of the Commission's administrative regulations, which defines FPR and which references Section 30603(b) of the Coastal Act as a standard, was revised.

designated FPR for the area in which the grounds for appeal specified in Coastal Act Section former 30603(b) are clearly an issue. Per the provisions of the administrative regulation section 13577(i)(3), the City of Newport Beach has requested limited FPR geographic appeal jurisdiction on both Balboa Island and Lido Isle. This request is discussed fully in the Findings and Declarations section below.

The Commission continues to develop its GIS capabilities and has created parcel level accuracy GIS data for permit and appeal jurisdiction boundaries covering the City of Newport Beach. The Commission's district staff and City staff have reviewed the current GIS-based version of the draft Post Cert. map and refinements have been made to reflect their comments and concerns. The City has reviewed and supports the draft Post Cert. map prepared by staff and included herein as Exhibit 2.

IV. FINDINGS AND DECLARATIONS

A. PREVIOUS DRAFT CITY OF NEWPORT BEACH POST LCP CERTIFICATION PERMIT AND APPEAL JURISDICTION MAPS

During the late 1970's and early 1980's the Commission's Mapping program began a project to complete draft Post LCP Certification Permit and Appeal Jurisdiction maps for all local governments within or partly within the Coastal Zone. The first effort consisted of producing a set of 161 draft maps using the USGS 7.5 minute quadrangle base (scale 1:24,000 or 1 inch equals 2000 feet), which was completed in 1981. The primary purpose of this project was to provide a consistent, *statewide* view of the *draft* permit and appeal boundaries for review by the local government staff, Commission staff, and other interested parties. It was fully anticipated that these maps would be reviewed and revised or refined, as indicated by the map notes and general correspondence sent out with maps for review. The area of the Coastal Zone within the City of Newport Beach is covered by map sheets 145 through 147, the Newport Beach, Tustin, and Laguna Beach quadrangles. Copies of these regional 7.5-minute quadrangle-scale draft maps were distributed for review to the Commission offices and the City in the spring of 1981.

A more detailed cadastral (parcel) scale map of the draft Post LCP Certification Permit and Appeal Jurisdiction map of the City of Newport Beach was prepared in 1978 using a 1:1,600 scale (1 inch equals 133 feet) base map obtained from the City. The draft Post Cert. map prepared using this base was sent to the City for review also in the spring of 1981 but was never scheduled for adoption. Without a corresponding LCP certification for the City of Newport Beach, both the 1:24,000 scale draft Post Cert. maps and the draft cadastral scale Post Cert. map have remained in draft status.

B. STAFF ANALYSIS

The depiction of the Commission's permit and appeal jurisdictions on the City of Newport Beach draft Post Cert. map presents no significant areas of controversy affecting the map adoption at this time. Coastal Commission staff has reviewed the revised Post Cert. map and jurisdictional

boundaries with City staff and consulted with the staff of the State Lands Commission about the granted tidelands located within the City. The Coastal Commission's retained permit jurisdiction consists entirely of lands seaward of the MHTL and public trust lands or historic tidelands, whether filled or unfilled. Its appeal jurisdiction boundary encompasses lands seaward of the FPR. The route of the designated FPR is set forth in the section entitled: **First Public Road Description**. In areas inland of the FPR the appeals jurisdiction may include areas 300 feet from the MHTL, 300 feet from the inland extent of the beach, 300 feet from the top of coastal bluffs, and also 100 feet from the upland boundaries of wetlands and streams.

As mentioned earlier in the **Background** section, while the maps portray the various jurisdiction boundaries as accurately as possible, they remain only a depiction, a cartographic representation, and not a static definition of the Commission's jurisdiction, and should not be used on their own without field determination procedures to establish a precise boundary location. Conditions on the ground may change, and thus conditions on the ground control permit and appeal jurisdiction boundary locations regardless of how accurate the mapped boundary may be at the time of adoption of this map.

Permit Jurisdiction

Geographically, the Commission's original permit jurisdiction includes tidelands, submerged lands, and public trust lands including former tidelands.⁵ The primary sources for determining the Commission's continuing permit jurisdiction in the City of Newport Beach are the City of Newport Beach Newport Harbor tidelands survey map (1/12/15), contemporary USFWS National Wetland Inventory dataset covering this area; vertical and oblique coastal aerial photography; draft Post Cert. maps 145 through 147 (Newport Beach, Tustin, and Laguna Beach quadrangles, scale 1:24,000), the map set showing potential public trust lands prepared for the Coastal Commission by the State Lands Commission staff in the late 1970's using, among other sources, tide and submerged land grant documents, and historical US Coast Survey (now known as the National Geodetic Survey) topographic maps from the 19th century.

These maps, photos, and other documents and information were analyzed to establish the public trust component, when that is the controlling permit boundary criterion. Given the complexity involved in precisely mapping public trust boundaries however, especially in areas of granted tidelands in both lower and upper Newport Bay, it is evident that the permit boundary delineation on this map may not include all areas subject to the public trust. Using the best available data and information sources, Commission staff has made a good faith attempt to map tidelands and potential public trust lands to the bulkheads associated with filled development throughout the lower harbor. In these areas, permit authority should be determined by the extent of these bulkheads, with the understanding that the bulkheads in their entirety and lands seaward of the

⁵ Tidelands, the first component of the Commission's retained permit jurisdiction, are lands lying between the lines of mean high tide and mean low tide. The Mean High Tide Line (MHTL) is the landward tidelands boundary, an ambulatory boundary that moves with changes in the profile of the shoreline, particularly in sandy beach areas. The MHTL is and has been used by the U.S. Supreme Court, the California Supreme Court, federal and state courts, the state legislature, state regulatory and administrative agencies, and local governments as the boundary between public tidelands and private uplands.

The location of the fluctuating Mean High Tide Line is determined by establishing the intersection of the shore with the plane (elevation) of Mean High Water as calculated by the National Geodetic Survey for a particular location. Surveys can be performed to establish MHTL or tidelands locations. The State Lands Commission, as administrator of California's tidelands, can and does perform such surveys.

bulkheads remain the Commission's permit jurisdiction, while development landward of said bulkheads is entirely within the City of Newport Beach's jurisdiction. This is with the understanding that permit jurisdiction boundaries are an extrapolation of the best available data and may be subject to future interpretation and determination if warranted by site specific information. Furthermore, questions regarding the exact location and extent of public trust lands must be referred to the State Lands Commission for determination. Both the Commission staff and City staff recognize that should additional public trust lands be identified in the future, those lands would be part of the Commission's retained permit jurisdiction.

In addition, legislation that became effective in 1982 provided the Commission with the ability to delegate its original permit authority over potential public trust lands to local governments under certain circumstances. Section 30613 of the Coastal Act allows the Commission, after consultation with the State Lands Commission, to make these delegations for areas that are determined to be filled, developed, and committed to urban uses. The City of Newport Beach has indicated that it plans to pursue such a request for transfer of coastal development permit authority for filled, former tidelands located within the City at a future hearing.

Review of the above-referenced primary source materials indicates that the Commission's continuing permit jurisdiction in the City of Newport Beach exists only on lands lying below the mean high tide line (MHTL), and on potential or historical public trust lands (Exhibit 2). For the purposes of the Post Cert. map proposed for adoption by the Commission for the City, the landward boundary of the Commission's retained permit jurisdiction has been drawn to follow a combination of the tidelands, submerged lands and filled tidelands upon, in and under the Pacific Ocean as illustrated on the City's tidelands map (1/12/2015), the inland extent of the active beach and marine and estuarine intertidal zones as mapped by the US Fish and Wildlife Service in its National Wetlands Inventory (NWI), and bulkhead lines as evident in contemporary high resolution aerial images of the City of Newport Beach. As reference, Commission staff has also analyzed historical aerial imagery and United States Coast Survey Historical Topographic Map, T-1392 (1875) that has led to the conclusion that much of lower Newport bay is historic tidelands and public trust lands.

Appeal Jurisdiction

The appeal jurisdiction boundary in the City of Newport Beach is mapped according to the geographic criteria specified in Section 30603(a) of the Coastal Act, and further defined in the Commission's regulations at 14 CCR Section 13577. The appeal area is shown in Exhibit 2. Along the shoreline of the Pacific Ocean and Upper Newport Bay, the appeal jurisdiction boundary is based primarily on the First Public Road paralleling the sea designation, except where the designated road is situated closer than 300 feet inland from the beach, MHTL, or top of the seaward facing bluff. In these locations the appeal jurisdiction boundary is 300 feet from the inland extent of the beach, MHTL, or top of the seaward bluff face, as appropriate, rather than measured from the First Public Road. Stream and wetland based appeal areas are located throughout the city primarily in the Banning Ranch Area (although Banning Ranch is currently an Area of Deferred Certification (ADC)), and the eastern portion of the City's LCP neighboring the Newport Coast LCP segment (where the appeals jurisdiction boundary is located 100 feet from the top of the stream channel or 100 feet landward from the upland limit of a wetland).

As with the permit jurisdiction boundary, the Commission's regulations also provide for appeal boundary revisions from time to time. (*See* 14 CCR § 13576.) Appeal boundary revisions are also intended to incorporate updates and changing conditions in the Coastal Zone environment upon which the boundaries are based, to make corrections, and to make refinements reflecting the use of more accurate data and modern mapping technology. The appeal boundary can shift even though the basis of the boundary remains unchanged.

Stream Appeal Areas

The Coastal Act specifies that, after LCP certification, developments approved by a local government within 100 feet of *any* stream are appealable. (*See* Pub. Res. Code § 30603(a)(2).) 14 CCR Section 13577(a) further specifies boundary determination criteria to be used in mapping stream appeal areas, including not only *how* to determine the appeal boundary location, but also *which* streams to identify and map. The regulation language, crafted in the early 1980's, essentially states that any stream mapped by the USGS on its standard 7.5 minute topographic quadrangle series, or any stream identified in a city or county's local coastal program should be mapped with an adjacent 100 foot appeal area on either side of the stream top of bank.

In the present day there are several important concerns regarding the use of this nearly thirty-five year old language built into the Commission's mapping regulations. The most important is that the USGS itself has ceased maintaining the quadrangle series of maps and has moved towards the use of more modern digital mapping technology.⁶ Features such as streams depicted on these legacy maps show conditions as they existed 20 to 30 years ago, and do not reflect changes that have occurred naturally or as a result of human activity. Since current conditions on the ground dictate where the stream appeal boundary should be drawn, the USGS quadrangles have now lost much of their intended value as a source of consistent, up to date information regarding streams. Many local governments have identified stream resources as part of developing an LCP for their respective segments of Coastal Zone jurisdiction using more current comprehensive sources of stream data such as the USGS National Hydrography Dataset (NHD) and the National Wetlands Inventory (NWI) that provide overlap with the more outdated USGS streams. Where local governments have integrated NWI and/or NHD into their LCP's, or have otherwise defined and/or identified streams in their LCP's, the Commission can easily map the appropriate stream appeal areas consistent with its regulations.

First Public Road Paralleling the Sea

Title 14 of the California Code of Regulations (CCR) Section 13577(i) specifies the default standard by which the First Public Road may be designated for purposes of determining appeal jurisdiction boundaries (subsection (1)), but also allows for an alternative First Public Road designation when the requirements of subsection (1) cannot be fully met (subsection (2)). In the context of the highly-fact specific circumstances on the ground, subsections (i)(1) and (i)(2) should be understood as providing alternative, but complimentary (not exclusive) ways of defining the First Public Road for purposes of determining the appeal jurisdiction boundary for Newport Beach. In other words, subsection (i)(1) is the appropriate standard for determining part of the First Public Road for purposes of setting appeal jurisdiction boundaries, whereas subsection (i)(2) is the appropriate standard for determining another part of the First Public Road. This interpretation of 13577(i) has been supported by past Commission practice.

⁶ For purposes of stream identification, these maps were replaced by the USGS National Hydrography Dataset.

14 CCR Section 13577(i)(1)- Upper Newport Bay

The language of Title 14 of the California Code of Regulations (CCR) Section 13577(i)(1) is intended to ensure that the designated “First Public Road Paralleling the Sea” extends inland around water bodies that are considered the “sea” as defined by Coastal Act Section 30115. The Coastal Commission’s regulations provide that in order for a road to qualify as the FPR, it must be a road that “does in fact connect with other public roads providing a continuous public access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.” See 14 CCR Section 13577(i)(1)(E). The appeal jurisdiction boundary, where based on the FPR under 13577(i)(1), is aligned along the inland, or landward right of way boundary.

The FPR in the Upper Newport Bay is based on a 13577(i)(1) interpretation (broadly described in the **First Public Road Description** below). The Commission finds that the FPR as described herein is consistent with all elements of 14 CCR Section 13577(i)(1) in that it extends inland around Upper Newport Bay, the water body considered the “sea” in this area, and does in fact connect with other public roads providing a continuous public access system that generally parallels and follows the shoreline of the sea. All other requirements of 13577(i)(1) are met, in that the first public road is lawfully open to uninterrupted public use and is suitable for such use (subsection (A)), is publicly maintained (subsection (B)), is an improved, all-weather road open to motor vehicle traffic in at least one direction (subsection (C)), and is not subject to any restrictions on use by the public except when closed due to an emergency or when closed temporarily for military purposes (subsection (D)).

14 CCR Section 13577(i)(2)- Santa Ana River and Banning Ranch

The language of 14 CCR Section 13577(i)(2) was intended to limit the effect of designating the FPR based on an alignment where all conditions of 14 CCR Section 13577(i)(1) could be met with the exception of 14 CCR Section 13577(i)(1)(E): specifically that the FPR connect with other public roads providing a continuous access system and generally parallels and follows the shoreline of the sea. 14 CCR Section 13577(i)(2) provides that whenever a public road exists which conforms to all provisions of (i)(1) except (i)(1)(E), the Commission may limit the extent of the Commission’s geographic appeal jurisdiction to all parcels between the Pacific Ocean and such public road and those parcels immediately adjacent of the sea inland of such public road. 14CCR Section 13577(i)(2) has been applied in many areas throughout the State when the waters of the “sea” extend landward of the generally continuous shoreline and a FPR exists seaward of this inland “sea.” In many of these instances, the Commission has designated a FPR seaward of the inland “sea”.

Staff recommends the Commission apply the provisions of 14 CCR Section 13577(i)(2) specifically to those areas inland of Pacific Coast Highway south and east of the Santa Ana River near Banning Ranch. The 13577(i)(2) configuration has been certified for the adjacent adopted City of Huntington Beach Post Cert. map in this area. An inclusive FPR around the tidal estuaries and wetlands associated with the Santa Ana River complex and in the proximity of Banning Ranch meets the requirements of 13577(i)(1)(A)-(D). However, this FPR alignment does not meet the criteria of 13577(i)(1)(E) in that it does not generally parallel or follow the

shoreline of the sea. In fact, this FPR results in an alignment that is significantly outside the Coastal Zone. This alignment would result in significant appeal jurisdiction over inland built-out neighborhoods where public access is adequately addressed in the LCP and thus is not a concern, including but not limited to all of western Newport Beach. By contrast, the FPR proposed for designation under the 13577(i)(2) configuration for the Santa Ana River/Banning Ranch area will still meet all requirements of 13577(i)(1)(A)-(D) but avoid the unintended consequence of over-including significant portions of Newport Beach within the Commission's appeal jurisdiction.

Banning Ranch is an area of deferred certification (ADC), so Commission permitting authority is retained in this area for now. Upon certification of the Banning Ranch site, policies and regulations can be put in place to address coastal resource issues of concern and importance. Upon certification of the Banning Ranch ADC, the geographic appeal jurisdiction in the Banning Ranch area would continue to be measured 100 feet from wetlands and streams, 300 feet from seaward facing bluffs, and 300 feet from the MHTL and inland extent of the beach.

When a FPR exists which conforms to all provisions of 13577(i)(1) except (i)(1)(E), the Commission has the authority to designate an alternative public road. Therefore, the Commission, using its authority under 14 CCR Section 13577(i)(2), designates Coast Highway West to Orange Street, south along Orange Street to Seashore Drive, continuing southeast along Seashore Drive to 32nd Street, northeast along 32nd Street to Balboa Boulevard as the FPR in this area and more broadly described in the **First Public Road Description** below. The appeal jurisdiction along the tidally-influenced water bodies inland of this FPR is limited to 300 feet from the MHTL or the first row of parcels, whichever is the greater distance (since the FPR designated here per 13577(i)(2) is seaward of the first row of parcels). (*See* Pub. Res. Code § 30603(a)(1).)

14 CCR 13577(i)(3)- Balboa Island and Lido Isle

14 CCR Section 13577(i)(3) states that where the Commission determines that the designation of the "first public road paralleling the sea" results in the inclusion of areas within the permit and appeal jurisdiction where the grounds for an appeal set forth in former Public Resources Code Section 30603(b)⁷ are not an issue, the Commission may take action to limit the geographic area where developments approved by a local government may be appealed to the Commission, to that area where such grounds are, in fact, an issue.

The City of Newport Beach has proposed the FPR appeal jurisdiction on both Balboa Island and Lido Isle be limited per the Commission's authority under 13577(i)(3). Section 21.52.055, B.1 of

⁷ As that provision existed in 1989, the last time Section 13577(i) of the Commission's administrative regulations, which defines FPR and which references Section 30603(b) of the Coastal Act as a standard, was revised.

The version of 30603(b) prior to its current language was amended by Ch. 1030, Stats. 1991 (which was subsequent to the last time 13577(i) was amended in 1989). That version of 30603(b) stated: "The grounds for an appeal pursuant to paragraph (1) of subdivision (a) shall be limited to one or more of the following allegations: (1) The development fails to provide adequate physical access or public or private commercial use or interfere with such uses. (2) The development fails to protect public views from any public road or from a recreational area to, and along, the coast. (3) The development is not compatible with the established physical scale of the area. (4) The development may significantly alter existing natural landforms. (5) The development does not comply with shoreline erosion and geologic setback requirements."

the City's certified Implementation Plan (IP), states that the City can only issue waivers for de minimis development in areas not located in a geographic appeal area. The designation of the FPR described in the **First Public Road Description** below results in both Balboa Island and Lido Isle being entirely within the Commission's appeal jurisdiction. The City argues that it will not have the authority to issue de minimis waivers for Balboa Island and Lido Isle if the appeal jurisdiction in this area is not limited, and that this will therefore place a significant burden of time and resources on applicants and the City. In contrast, between 2014 – 2016 (prior to certification of the City's LCP), the Coastal Commission issued approximately 35 de minimis waivers for projects on Balboa Island and Lido Isle primarily for remodels of existing single-family and two-family dwellings.

Commission action to limit the FPR geographic appeal jurisdiction in this area would result in 300 feet from the MHTL being used as the controlling geographic appeal criterion. (*See* Pub. Res. Code § 30603(a)(1).) The City contends that any developments that lie landward of 300 feet from the MHTL on both Balboa Island and Lido Isle do not present issues that are the grounds for appeal set out in former Section 30603(b). Staff has reviewed this proposal and agrees with the City that public access, public coastal views, limitations on development potential within the established physical scale of the area, and shoreline protection issues (including not significant alteration of existing landforms and compliance with shoreline erosion and geologic setback requirements) are not an issue in the areas that are 300 feet landward of the MHTL. Both islands are generally flat and completely built out at densities such that developments not compatible with existing scale or the significant alteration of existing landforms, are not likely to be approved. The development pattern is firmly established and conforms to the standards set forth in the City's certified Local Coastal Program. All of the beaches on Balboa Island are public. Lateral access to these beaches and the shoreline is provided by the Bay Front Boardwalk that circles the entire island. Vertical access is provided by 33 street ends that connect the inland public street system to the Bay Front Boardwalk; there are also 4 street ends that provide vertical access to the Grand Canal (Exhibit 3). Furthermore, Balboa Island also connects to the Balboa Peninsula via the public Balboa Island Ferry. The ferry has been providing ferry service from Balboa Island to the Balboa Peninsula since 1906. Three ferries shuttle automobiles, pedestrians, and bicyclists across Newport Channel; an average of one thousand people a day use the ferry.

On Lido Isle, vertical access to the harbor shoreline is provided by walkways within 13 street end easements (Exhibit 4). These street ends are leased to Lido Isle Association with the condition that the association maintain and operate all walkways in a manner that allows for open public access. There are public beaches at Via Genoa and at Via Trieste. The bay shoreline along the island bulkheads is also public.

Though public access is generally not an issue, staff did further evaluate preferential parking as an issue of potential concern that could adversely impact public access on both Balboa Island and Lido Isle. However, after careful consideration, staff concludes the issue of preferential parking is not a matter of actual concern since no preferential parking is presently established under the certified LCP, and any such proposal is hypothetical at this point and would require an IP amendment (see below).

The City of Newport Beach Land Use Plan (LUP) Policy 3.1.6-1 states:

“Prohibit the establishment of new preferential parking districts in the coastal zone except where such restrictions would not have a direct impact to coastal access, including the ability to use public parking.”

The City of Newport Beach Land Use Plan (LUP) Policy 3.1.6-2 states:

“Require a coastal development permit to establish new, or modify existing, preferential parking districts.”

While these LUP policies would hypothetically allow the City to incorporate regulations into the certified LCP that would allow the establishment of preferential parking areas, during the certification of the LCP the regulations included in the IP submittal were insufficient such that the Commission could not find them consistent with all applicable coastal access and recreation policies of the Land Use Plan. The City’s IP, effectively certified by the Commission on January 13, 2017, provided insufficient detail and criteria for the establishment of Preferential Parking Zones (PPZ) that would ensure compliance with LUP Policy 3.1.6-1 and the public access policies of the Coastal Act. As such, authorization of proposed PPZ regulations could not be found to be consistent with the public access policies of the certified LUP and the Coastal Act, thus, the PPZ section was removed from the IP in its entirety. Any consideration of future PPZ would require an IP amendment and findings that public access would not be adversely impacted by any proposed new PPZ.

Establishment of a PPZ on Balboa Island and Lido Isle would allow the City to implement prohibitions that prevent the public from accessing established public on-street parking spaces in a highly popular coastal area. The City’s LCP policies call for the City to create more visitor-serving parking spaces in the area, not to remove them. A PPZ in the inland areas of these islands could allow for restricting public use of established public parking seaward of the first public road and therefore restrict the public’s right to access coastal trails/walkways, the shoreline, and coastal views. Establishment of any such PPZ would therefore be inconsistent with the public access protection policies of the LCP and Chapter 3 of the Coastal Act.

Coastal access and preferential parking are statewide issues. Public transportation to these islands is limited, especially when traveling from outside of the local area. Often, personal vehicles are the only option for people to access this area. The Chapter 3 public access policies of the Coastal Act state that maximum access shall be provided for all the people, that development shall not interfere with the public’s ability to access the coast, and that lower cost facilities, including parking, shall be protected. It is fundamentally important to protect public parking supplies that support coastal access, especially in areas with high demands and limited ability to improve public parking, like Balboa Island and Lido Isle.

The implementation of resident-only parking restrictions on one street could result in an increase of use on adjacent streets, which could lead to additional requests for residential-only parking restrictions. Public parking is explicitly called out as a significant resource to be protected under the Coastal Act (Coastal Act section 30212.5). The Coastal Act sets high

standards to protect public access. Adherence to these standards is important to all residents of California. LUP Policy 3.1.6-1 explicitly prohibits the establishment of new preferential parking districts in the coastal zone except where such restrictions would not have a direct impact to coastal access, including the ability to use public parking. There are numerous other LUP policies aimed at the protection of public on-street parking spaces, such as requirements to provide adequate off-street parking, limiting the posting of “no parking” signs and red curbing, minimize curb cuts to protect on-street parking spaces, and requiring alley access to parking areas for all new development where alley access exists. The City must find consistency with these requirements in any action it may take in considering a PPZ proposal. As previously discussed, given the limited geography of Balboa Island and Lido Isle as well as the high density of public access and use on these islands, any LCP amendment proposal to establish a PPZ on these islands would likely restrict the public’s right to access coastal trails/walkways, the shoreline, and coastal views, and would likely be found inconsistent with the public access protection policies of the LCP and Chapter 3 of the Coastal Act.

In sum, preferential parking was identified as an issue of potential concern that could adversely impact public access on both Balboa Island and Lido Isle, however, as previously noted, no PPZ currently exists on either island and any PPZ proposal would require an IP amendment. Public access issues raised by a potential PPZ proposal on either Balboa Island or Lido Isle would be addressed at that time and could only be allowed if the PPZ proposal ensures that the IP is adequate to carry out the LUP policies and the necessary findings can be made to establish a PPZ in this area.

Therefore, the Commission concurs with the City’s proposal that the FPR appeal jurisdiction on both Balboa Island and Lido Isle be limited per the Commission’s authority under 14 CCR Section 13577(i)(3) as public access, public views, limitations on development potential within the established physical scale of the area, and shoreline protection are not an issue in the areas that are 300 feet landward of the MHTL.

First Public Road Description

The series of roadways and streets listed below and shown as a component of the Commission’s appeal jurisdiction boundary on the attached Exhibit 2 constitute the current route of the FPR for purposes of Coastal Act Sections 30600.5, 30601, 30603, and 30115, and all other applicable Coastal Act provisions. This system of coastal roadways and streets is consistent with, and meets the criteria set forth in 14 CCR Section 13577.

From the western City boundary adjacent to the City of Huntington Beach, the route designated as the FPR in the City of Newport Beach follows Coast Hwy. W. to Orange St., south along Orange St. to Seashore Dr., southeast along Seashore Dr. to 32nd St., northeast along 32nd St. to Balboa Blvd., southeast along Balboa Blvd. to Newport Blvd., north along Newport Blvd. to 28th St., east along 28th St. to Lafayette Ave., northeast along Lafayette Ave. to Via Lido, northwest along Via Lido to Via Oporto, north along Via Oporto to Central Ave., south along Central Ave. to intersection with Via Lido, west to and along Short St. to Clubhouse Ave., north along Clubhouse Ave. to 36th St., southwest on 36th St. to Finley Ave., southeast along Finley Ave. to Newport Blvd., south along Newport Blvd. to 32nd St., southwest along 32nd St. to Marcus Ave., northwest along Marcus Ave. to 36th St., southwest along 36th St. to Lake Ave., northwest along

Lake Ave. to 38th St., west along 38th St. to River Ave., northwest along River Ave. to Channel Pl., west along Channel Pl. to River Ave., north along River Ave. to Balboa Blvd., north along Balboa Blvd. to Coast Hwy. W., east along Coast Hwy. W. to Dover Dr., north along Dover Dr. to Westcliff Dr., east and southeast along Westcliff Dr. to Santiago Dr., west along Santiago Dr. to Polaris Dr., southeast along Polaris Dr. to Galaxy Dr., east along Galaxy Dr. to Santiago Dr., northwest along Santiago Dr. to Irvine Ave., north along Irvine Ave. to University Dr., southeast along University Dr. and northeast around the perimeter of the Four Fours Association development returning to Irvine Ave., northeast along Irvine Ave. to Mesa Dr., southeast along Mesa Dr. to Bay View Ave., northeast along Bay View Ave. to Zenith Ave., northwest along Zenith Ave. to Spruce Ave., northeast along Spruce Ave. to Bristol St., southeast along Bristol St. to Bayview Pl., south along Bayview Pl. to Bayview Way, east along Bayview Way to Jamboree Rd., northeast along Jamboree Rd. to Macarthur Blvd., south along Macarthur Blvd. to University Dr., west along University Dr. to Eastbluff Dr. and continuing southwest along Eastbluff Dr. to Back Bay Dr., west and south along Back Bay Dr. to Jamboree Rd., south along Jamboree Rd. to Coast Hwy. E., west along Coast Hwy. E. to Bayside Dr., south along Bayside Dr. to Fernleaf Ave., south along Fernleaf Ave. to Seaview Ave., northwest along Seaview Ave. to Carnation Ave., southwest along Carnation Ave. to Ocean Blvd., southeast along Ocean Blvd. to Poppy Ave., northeast along Poppy Ave. to Hazel Dr., east and northeast along Hazel Dr. to Coast Hwy. E., east along Coast Hwy. E. to Seaward Rd., south along Seaward Rd. to Evening Canyon Rd., west along Evening Canyon Rd. to Shorecliff Rd., east along Shorecliff Rd. to Morning Canyon Rd., east along Morning Canyon Rd. to Coast Hwy. E., southeast along Coast Hwy. E. to the southeast extent of the City of Newport Beach LCP boundary.

C. BISECTED PARCELS

In some areas a parcel is bisected by the appeal jurisdiction boundary. All development proposed within the appeal area defined as appealable is subject to the Commission's appellate jurisdiction. In addition, if a development is proposed partly on the portion of the parcel that forms the basis for geographic appeal jurisdiction, and partly on the remainder of the parcel, and the Commission finds that the portion of the project within its appeals jurisdiction raises a substantial issue, then it will consider the project *de novo*. The Commission's *de novo* review is of the entire project approved by the local government, including the development authorized in the permit that is outside the appeals jurisdiction.

D. DRAFT MAP REPRODUCTION

Due to the cost of reproduction, paper copies of the map index sheet (Exhibit 1) and the large scale map sheet (Exhibit 2) are not mailed to Coastal Commissioners and other interested persons who receive the report digitally via the Commission's public website. Printed copies of Exhibits 1 and 2 are available for review at the City of Newport Beach, Community Development Department, and at the Coastal Commission's offices in San Francisco and Long Beach. Full-size maps will also be available for review at the March 08-10, 2017 Commission meeting in Ventura, CA.

E. DRAFT MAP LEGEND AND MAP NOTES

One of the elements of the Commission's transition to using GIS technology is the use of standardized base maps, boundary symbols, and map notes. In order to maintain consistency throughout the Coastal Zone, Post LCP Certification Jurisdiction boundaries have been

developed using the Coastal Zone portions of the fifteen coastal counties as the basic unit. Accordingly, the map legend (Exhibit 2) includes all of the possible types of boundary and area symbols that may occur within any given County, while the draft map itself will include only those types of jurisdiction found within that area. In addition, the use of coastal counties as the basic geographic unit means that the maps may depict jurisdiction areas outside of the area for which a particular map adoption is occurring. In the case of the City of Newport Beach LCP segment, areas adjacent to, but located west of the segment within the City of Huntington Beach, and east of the segment within the City of Newport Beach, Newport Coast LCP segment, are not affected by the Commission's action to adopt the Post Cert. map for the City of Newport Beach LCP segment.

Appendix A – List of Substantive File Documents

- Draft Post LCP Certification Permit and Appeal Jurisdiction Maps (Newport Beach through Laguna Beach Quadrangles, scale 1:24,000) California Coastal Commission, 1981.
- Draft Post LCP Certification Permit and Appeal Jurisdiction Map (City of Newport Beach, scale 1:1,600) California Coastal Commission, 1978.
- National Wetland Inventory Digital Data, U.S. Fish & Wildlife Service, October 2013.
- Potential Public Trust Land Maps, (Newport Beach through Laguna Beach Quadrangles), California State Lands Commission, 1979.
- U.S. Coast Survey Historical Topographic Map, T-1392 (1875), NOAA, 2000.
- ESRI World Imagery basemap service. Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community.
- California Coastal Records Project, 2010-2016.
- U.S. Geological Survey (USGS) 7.5 Minute Series Topographic Maps, (Newport Beach through Laguna Beach Quadrangles), USGS, 1965 (revised 1981).
- Tidelands Survey, Newport Harbor, City of Newport Beach.
“TidelandsSurvey_11x17_2014” 1/12/2015.

Appendix B – Relevant California Public Resources Code Sections

30519 (a) Except for appeals to the commission, as provided in Section 30603, after a local coastal program, or any portion thereof, has been certified and all implementing actions within the area affected have become effective, the development review authority provided for in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the commission over any new development proposed within the area to which the certified local coastal program, or any portion thereof, applies and shall at that time be delegated to the local government that is implementing the local coastal program or any portion thereof.

(b) Subdivision (a) shall not apply to any development proposed or undertaken on any tidelands, submerged lands, or on public trust lands, whether filled or unfilled, lying within the coastal zone, nor shall it apply to any development proposed or undertaken within ports covered by Chapter 8 (commencing with Section 30700) or within any state university or college within the coastal zone; however, this section shall apply to any development proposed or undertaken by a port or harbor district or authority on lands or waters granted by the Legislature to a local government whose certified local coastal program includes the specific development plans for such district or authority.

(c) The commission may, from time to time, recommend to the appropriate local government local coastal program amendments to accommodate uses of greater than local importance, which uses are not permitted by the applicable certified local coastal program. These uses may be listed generally or the commission may recommend specific uses of greater than local importance for consideration by the appropriate local government.

30603 (a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

(b) (1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

(2) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) shall be limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in this division.

(c) Any action described in subdivision (a) shall become final at the close of business on the 10th working day from the date of receipt by the commission of the notice of the local government's final action, unless an appeal is submitted within that time. Regardless of whether an appeal is submitted, the local government's action shall become final if an appeal fee is imposed pursuant to subdivision (d) of Section 30620 and is not deposited with the commission within the time prescribed.

(d) A local government taking an action on a coastal development permit shall send notification of its final action to the commission by certified mail within seven calendar days from the date of taking the action.

30603.1 (a) In any city and county which so requests, the commission may adjust the inland boundary of the area within which the issuance of coastal development permits may be appealed to the commission pursuant to paragraph (1) of subdivision (a) of Section 30603. Any such adjustment shall be made solely to avoid the circumstance of having the boundary of that area bisect an individual parcel of property. The adjustment may be made landward or seaward, but shall be the minimum distance necessary, consistent with the policies of Chapter 3 (commencing with Section 30200), to avoid bisecting a parcel of property.

(b) If the commission subsequently finds that the circumstances which warranted a boundary adjustment pursuant to subdivision (a) have changed, it may, after notice to the city and county, readjust the boundary so that it is consistent with the changed circumstances. The requirements of subdivision (a) shall apply to any such boundary adjustment.

30613 (a) The provisions of subdivision (b) of Section 30519, subdivision (b) of Section 30600, and subdivision (b) of Section 30610.5, which apply to lands subject to the public trust shall not apply to any lands which may be subject to the public trust but which the commission, after consultation with the State Lands Commission, determines are (1) filled and developed and are (2) located in an area which is committed to urban uses.⁸

(b) No later than 120 days after receiving a request from a local government, the commission shall determine the lands within the jurisdiction of that local government to which the provisions of subdivision (a) apply.

(c) The provisions of this Section shall apply to lands which have been the subject of coastal development permits, local coastal programs, categorical exclusions or urban exclusions, which have previously been approved, authorized, or certified by the commission.

⁸ The Commission retains appeal jurisdiction over developments occurring on any areas transferred to the permit jurisdiction of the local government.)

Appendix C – Relevant California Code of Regulations Sections

§ 13576. Map(s) of Areas of Commission Permit and Appeal Jurisdiction.

(a) In conjunction with final Local Coastal Program certification or the delegation of coastal development permit authority pursuant to Public Resources Code Section 30600.5, whichever occurs first, the Commission shall, after public hearing, adopt a map or maps of the coastal zone of the affected jurisdiction that portrays the areas where the Commission retains permit authority pursuant to Public Resources Code Sections 30603 (a) (1) and (a)(2), or 30600.5 (d). These maps shall be drawn based on the criteria for permit and appeal boundary determinations, set forth in Section 13577 below, and will serve as the official maps of the Commission's permit and appeal jurisdiction. The Commission, in consultation with the local government, shall update these maps from time to time, where changes occur in the conditions on which the adopted maps were based, or where it can be shown that the location of the mapped boundary does not adequately reflect the intended boundary criteria. Revisions of the adopted maps shall be based on precise boundary determinations made using the criteria set forth in Section 13577. The revised maps shall be filed with the affected jurisdiction within 30 days of adoption by the Commission. In addition, each adopted map depicting the permit and appeal jurisdiction shall include the following statement:

"This map has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In addition, development may also be appealable pursuant to Public Resources Code Sections 30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and information. This plat may be updated as appropriate and may not include all lands where permit and appeal jurisdiction is retained by the Commission"

(b) In the case of local governments which have received Commission approval of their Phase III (implementation) Work Program and Budget prior to January 1, 1980, the permit and appeal area maps shall be adopted by the Commission prior to the certification becoming effective pursuant to Section 13547 of the Commission's regulations.

§ 13577. Criteria for Permit and Appeal Jurisdiction Boundary Determinations.

For purposes of Public Resources Code Sections 30519, 30600.5, 30601, 30603, and all other applicable provisions of the Coastal Act of 1976, the precise boundaries of the jurisdictional areas described therein shall be determined using the following criteria:

(a) Streams. Measure 100 feet landward from the top of the bank of any stream mapped by USGS on the 7.5 minute quadrangle series, or identified in a local coastal program. The bank of a stream shall be defined as the watershed and relatively permanent elevation or acclivity at the outer line of the stream channel which separates the bed from the adjacent upland, whether valley or hill, and serves to confine the water within the bed and to preserve the course of the stream. In areas where a stream has no discernable bank, the boundary shall be measured from

the line closest to the stream where riparian vegetation is permanently established. For purposes of this section, channelized streams not having significant habitat value should not be considered.

(b) Wetlands.

(1) Measure 100 feet landward from the upland limit of the wetland. Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

(A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;

(B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or

(C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

(2) For the purposes of this section, the term "wetland" shall not include wetland habitat created by the presence of and associated with agricultural ponds and reservoirs where:

(A) the pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; and

(B) there is no evidence (e.g., aerial photographs, historical survey, etc.) showing that wetland habitat pre-dated the existence of the pond or reservoir. Areas with drained hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands.

(c) Estuaries. Measure 300 feet landward from the mean high tide line of the estuary. For purposes of this section, an estuary shall be defined as a coastal water body, usually semi-enclosed by land, having open, partially obstructed, or intermittent exchange with the open

ocean, and in which ocean water is at least occasionally diluted by freshwater from the land. The salinity level may be periodically increased to above that of the open ocean due to evaporation. The mean high tide line shall be defined as the statistical mean of all the high tides over the cyclical period of 18.6 years, and shall be determined by reference to the records and elevations of tidal benchmarks established by the National Ocean Survey. In areas where observations covering a period of 18.6 years are not available, a determination may be made based on observations covering a shorter period, provided they are corrected to a mean value by comparison with observations made at some suitably located control tide station.

(d) Tidelands. Tidelands shall be defined as lands which are located between the lines of mean high tide and mean low tide.

(e) Submerged Lands. Submerged lands shall be defined as lands which lie below the line of mean low tide.

(f) Public Trust Lands. Public Trust lands shall be defined as all lands subject to the Common Law Public Trust for commerce, navigation, fisheries, recreation, and other public purposes. Public Trust lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed, and which were subject to the Public Trust at any time.

(g) Beaches. Measure 300 feet landward from the inland extent of the beach. The back beach, or dry beach, if it exists, shall be included. The inland extent of the beach shall be determined as follows:

(1) from a distinct linear feature (e.g., a seawall, road, or bluff, etc.);

(2) from the inland edge of the further inland beach berm as determined from historical surveys, aerial photographs, and other records or geological evidence; or

(3) where a beach berm does not exist, from the further point separating the dynamic portion of the beach from the inland area as distinguished by vegetation, debris or other geological or historical evidence.

(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean:

(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).

Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.

(i) First Public Road Paralleling the Sea.

(1) The "first public road paralleling the sea" means that road nearest to the sea, as defined in Public Resources Code Section 30115, which:

(A) is lawfully open to uninterrupted public use and is suitable for such use;

(B) is publicly maintained;

(C) is an improved, all-weather road open to motor vehicle traffic in at least one direction;

(D) is not subject to any restrictions on use by the public except when closed due to an emergency or when closed temporarily for military purposes; and

(E) does in fact connect with other public roads providing a continuous access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.

When based on a road designated pursuant to this section, the precise boundary of the permit and appeal jurisdiction shall be located along the inland right-of-way of such road.

(2) Whenever no public road can be designated which conforms to all provisions of (i)(1) above, and a public road does exist, which conforms to all provisions of (i)(1) except (i)(1)(v), the effect of designating the first public road paralleling the sea shall be limited to

the following:

(A) all parcels between the Pacific Ocean and such other public road; and

(B) those parcels immediately adjacent of the sea inland of such other public road.

(3) Where the Commission determines that the designation of the "first public road paralleling the sea" results in the inclusion of areas within the permit and appeal jurisdiction where the grounds for an appeal set forth in Public Resources Code Section 30603(b) are not an issue, the Commission may take action to limit the geographic area where developments approved by a local government may be appealed to the Commission, to that area where any such grounds are, in fact, an issue.

Post LCP Certification Permit and Appeal Jurisdiction Index Map: County of Orange

Cities of: Aliso Viejo, Costa Mesa, Dana Point, Huntington Beach, Irvine, Laguna Beach, Laguna Niguel, Newport Beach, San Clemente, Seal Beach

Index Map



Note 1

The coastal zone boundary depicted on this map may have been revised due to legislative amendments and/or minor boundary adjustments approved by the Coastal Commission pursuant to Public Resources Code §30103. The digital version of this Coastal Zone Boundary dataset (which is a conformed copy of the adopted inked version of the Coastal Zone Boundary) includes attribution that identifies each segment in which a boundary has changed as a result of legislative changes and/or minor boundary adjustments.

Note 2

The coastal zone boundary shown on this map is based on a digital version of the boundary depicted on maps adopted by the California Coastal Commission pursuant to §30103(b) of the California Coastal Act of 1976 (California Public Resources Code §30000 et. seq.), and modified from time to time by legislative amendments and Minor Boundary Adjustments. Both this depicted boundary and the digital version of this data represent conformed copies of the original adopted boundary and also reflect subsequent legislative and Coastal Commission changes. In addition to the land area delineated, the coastal zone includes all offshore islands, and extends seaward to the State's outer limit of jurisdiction.

Under the provisions of §304(a) of the federal Coastal Zone Management Act of 1972, as amended, "excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the federal government, its officers or agents."

Under the provisions of §30008 of the California Coastal Act as amended in 1978, "within federal lands excluded from the coastal zone pursuant to the federal Coastal Zone Management Act of 1972, the State of California shall, consistent with applicable federal and state laws, continue to exercise the full range of powers, rights, and privileges it now possesses or which may be granted."

Note 3

This map has been prepared to show where the California Coastal Commission retains post-LCP certification permit and appeal jurisdiction pursuant to P.R.C. §30519(b), and §30603(a)(1) and (a)(2), and §30613. In addition, developments may also be appealable pursuant to P.R.C. §30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and information. This plat may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.



Permit Jurisdiction

This area includes tidelands, submerged lands, and lands that are subject to the public trust or were subject to the public trust at any time.



Appeal Jurisdiction

This area includes lands between the sea and the designated first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100 feet of streams and wetlands and lands within 300 feet of the top of the seaward face of any coastal bluff.



First Public Road



First Public Road 14 CCR 13577(i)(2)



100 Feet from Stream Top of Bank



100 Feet from Wetland Extent



300 Feet from Top of Coastal Bluff



300 Feet from Inland Extent of Beach



300 Feet from Mean High Tide Line



Appeal Jurisdiction (P.R.C. §30613)



Areas of

Deferred Certification (ADC)

Development in this area remains subject to Coastal Commission original permit jurisdiction.



Certified Coastal Long

Range Development Plan

Development in this area either remains subject to Coastal Commission review and approval, or Coastal Commission review of projects approved under a Long Range Development Plan.



Coastal Zone Boundary



City Boundary

Note 4

The Appeal Jurisdiction shown on this map may include areas adjacent to streams depicted on the corresponding USGS 7.5 minute quadrangle maps that have been channelized or otherwise altered. Pursuant to 14 C.C.R. §13577(a), channelized streams not having significant habitat value should not be considered as a basis for delineating stream appeal jurisdiction.

Note 5

In addition to the geographic areas of appeal jurisdiction depicted hereon, the following types of development are appealable throughout the coastal zone pursuant to P.R.C. §30603 (a)(4) and (a)(5):

1. Any development approved by a county that is not designated as a principal permitted use under zoning approved pursuant to the applicable Local Coastal Program;
2. Any development that constitutes a major public works project or a major energy facility.

Note 6

In some areas individual parcels of land may be bisected by the appeal jurisdiction boundary. All development proposed within the appeal area defined as appealable is subject to the Commission's jurisdiction. In addition, if a development is proposed partly on the portion of the parcel that forms the basis for geographic appeal jurisdiction, and partly on the remainder of the parcel, and the Commission decides to hear the appeal, then the Commission reviews the local government approved permit de novo including all the development that was authorized in the permit.

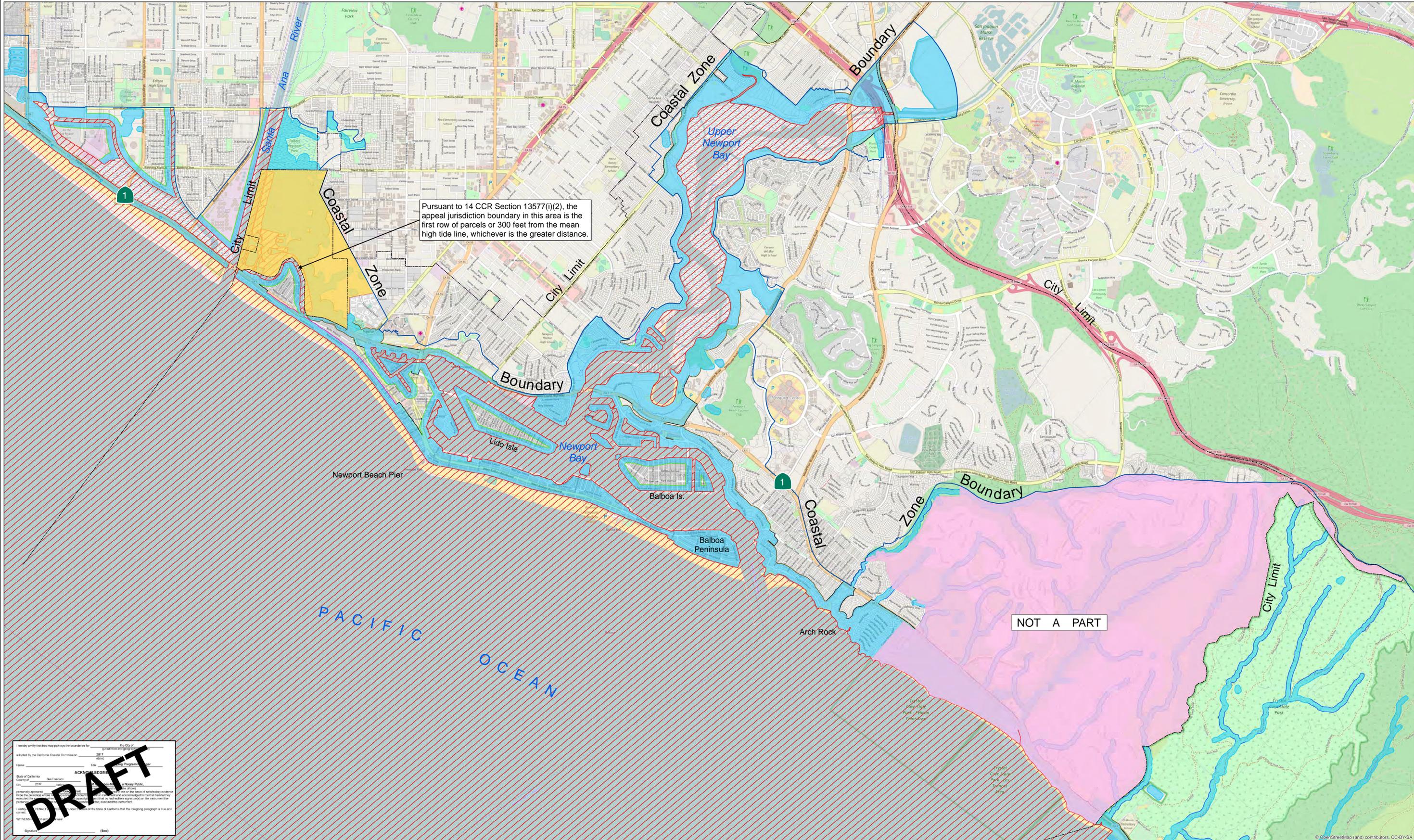
Note 7

The boundaries shown on this map are not to be used for establishing or depicting State ownership boundaries or granted tide lands and are to be used in reference to the Coastal Commission's Post LCP Certification Permit and Appeal Jurisdictions only. This map has not been approved by the California State Lands Commission, is subject to change, and may not include all lands subject to the public trust. Any questions which arise, pursuant to the public trust, should be directed to the California State Lands Commission.

Note 8

Development on Federal Lands requires a Coastal Commission Coastal Development Permit or federal consistency certification or determination.

**Exhibit 1
MA-2017-001**



I hereby certify that this map portrays the boundaries for the City of Newport Beach, California, as of the date of certification and preparation of this map.

certified by the California Coastal Commission on 08/02/2017

Name: _____ Title: _____

State of California County of Orange

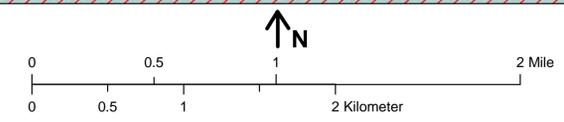
ACKNOWLEDGMENT

personally appeared before me _____ a Notary Public, duly sworn in and qualified in the State of California, and acknowledged to me that he/she/they executed the instrument.

WITNESSE:

Notary Public

(Seal)



*The Appeal Jurisdiction shown on this map may include areas adjacent to streams depicted on the corresponding USGS 7.5 minute quadrangle maps that have been channelized or otherwise altered. Pursuant to 14 C.C.R. §13577(a), channelized streams not having significant habitat value should not be considered as a basis for delineating stream appeal jurisdiction.

Exhibit 3 – Map 2, prepared by City of Newport Beach, illustrating street ends on Balboa Island with existing public access.



Exhibit 4 – Map 4, prepared by City of Newport Beach, illustrating street ends on Lido Isle with existing public access.

