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STAFF REPORT AND RECOMMENDATION ON APPEALS (SUBSTANTIAL ISSUE & DE NOVO) AND REGULAR CALENDAR

Appeal Numbers: A-5-LOB-17-0032 & A-5-LOB-20-0007

Application Number: 5-18-0788

Applicant: City of Long Beach

Local Government: City of Long Beach

Project Location: 4000 Olympic Plaza, Long Beach, Los Angeles County
(APNs: 7256-039-903 & 7256-040-903)

Project Description for A-5-LOB-17-0032:

Appeal of City of Long Beach Local Coastal Development Permit Application No. 1405-01 for construction of an approximately 125,500 sf. swimming pool complex with an indoor component with a maximum building height of 71 ft. above a 7 ft. graded plinth and outdoor component including an approx. 1,500 sf. café, 600 sf. public restroom, and 55,745 sf. of park area on a 5.8 acre beachfront site.

Local Decision: Approval with Conditions

Appellants (A-5-LOB-17-0032): Commissioner Dayna Bochco, Commissioner Effie Turnbull-Sanders, Citizens About Responsible Planning (CARP), Jeff Miller and Melinda Cotton, Renee Lawler,

A-5-LOB-17-0032, A-5-LOB-20-0007, & 5-18-0788 (Belmont Beach & Aquatic Center)
Appeals – Substantial Issue & De Novo and CDP Application

Susan Miller, El Dorado Audubon Society, Long Beach Area Peace Network, Long Beach Citizens for Fair Development, Gordana Kajer, and James Hines

Project Description for A-5-LOB-20-0007:

Appeal of City of Long Beach Local Coastal Development Permit No. 19-023 for construction of an outdoor pool complex with a 15,181 sf. approx. 29 ft. high pool facilities building with locker rooms, offices, food concessions, changing rooms, and storage rooms; 141,558 sf. hardscaped open space; 92,297 sf. of passive park area; and public restrooms and conversion of temporary pool and associated facilities to permanent structures.

Local Decision: Approval with Conditions

Appellants (A-5-LOB-20-0007): Susan Miller, Audrey Mabie, Gordana Kajer, Ashley Waugh, Kerrie Aley, Melinda Cotton, Jeff Miller, Gladys A. Moreau, CARP, Virginia Shontell, Loy Zimmerman, and Alan Songer

Project Description for 5-18-0788:

Closure of Olympic Plaza to automobile traffic, removal of park landscaping, demolition of two outdoor pools, conversion of temporary pool and associated facilities to permanent structures, and construction of an outdoor pool complex including a 12,320 sf. competitive pool, 4,560 sf. recreation pool, 1,000 sf. teaching pool, 500 sf. spa, 5,660 sf. diving well, and spray garden, 1,555 permanent seats, a 15,181 sf. approx. 29 ft. high pool facilities building with locker rooms, offices, food concessions, changing rooms, and storage rooms, 141,558 sf. hardscaped open space, 92,297 sf. passive park area, and public restrooms.

Staff Recommendation: Determine that a substantial issue exists and approve two coastal development permits with conditions following de novo review of the developments on appeal and approve a coastal development permit with conditions for the portion of the development within the Commission's retained jurisdiction.

IMPORTANT HEARING PROCEDURE NOTE: The Commission will not take public testimony during the “substantial issue” phase of the appeal(s) hearing unless at least three Commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General, or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal(s) raises a substantial issue. If the Commission takes testimony regarding whether the appeal(s) raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that a substantial issue is raised by the appeal(s), the de novo hearing will immediately follow, during which the Commission will take testimony.

STAFF NOTE: Under the Permit Streamlining Act, the timeframe for Commission action on this coastal development permit application is **November 9, 2020**, 180 days after filing of the CDP application. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling timeframes for action on permit applications in the Permit Streamlining Act for 60 days. Accordingly, the Commission must act on this CDP application on or before **December 12, 2020**.

SUMMARY OF STAFF RECOMMENDATION

The City of Long Beach is proposing to construct and operate a pool complex—the Belmont Beach and Aquatics Center (BBAC)—located in Belmont Shore Beach Park at the site of the pre-existing Belmont Plaza Olympic Pool Facility, which was demolished in 2014 due to seismic instability. The project site is beachfront and is currently developed with a public road, public park with landscaped areas and bike and pedestrian paths, and sandy area.

In March 2017, the City approved a local coastal development permit (CDP) for an enclosed, approximately 125,000 square foot, partially indoor, partially outdoor swimming pool complex with a maximum building height of 71 feet (above a 7 foot high graded plinth). This project was appealed locally and to the Coastal Commission by two Commissioners and numerous other parties for reasons including, but not limited to, concerns about the project’s vulnerability to coastal hazards given sea level rise and inconsistency with standards of the City’s certified Local Coastal Program (LCP) land use regulations and height limitations. One of the appellants also filed a Petition for Writ of Mandate challenging the City’s approvals, which was rejected by the Los Angeles Superior Court on July 17, 2018. The City waived the deadline for the Commission to hear the appeal of the original project design (A-5-LOB-17-0032) and, partly in response to the Commission’s concerns, the City revised the proposed development. Revisions include reductions of the maximum height, design changes to integrate the pool complex with the park and beach in an outdoor layout, and design changes to move to site the development landward of projected wave uprush limits.

The City processed a separate local coastal development permit in December 2019 to amend the original project to reflect the revised outdoor BBAC project. This decision was also appealed locally and to the Commission (A-5-LOB-20-0007) and the deadline for Coastal Commission action was waived. Concurrently, the City processed a project-specific LCP amendment and submitted LCP Amendment Request No. LCP-5-LOB-20-0014-1 to the Commission. The related LCP amendment—which, as proposed by the City,

A-5-LOB-17-0032, A-5-LOB-20-0007, & 5-18-0788 (Belmont Beach & Aquatic Center)
Appeals – Substantial Issue & De Novo and CDP Application

would change height, lot coverage, access, and parking standards—is addressed in a separate staff report (Item Th11a).

A portion (the inland/northern half) of the project site is located within the City’s appealable permit jurisdiction area and the other portion (the seaward/southern half) is located within the Commission’s retained permit jurisdiction. Thus, what is before the Commission is two appeals of local CDPs—one for the original project and one for the revised project—and one CDP for the portion of the development within the Commission’s retained jurisdiction area. The grounds for appeal of the local CDPs are the consistency of the City’s actions with the certified policies of the Long Beach LCP and the public access policies of the Coastal Act; if the Commission accepts the appeals, the standard of review at the de novo stage is the certified LCP. The Chapter 3 policies of the Coastal Act are the standard of review for the CDP application for development within the Commission’s jurisdiction.

Both appeals raise questions relating to the potential impacts of the BBAC project (as originally approved and redesigned) on coastal resources and inconsistencies with the certified LCP and public access policies of the Coastal Act. The appeals contend that the project is inconsistent with LCP design standards and public engagement processes, is not adequately designed to minimize risk from coastal hazards, adversely impacts visual resources and biological resources, inequitably impacts public access to the beach and to the public pools within the proposed facility, and is not a coastal-dependent use, and that there are project alternatives, including alternative project locations, that would lessen impacts to coastal resources. Regardless, staff would note that the related LCP amendment, which will also be heard at the Commission’s December meeting, is necessary in order to allow for the proposed building height which would, otherwise, exceed the development standards of the City’s certified LCP. Thus, staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which the appeal numbers A-5-LOB-17-0032 and A-5-LOB-20-0007 were filed.

If substantial issue is found for both appeals, the Commission will then review de novo the two CDP applications for the portion of the development located within the City’s permit jurisdiction and the CDP application for the portion of the development located within the Commission’s retained jurisdiction. The three CDP applications include components of a single revised project consisting of construction of an outdoor pool complex including, but not limited to, five pools for competitive and recreational aquatic activities, a spa, and a spray garden with permanent seating and a 29 foot high, approximately 15,181 square foot pool facilities building located on a 7 foot high graded plinth; construction of passive park area (approximately 92,297 square feet); and conversion of the “temporary” Myrtha pool and associated facilities to permanent structures.

Commission staff recommends that, after a public hearing, the Commission **approve Coastal Development Permit Nos.** A-5-LOB-17-0032, A-5-LOB-20-0007, and 5-18-0788 with special conditions. In order to avoid or minimize impacts associated with coastal hazards, public access, environmental justice, biological resources, water quality, and archeological, tribal cultural, and paleontological resources, staff recommends the Commission impose special conditions requiring: 1) Consistency with the LCP, 2) Final Revised Plans, 3) Final Public Access Program, 4) Breeding and Nesting Bird Surveys During Construction, 5) Final Tree Replacement Plan and Bird and Tree Monitoring Plan,

6) Conformance with Geotechnical Recommendations, 7) Archeological and Paleontological Resources Monitoring, 8) Construction Phase Pollution Prevention Plan, 9) Water Quality Protection Measures and Best Management Practices, 10) Structural and/or Non-Structural Best Management Practices, 11) Post-Development Treatment Control Best Management Practices, 12) Construction Staging Plan, 13) Shoreline Change, Sea Level Rise Monitoring, and Adaptation Program, 14) Assumption of Risk, Waiver of Liability and Indemnity, 15) No Future Bluff/Shoreline Protection Device, 16) Permit Compliance, 17) Future Improvements, 18) Conditions Imposed by Local Government.

The motions and resolutions to find substantial issue are on page 8 of this report. The motions and resolutions to approve CDPs for the project are on pages 26 and 27 of the staff report.

TABLE OF CONTENTS

I. MOTIONS AND RESOLUTIONS – SUBSTANTIAL ISSUE	7
II. APPELLANTS’ CONTENTIONS	7
III. LOCAL GOVERNMENT ACTIONS	10
IV. APPEAL PROCEDURES	12
V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE	13
A. PROJECT DESCRIPTION AND LOCATION	13
B. LOCAL COASTAL PROGRAM CERTIFICATION	15
C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS.....	15
D. SUBSTANTIAL ISSUE ANALYSIS	16
VI. MOTIONS AND RESOLUTIONS – COASTAL PERMITS	25
VII. STANDARD CONDITIONS	26
VIII. SPECIAL CONDITIONS	26
IX. FINDINGS AND DECLARATIONS – COASTAL DEVELOPMENT PERMITS	47
A. PROJECT DESCRIPTION.....	47
B. ALTERNATIVES	51
C. STANDARD OF REVIEW	52
D. COASTAL HAZARDS	52
E. PUBLIC ACCESS & RECREATION	59
F. BIOLOGICAL RESOURCES & WATER QUALITY.....	70
G. VISUAL RESOURCES & COMMUNITY CHARACTER.....	76
H. ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES	79
I. ENERGY USE & VEHICLE MILES TRAVELED.....	80
J. LOCAL COASTAL PROGRAM.....	81
K. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	81

APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Appeals (A-5-LOB-17-0032)*

Exhibit 3 – City-Approved Plans (Local CDP No. 1405-01)*

Exhibit 4 – Appeals (A-5-LOB-20-0007)*

Exhibit 5 – City-Approved Foundation Plans (Local CDP No. 19-023)*

Exhibit 6 – Sea Level Rise Projections

Exhibit 7 – City of Long Beach Community Pools

Exhibit 8 – Proposed Project Plans

**Due to the large size, only the appellants, contentions, and portions of the City-approved plans are included in the exhibits. The entire appeal file can be made available upon request.*

I. MOTIONS AND RESOLUTIONS – SUBSTANTIAL ISSUE

Motion I:

I move that the Commission determine that Appeal No. **A-5-LOB-17-0032** raises **NO Substantial Issue** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote. Following the staff recommendation on this motion will result in the Commission proceeding to conduct a de novo review of the application, and adoption of the following resolution and findings. Conversely, passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution I:

The Commission hereby finds that Appeal No. **A-5-LOB-17-0032** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access policies of the Coastal Act.

Motion II:

I move that the Commission determine that Appeal No. **A-5-LOB-20-0007** raises **NO Substantial Issue** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote. Following the staff recommendation on this motion will result in the Commission proceeding to conduct a de novo review of the application, and adoption of the following resolution and findings. Conversely, passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution II:

The Commission hereby finds that Appeal No. **A-5-LOB-20-0007** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access policies of the Coastal Act.

II. APPELLANTS' CONTENTIONS

A-5-LOB-17-0032

On March 2, 2017, the City of Long Beach Planning Commission approved a Local Coastal Development Permit (LCDP Application No. 1405-01) for the construction of the Belmont Beach and Aquatics Center (BBAC)—an approximately 125,500 square foot (sf.)

indoor swimming pool complex with a maximum building height of 78 feet (ft.), café, restroom buildings, and 55,745 sf. of park on a 5.8 acre beachfront site (**Exhibit 3**). In June 2017, during the 10 working day appeal period, the Commission received 11 appeals of the local CDP for the construction of a 78 ft. high indoor pool complex and associated park improvements at the location of the pre-existing Belmont Pool which was demolished in 2014 (**Exhibit 2**). The appellants are Commissioners Dayna Bochco and Effie Turnbull-Sanders, Citizens About Responsible Planning (CARP), Jeff Miller and Melinda Cotton, Renee Lawler, Susan Miller, El Dorado Audubon Society, Long Beach Area Peace Network, Long Beach Citizens for Fair Development, Inc., Gordana Kajer, and James Hines.

In general, the appellants raise issues with the City's analysis of coastal hazards at the project site and potential impacts of the City-approved indoor recreational and competitive pool complex on coastal resources including public access, visual resources, community character, and biological resources. Appellants contend that the project is not consistent with the requirements of the certified Long Beach LCP nor with the policies of the Coastal Act, that the environmental impact report (EIR) for the project is not adequate, and that the proposed use of the project site is not consistent with the Public Trust.

Specifically, the appellants contend:

- The new development is not coastal-dependent, which is required for facilities located on the beach per the certified LCP, and would adversely impact existing public access and recreation opportunities.
- Public access, especially public access for visitors that do not live in the affluent community of Belmont Shore, will be limited due to City prioritization of competitive events, additional traffic, elimination of parking spaces along Olympic Plaza, fees for use of the pool facilities, big events that will exacerbate traffic and parking availability, and long transportation times due to the location of the project site.
- The project does not comply with the height restrictions in the LCP and would obstruct public views of the beach and water.
- The development does not conform to other LCP policies relating to lot coverage, style, views, park dedication, and scenic routes. The City's findings regarding the necessity of a variance for the nonconformities (including the building height) were unsubstantiated.
- The development does not protect the character of the surrounding community.
- The development is not bird-safe and would adversely impact wildlife and habitat, including trees used for nesting by black-crowned night herons and snowy egrets. Mitigation of such impacts through the planting of 15 gallon replacement trees is not sufficient.
- The project site and proposed pool facility are located in an area subject to coastal hazards. The development is not sited or designed to minimize risks from hazards and the foundation would function as a seawall that would prevent the inland migration of the beach and, therefore, adversely affect public access to the beach.

A-5-LOB-17-0032, A-5-LOB-20-0007, & 5-18-0788 (Belmont Beach & Aquatic Center)
Appeals – Substantial Issue & De Novo and CDP Application

- There is insufficient geologic, geotechnical engineering, sea level rise, flooding, biologic, and transportation information to address the impacts of the development.
- There are project alternatives, not sufficiently investigated by the City, that are more consistent with the Coastal Act and certified LCP policies.
- The City did not equitably engage stakeholders and there was a lack of public participation.

After the appeals were filed in June 2017, the City waived the 49-day deadline for Commission action on the pool project and redesigned it to convert the pool facilities from a mostly indoor complex to an outdoor complex (to reduce visual resource impacts) and to move the development landward of the projected wave uprush limit with 5.7 ft. of sea level rise (to minimize risks from coastal hazards). The City issued a new CDP to incorporate revisions to the project in December 2019, which was subsequently appealed to the Coastal Commission.

A-5-LOB-20-0007

On December 19, 2019, the City of Long Beach Planning Commission moved to recommend that the City Council approve a Local Coastal Development Permit (LCDP No. 19-023) and a Local Coastal Program Amendment (LCPA19-005), among other things. As approved by the City, the revised project involves the construction of an outdoor pool complex with an approximately 29 ft. high pool facilities building, 92,297 sf. of passive park area, and maintenance of the “temporary” pool (Myrtha Pool) as a permanent facility. In February 2020, the Coastal Commission received 12 appeals of LCDP No. 19-023 for the revised outdoor pool complex (**Exhibit 4**). The appellants are Susan Miller, Audrey Mabie, Gordana Kajer, Ashley Waugh, Kerrie Aley, Melinda Cotton, Jeff Miller, Gladys A. Moreau, CARP, Virginia Shontell, Loy Zimmerman, and Alan Songer. Many of the same contentions raised in the appeal of the City’s 2017 action are also raised by the appellants for the City-approved revised project. These include claims that the development is not coastal-dependent, there are issues with the EIR, and the project would result in adverse impacts to coastal access, views, wildlife, and recreation.

Specifically, the appellants contend:

- The new development is not coastal-dependent.
- The revised project does not conform with LCP standards relating to height, style, lot coverage, and views. The shade structures, light poles, and diving platforms still exceed allowable heights and would still impact coastal views along a scenic route (Ocean Boulevard) and from other viewsheds protected by the LCP (Termino Avenue and Bennett Avenue). Thus, the project-related LCP amendment must be approved first; however, the City’s proposed changes to the LCP are contrary to the intent of the certified LCP.
- The current use of the site as a passive park is more accessible to the public than the proposed development would be. Maintenance of the park would also avoid removal of mature park trees used as habitat by wading bird species.
- The project is not consistent with Coastal Act Section 30213 (which protects lower cost visitor and recreational facilities) because there is not enough information about

swim fee alternatives or other project alternatives that would have less associated environmental and access impacts.

- Additional parking limitations and traffic created by the program elements are not consistent with Section 30212.5 of the Coastal Act (which requires the distribution of public facilities throughout the coastal zone to mitigate against overuse of a single area and will impact public access). Flooding in the parking lots, which has happened in the past, will also affect access to the site.
- The City would use \$85 million dollars of Tidelands Funds for this project that are then not available to carry out other projects included in the LCP that benefit public access and recreation.
- There are potential impacts from the project on habitat and wildlife from the noise, lights, and people associated with use of the pool complex and the recent City-contracted bird survey is flawed.
- There will be increased energy use and odors resulting from the project.
- The City conducted minimal sea level rise analysis and the project is still located in a hazardous area. The foundations (**Exhibit 5**) and plinth still effectively armor the coast at this site and setting the development back behind a line of anticipated sea level rise is insufficient given the uncertainty surrounding climate change impacts.
- A future sediment management program using sand backpassing to maintain beach width may be dangerous.
- The modifications necessary to make the “temporary” Myrtha Pool permanent were not sufficiently analyzed.
- The City did not provide information regarding the effects of the graded plinth on erosion, onsite signage, soundproofing, or facilities maintenance procedures.
- There are alternative project sites, including the Elephant Lot in the downtown shoreline area of Long Beach, that are less hazardous and could feasibly support the development with less impacts to coastal resources.
- The City’s procedures in processing the CDP for the revised project were not consistent with the public participation requirements of Section 30006 of the Coastal Act.

III. LOCAL GOVERNMENT ACTIONS

A-5-LOB-17-0032

On March 2, 2017, the City of Long Beach Planning Commission approved a Local Coastal Development Permit (LCDP Application No. 1405-01), Site Plan Review, Standards Variance, and Conditional Use Permit and certified the EIR (01-16) for the construction of the Belmont Beach and Aquatics Center (BBAC)—an approximately 125,500 sf. indoor swimming pool complex with a maximum building height of 78 ft., café, restroom buildings, and 55,745 sf. of park on a 5.8 acre beachfront site (**Exhibit 3**). This action was appealed locally to the Long Beach City Council by five parties: Jeff Miller and Melinda Cotton, Joe Weinstein, Gordana Kajer, the Long Beach Peace Area Network (Anna Christensen), and

Citizens About Responsible Planning (Ann Cantrell). On May 16, 2017, the City Council denied the appeals and upheld the Planning Commission's approval of the BBAC project.

On May 25, 2017, the Commission received the Notice of Final Local Action for local CDP Application No. 1405-01 and opened the Commission's 10 working day appeal period. 11 appeals, including an appeal from two Coastal Commissioners, were filed before the end of the appeal period (**Exhibit 2**). On June 28, 2017, the City of Long Beach waived the 49-day deadline for Commission action on the appeal.

Related Litigation

On July 14, 2017, one of the appellants, Citizens About Responsible Planning (CARP) filed a Petition for Writ of Mandate in the Los Angeles Superior Court asserting that the City's certification of the EIR was not fully compliant with CEQA and the Project approvals were inconsistent with the City's land use regulations (Case No. BS169842). On July 17, 2018, the court rejected the legal challenges to the project.

A-5-LOB-20-0007

On December 19, 2019, the City of Long Beach Planning Commission moved to recommend that the City Council approve a Local Coastal Development Permit (LCDP No. 19-023), as well as a General Plan Amendment (GPA19-001), Zoning Code Amendment (ZCA19-010), Zone Change (ZCHG19-005), Local Coastal Program Amendment (LCPA19-005), Site Plan Review (SPR19-027), and EIR Addendum (EIRA-03-19) for a modification to the City Council's previous approval of LCDP Application No. 1405-01 of the proposed BBAC, consisting of construction of a new public recreational and competitive swimming and diving pool complex at the location of the former Belmont Plaza Olympic Pool. The modified project, as recommended by the City, involves the construction of an outdoor pool complex that includes four pools, a diving well, and a spa; seating; a spray garden; an approximately 29 ft. high pool facilities building with locker rooms, offices, food concessions, changing rooms, and storage rooms; 141,558 sf. of hardscaped open space; 92,297 sf. of passive park; public restrooms; and a trash enclosure area. The Planning Commission's recommendation was appealed to the Long Beach City Council by four parties: Jeff Miller, Melinda Cotton, Susan Miller, and James Hines.

Following a public hearing that began at approximately 11:30 p.m. January 21, 2020 and ended the morning of January 22, 2020, the City Council denied the appeals and approved the project. The Notice of Final Local Action on the local CDP was received in Commission offices on January 27, 2020 and the Commission's 10 working day appeal period was opened. Before the close of the appeal period the Commission received 12 appeals (**Exhibit 4**). On February 19, 2020, the City waived the 49-day deadline for Commission action on the appeal.

Related CDP Application

On August 10, 2018 the City submitted CDP Application No. 5-18-0788 to the Commission to authorize facilities associated with the proposed BBAC that are proposed within the Commission's retained jurisdiction. That application was deemed incomplete, but the City provided additional information and it was filed on May 13, 2020. The related CDP application is addressed later in this staff report (starting at Section VI).

Related LCP Amendment

On February 19, 2020 the City submitted a request to amend the City of Long Beach certified Local Coastal Program, LCP Amendment No. LCP-5-LOB-20-0014-1 (LCPA 1-20), to allow for the proposed BBAC. The LCP amendment is addressed in a separate, but related staff report.

IV. APPEAL PROCEDURES

After certification of LCPs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on CDPs. Development approved by cities or counties may be appealed if it is located within certain geographic appealable areas, such as those located between the sea and the first public road paralleling the sea or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Section 30603 of the Coastal Act states in relevant part:

- (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 tide line 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, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

Section 30603(a)(1) of the Coastal Act establishes the project site as being in an appealable area because it is located between the sea and the first public road paralleling the sea and within 300 feet of the inland extent of any beach. The issues raised in the subject appeals, on which the Commission finds there is a substantial issue as described further below, apply to proposed development located in the appeals area.

Grounds for Appeal

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1):

- (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.

Section 30625(b)(2) of the Coastal Act requires a de novo review of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a). If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered presumed, and the Commission will proceed to the de novo portion of the public hearing on the merits of the project. A de novo review of the merits of the project uses the certified LCP as the standard of review [Section 30604(b)]. In addition, for projects located between the first public road and the sea, a specific finding must be made at the de novo stage of the appeal that any approved project is consistent with the public access and recreation policies of the Coastal Act [Section 30604(c)]. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

Qualifications to Testify before the Commission

If the Commission, by a vote of three or more Commissioners, decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, appellant(s), persons who opposed the application before the local government (or their representatives), and the local government.

Upon the close of the public hearing, the Commission will vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will immediately follow, during which the Commission will take public testimony.

V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND LOCATION

The subject project site is located within the Belmont Pier area of the City of Long Beach in Belmont Shore Beach Park (**Exhibit 1**), which is the site of the pre-existing Belmont Plaza Olympic Pool Facility that was demolished in 2014¹ due to seismic instability. This area is part of the Belmont Pier Planned Development District in the Long Beach LCP and currently has a land use designation of Park. The site is generally located between the Belmont Pier and associated parking lot to the northwest and another public beach parking lot to the southeast. It is partially located on sandy beach to the south and bounded by commercial development and Ocean Boulevard to the north. The precise project site boundaries and project descriptions differ for each of the appealed local CDPs as described in more detail in the following subsections. The proposed project plans are included in **Exhibit 8**.

¹ The City of Long Beach received authorization to demolish the indoor pool, restaurant, and locker rooms (CDP No. 5-14-1057-W) in October 2014. Demolition began late December 2014 and was completed in February 2015.

A-5-LOB-17-0032

The original City-approved design for the BBAC included an open space/park area, an outdoor café area with a public restroom, an indoor pool facility, and a pick-up and drop-off area (**Exhibit 3**). The development also included the conversion of Olympic Plaza (a street with public parking) from a roadway to a public walkway, demolition of two existing outdoor pools at the southeast corner of the site, and the removal of the temporary pool (Myrtha Pool). The temporary pool was permitted by the City to be constructed in the Bennett Avenue (or Granada) public beach parking lot to temporarily replace (while a new pool was being planned and constructed) the Belmont Plaza Olympic Pool that was demolished in 2014.

The open space/park area was proposed to be 55,745 sf., located on the west, north, and east sides of the indoor pool facility, and planted with a mix of coastal pine trees, groundcover, and shrubs, turf, and native grasses with intermittent paved walkways. The approximately 1,500 sf., one-story café and 600 sf. public restroom was approved to be located at the southeast corner of the site where the outdoor pools would be demolished. As approved, the approximately 125,500 sf. indoor pool facility was a bubble-shaped half dome made of a semi-transparent plastic compound with a maximum height of 78 ft. The facility contained an indoor 50 meter pool, diving well, teaching pool, spa, storage space, lockers, meeting rooms, offices, restrooms, viewing decks, and lobby area and an outdoor 50 meter pool and recreation pool. The pool facility would support recreation, training, and competitive events and seat up to 4,250 spectators (1,250 permanent seats).

The site would extend into the pier parking lot to the west, seaward to the regional bike and pedestrian beach path to the south, and into the beach parking lot to the east, which provides public parking for access to the beach, dog beach, volleyball courts, kitesurfing area, launch ramp, junior guards facility, temporary pool. As approved by the City, the construction of the BBAC required the removal of all trees and other park vegetation currently onsite and coverage of sandy beach area on the seaward side of the development.

A-5-LOB-20-0007

In contrast, the revised pool complex, as approved by the City in December 2019, includes all outdoor pools and a pool facilities building that is approximately 22 ft. tall (above a 7 ft. high graded plinth) surrounded by a glass wall, relocation of the southern line of development from the inland extent of the regional bike and pedestrian path to a location immediately inland of a projected 5.9 ft. of sea level rise flood limit, and maintenance of the temporary pool (Myrtha Pool) and its associated structures within the Bennett Avenue public beach parking lot. In addition, the revised project would include 305 additional permanent spectator seats, reconfigure the diving well to meet Olympic standards, locate concession stands on the plinth rather than a separate outdoor café, and add green space. Elements that remain the same between the two projects include demolition of two existing outdoor pools, closure and reconstruction of Olympic Plaza as a public walkway, and removal of landscaping and trees currently onsite for the construction of the plinth.

Specifically, the City of Long Beach approved construction of a 12,320 sf. 50 meter competitive pool, 4,560 sf. recreation pool, 1,000 sf. teaching pool, 500 sf. spa, 5,660 sf. diving well, and a spray garden and the maintenance of the “temporary” Myrtha Pool. The

BBAC would also seat 1,555 spectators in 25.5 ft. high bleachers with an approximately 42 ft. high shade structure and include a 15,181 sf. approximately 22 ft. high pool facilities building with locker rooms, offices, food concessions, changing rooms, and storage rooms. Additionally, light poles would reach up to 60 ft. above the plinth level, which, as approved by the City, would be 7 ft. above the surrounding grade (10 ft. above current sea level). Furthermore, the City-approved revised BBAC project includes 141,558 sf. of hardscaped open space, 92,297 sf. of passive park landscaped with native plants, public restrooms, a trash enclosure, bike racks, and public walkways. The City's approval of the BBAC also identified operational and programmatic elements including, but not limited to after school and weekend programs, summer swim programs, water exercise programs, and transportation options.

B. LOCAL COASTAL PROGRAM CERTIFICATION

Long Beach is a coastal city in southern Los Angeles County. In 1980, the Coastal Commission certified the City's LCP, which is comprised of a Land Use Plan (LUP) and Implementation Plan (IP) made up of a number of stand-alone documents. The City of Long Beach LCP has been amended nearly 100 times since its original certification.

The project is proposed within the Belmont Pier Planned Development area, as designated in the certified LCP. There are LCP policies and standards associated with this subarea of the Long Beach coastal zone that were approved as part of the original Long Beach LCP. This section of the LCP has also been amended twice in 1982 and 1983. The City is requesting a third amendment to this part of the LCP (LCP-5-LOB-20-0014-1) to specifically allow for this project.

For the subject appeals of local coastal development permits approved by the City of Long Beach for development located within its permit jurisdiction area, the certified LCP, along with the public access policies of the Coastal Act, are the standard of review. A portion of the project site is located within the Commission's retained permit jurisdiction and is addressed separately in following sections of this staff report.

C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) of the Coastal Act. Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,

5. Whether the appeal raises local issues, or those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor. Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that a substantial issue exists with respect to the grounds on which the appeals have been filed pursuant to Section 30603(a) of the Coastal Act.

D. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government are the project's conformity with the policies of the LCP and the public access policies of the Coastal Act. Thus, contentions relating to the adequacy of the EIR, consistency with public trust case law or requirements of the State Lands Commission, and conformance with Coastal Act policies that are not Chapter 3 public access policies and are not restated in the City of Long Beach LCP are not addressed in the following substantial issue findings. The appellants of both local CDP approvals raise several substantial issues organized by resource and discussed in detail below. In any case, an LCP amendment is necessary in order to allow for the proposed building height which would, otherwise, exceed the development standards of the City's certified LCP. Therefore, Staff is recommending that the Commission find that a substantial issue exists with respect to the grounds on which the appeals have been filed pursuant to Section 30603(a) of the Coastal Act.

Public Access and Recreation

LCP Policies

General Strand Policies, *General Recommendations (#1)*, of the LCP document states, in part:

Only beach dependent recreational facilities, such as sand volleyball courts, should be located on the beach...No windbreaks should be constructed which would block or inhibit seaward views. No commercial establishments and no additional parking should be permitted on beaches except as otherwise provided for in this LCP.

General Strand Policies, *Beach Erosion*, of the LCP document states, in part:

The following guidelines shall be followed in maintaining the configuration and composition of the ocean and bay beaches: 1. Beach Width. All beaches shall be maintained at the width established as follows: ...The Bay beach shall have a minimum width of 40' and the Ocean beach a minimum of 150'. ...

Transportation and Access Policies of the LCP document states, in part:

... A primary objective is the prevention of traffic intrusion into residential neighborhoods...

Outdoor Recreation, *Goal (a)*, of the open space policies states:

A-5-LOB-17-0032, A-5-LOB-20-0007, & 5-18-0788 (Belmont Beach & Aquatic Center)
Appeals – Substantial Issue & De Novo and CDP Application

To establish an open space recreation system that will serve all social and economic groups for both active and passive recreation.

Goal 1.3 of the Open Space and Recreation Element states:

Improve appropriate access to natural environments.

Goal 4.10 of the Open Space and Recreation Element states:

Provide access to recreation resources for all individuals in the community.

Coastal Act Policies

Section 30210, *Access; recreational opportunities; posting*, states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211, *Development not to interfere with access*, states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212, *New development projects*, states, in part:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30212.5, *Public facilities; distribution*, states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213, *Lower cost visitor and recreational facilities; encouragement and provision*, states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The City-approved development would replace an existing public park that was developed after the demolition of the Belmont Plaza Olympic Pool in 2014. The pre-existing Belmont Pool was developed on the sandy beach before the Coastal Act was enacted. The Belmont Shore Beach Park is a relatively flat site currently developed with a sandy area on the southern half and a grassy area with approximately a dozen mature trees and meandering paved bike and walking paths on the northern half. The Belmont Beach and Aquatics Center (BBAC), as approved in 2017 and 2020, would remove these improvements and construct an elevated plinth foundation to support the majority of the pool facilities, which would be surrounded by landscaped park area with walking paths.

Regarding the use of the project site, the appellants for both the City-approved 2017 project and the revised 2020 project contend that: (a) the current park use is more accessible to all members of the public than the BBAC would be, (b) a swimming pool complex is not coastal-dependent and, therefore, does not belong on the beach, and (c) the City-approved development should be treated as new development rather than a replacement of the old pool facility. The Long Beach LCP includes a policy that only beach-dependent recreational facilities should be allowed on the beach. Jeff Miller (A-5-LOB-20-0007) contends, specifically, that the purpose and function of the freshwater swimming and diving facility does not require or depend on access to the beach or ocean and is thus, not coastal-dependent. Additionally, he states that the use of \$85 million dollars of Tidelands Funds for the BBAC affects the City's ability to invest in coastal-dependent and public access projects that are called out as priorities in the certified LCP.

The City staff report for the approved 2017 development refers to the new BBAC as a replacement pool facility and analyzes its impacts compared to the previously existing Belmont Pool. Thus, the City does not acknowledge the development as a change of use from passive park to pool complex, rather from pool complex to pool complex. However, the appellants contend that the City's description of the BBAC as a competitive and recreational pool complex with large events does change the use of the site from entirely public to partially exclusive during swim meets and other events. The proposed complex is much larger than the pool that existed on the site six years ago, and is a new use compared to the beach park which exists on the site now. Therefore, the City-approved project raises significant questions as to the impacts of the use of the site on public access and recreation.

Commissioners Dayna Bochco and Effie Turnbull-Sanders, as well as other appellants of both local CDPs for the project, raise the issue that the project would fix the line of development on the beach. As described by the appellants, as the sea level rises, the public beach in front of the development will narrow and eventually disappear, limiting public access and recreation along the beach. Additionally, the appellants state that the City-approved foundation system would function as a seawall (A-5-LOB-17-0032; **Exhibit 3**) that would exacerbate erosion of the beach seaward of the facility and effectively armor the coast at this location (A-5-LOB-20-0007). As suggested by the appellants, even moving the project inland of an anticipated wave uprush limit, there would be little to no sandy beach area left as the sea level rises within the anticipated life of the project facilities, and the beach would not be able to migrate inland like it might without the City-approved development. Thus, the appellants raise significant questions as to the project's consistency with the public access policies of the certified LCP and Coastal Act.

Some of the appellants claim that the City-approved development does not maximize public access for all people because of the lack of public participation, the use of the development for competitive swimming (described above), the location, and the cost of entry. James Hines and Anna Christensen state that the stakeholder engagement process leading up to the City's 2017 approval included groups representing competitive swimming interests, City interests, and local residents at the exclusion of low-income and minority residents who may have an interest in the proposed development or the use of the City's funds on alternative public pool projects (A-5-LOB-17-0032).

Several appellants of the City's 2020 LCDP stated that the public participation process was inadequate because the City did not involve the public in or inform the public of the revisions to the project design. When the City proposed changes to the project design, there was only a technical committee of members of the public that were privy to the process, the project's website was not updated until after the City's hearings on the revised project, and the public hearing on the revised project was cancelled and then quickly rescheduled for the same date during the winter holiday season and ran from 11:30pm to 1:00am (A-5-20-0007).

In addition, Anna Christensen raises concerns that the BBAC is located in an affluent coastal area that is hard to access due to its distance from most Long Beach residents and that members of the public that do not live in the project vicinity will not spend the time and other resources to travel to the site (A-5-LOB-17-0032). The selection of the City-approved alternative, she claims, is not the least discriminatory alternative and fails to address the City's history of and role in current racial and economic discrimination, disparities, and segregation. Furthermore, James Hines and Anna Christensen contend that the fees for use of the pool facilities are not consistent with the former pool and will also be a barrier to members of the public with limited financial means. Therefore, the appellants raise significant questions regarding the City-approved development's consistency with the Coastal Act policy that requires public access be maximized and provided for all people.

Finally, several appellants of both City approvals (2017 and 2020 CDPs) contend that the large events at the BBAC would impact public access to the beach by increasing traffic and limiting parking availability. Specifically, Jeff Miller and Melinda Cotton contend that the project is not consistent with the LCP policies that discourage increased automobile traffic, reliance on cars, and intrusion of traffic into residential areas (A-5-LOB-17-0032). In addition, Ann Cantrell states that the loss of parking on Olympic Plaza will also contribute to limited parking availability (A-5-LOB-20-0007) and she and Susan Miller (A-5-LOB-17-0032) suggest that flooding, which already occurs onsite and is expected to increase in frequency and duration due to climate change, will limit access to the BBAC facilities and the beach.

In conclusion, the appellants raise several significant questions relating to the City-approved projects' use of the site, contribution to coastal squeeze, barriers to access for low income and minority residents, and impacts to traffic and parking. Therefore, a substantial issue exists as to the conformity of the City-approved local CDPs with the certified LCP and the public access policies of the Coastal Act.

Visual Resources & Community Character

LCP Policies

Belmont Pier Planned Development District, *General Development and Use Standards, Standard 3 (Building Design)*, of the LCP document states, in part:

**prior to certification of LCP Amendment No. LCP-5-LOB-20-0014-1*

- A. Style. All buildings shall be designed in appropriate coastally oriented design styles in harmony with other existing styles in the area.
- B. Height. No buildings shall exceed two stories in height or 25' above grade if located

A-5-LOB-17-0032, A-5-LOB-20-0007, & 5-18-0788 (Belmont Beach & Aquatic Center)
Appeals – Substantial Issue & De Novo and CDP Application

on-shore or two stories or 25' above the pier if located over the water.

- C. Lot Coverage. No building shall cover more than 50 percent of its site nor shall occupy more than 50 percent of its site parallel to Ocean Boulevard...
- D. Special Design Standards. All buildings shall be located and designed to provide maximum feasible amount of unobstructed views through their sites towards the beach and recreational facilities. ...

Belmont Pier Planned Development District, *Subarea 5, Building Design*, of the LCP document states, in part:

**post-certification of LCP Amendment No. LCP-5-LOB-20-0014-1, if modified as suggested*

Height. Buildings are allowed up to a height of 30 feet and visually permeable or minimally obtrusive accessory structures (including but not limited to the aquatics complex shade awnings or structures, architectural features, and diving towers) are allowed up to a height of 60 feet. Height in Subarea 5 shall be measured from the project grade datum established for the Belmont Beach and Aquatics Center Complex project, which is approximately +10'0" NAVD88.

Belmont Pier Planned Development District, *Subarea 1 Development and Use Standards, Standard 3.B.2*, of the LCP document states, in part:

The block from Termino Avenue to 43rd Place is redeveloped, that site may expand one lane into Termino and Olympic Plaza provided a mid-block walkway area, not less than 20' in width with unobstructed views through to the Olympic Plaza Pool, shall be provided.

Park Use Development Standards, *Section 21.35.225 – Design of Buildings*, of the certified Zoning Code states, in part:

All buildings shall be designed, treated and finished to blend with the open and landscaped surroundings.

Preservation of Natural Resources, *Goal (d)*, of the open space policies states:

To maintain open vistas of the ocean across public lands.

Goal 3 of the Scenic Routes Element:

Link and enhance recreational, cultural, and educational opportunities through a network of scenic corridors.

The certified LCP protects scenic ocean and coastal vistas from public places including views from Ocean Boulevard and Termino Avenue. Current conditions provide relatively unobstructed views of the beach and ocean from Termino Avenue, Olympic Plaza, and Bennett Avenue. Views along Ocean Boulevard, with the exception of where the street intersects Termino Avenue and Bennett Avenue, are limited due to a block of commercial development inland of Olympic Plaza and a wall, the Myrtha Pool, and City beach maintenance facilities.

For the original City-approved project design, the appellants contended that the nearly 80 ft. height of the structure would obstruct and would not maximize views of the beach and water from public areas. In addition, the appellants stated that this height is vastly larger

than what is allowed pursuant to the LCP. Ann Cantrell contends that the material used for the “bubble” structure is not fully transparent (as stated in the EIR) and, thus, does not provide views through the structure, and the site of the café would block views of the water from Bennett Avenue. Gordana Kajer also argues that the City’s issuance of a variance for the nonconforming elements of the project was not justified because the City did not provide adequate evidence that limiting the development to the height allowed under the LCP would cause hardship and deprive the City of a similar use of the property to that of the neighboring developments.

The City found that the BBAC project design minimizes impacts to coastal vistas compared to the previous 60 ft. high Belmont Plaza Olympic pool building. Additionally, this comparison was used by the City to argue that a variance for the project height is appropriate because a similar height and use of the property had already existed onsite. However, as described in the previous subsection, the appellants contend that the City-approved development is new and, therefore, should be compared to current site conditions rather than previous use of the site. Thus, the appellants raise significant questions regarding the impacts of the original City-approved BBAC design on public views of the beach and ocean that are protected under the certified LCP.

The City revised the design of the partial indoor pool facility approved in 2017 to minimize impacts to visual resources by making the BBAC an outdoor facility with a 22 ft. high pool facilities building (rather than a rounded structure with a maximum height of 71 ft.). The revised design also includes structural elements like light and public address system (PA) poles, diving platforms, bleachers, and shade awning that extend up to 60 ft. in height. While the City found that the revised BBAC design significantly reduces the overall height of the facility, that the variance findings still hold, and the proposed LCP amendment would allow for these heights, the appellants contend that the taller structural elements—the pool facilities building, light and PA poles, bleachers, diving platforms, and shade awnings—still obstruct and do not maximize public views to the beach and water.

With regard to the character of the area, the project site is surrounded by sandy beach, parking facilities, and a small commercial center. The Belmont Pier and associated commercial area and a multi-family residential area are in the vicinity. The buildings range in height from one to three stories and, with the exception of a large multi-family residential complex and new fitness facility visible from the project site, are older structures. The LCP requires all development in this area to implement coastal-oriented designs that are inharmony with the other development in the area.

As discussed in the previous subsection, the appellants contend that the City-approved BBAC is not coastal-dependent and that the current use of the site as a community park area is more consistent with the LCP (A-5-LOB-17-0032 and A-5-LOB-20-0007). Jeff Miller and Melinda Cotton state that the 2017 BBAC design is not consistent with the scale and character of the surrounding area (A-5-LOB-17-0032). Additionally, Ann Cantrell suggests that use of the alternative location at the Elephant Lot in the Downtown Shoreline area would minimize impacts to visual resources because that area is characterized by high-rise buildings and similar public uses such as the convention center, performing arts center, and aquarium. Given the current use of the site and the scale of the surrounding development, the appellants raise significant questions with regard to the consistency of the project with the visual resource protection policies of the

certified LCP.

Biological Resources

LCP Policies

Introduction, *Coastal Resources*, section of the LCP document states:

The water resources of Alamitos Bay, Marine Stadium, Sims Pond, Colorado Lagoon, and Los Cerritos Wetlands are monitored, preserved, and enhanced by a formal set of policies promulgated by the Resources Management Plan. A balance between human use and ecological concerns is the principal theme of this Plan. The beaches are preserved in perpetuity by the dedication policy, and enhanced by limited development programs which will encourage sensible public use.

Preservation of Natural Resources, *Goal (g)*, of the open space policies states:

To preserve areas which serve as natural habitats for fish and wildlife species and which can be used for ecologic, scientific, and educational purposes.

Policy 2.4 of the Open Space and Recreation Element states:

Preserve, enhance and manage open areas to sustain and support marine life habitats.

Program 1.1 of the Open Space and Recreation Element states:

Ensure compliance with all Federal and State laws which protect rare, threatened and endangered species.

The appellants of both City-approved CDPs raise concerns about the development's impacts to wildlife and its habitat. The El Dorado Audubon Society (EDA) and Ann Cantrell state that the mature trees onsite that would be removed as part of the City-approved project have provided many years of habitat for wading birds, including black-crowned night herons and snowy egrets (A-5-LOB-17-0032 and A-5-LOB-20-0007). They also contend that the mitigation for the loss of trees—planting new 15 gallon trees—is insufficient. EDA suggests that the City could additionally plant a stand of trees where the temporary pool facility is located. Many of the appellants state their concern about the removal of these trees and construction of facilities with bright lights, loud noises, and chemical odors and their impacts on the coastal ecosystem (A-5-LOB-17-0032 and A-5-LOB-20-0007). Furthermore, the appellants contend that there are project alternatives that would minimize impacts to coastal resources and be consistent with the certified LCP.

In addition, for the City-approved 2017 project design, the appellants contend that the tall semi-transparent bubble structure would result in bird-strike occurrences and be a danger for sensitive bird species. For the revised development, the appellants point out that the conversion of the design to be outdoor increases potential impacts to birds from outdoor lighting and sound systems in comparison to an indoor pool facility. Ann Cantrell also contends that one of the bird surveys provided by the City's contractor was conducted outside of nesting season and should not be relied upon. Susan Miller states that for all of these reasons, the development is in conflict with the Federal Migratory Bird Treaty Act, which protects migratory birds including threatened and endangered bird species. Thus, the development raises a substantial issue with the LCP policy that requires development

comply with State and Federal laws that protect rare, threatened, and endangered species.

The Long Beach coastal zone is highly urbanized; thus, coastal wildlife, including wading birds, have adapted to using landscaping, especially stands of tall and/or mature trees as habitat. While these habitat areas and the wading birds known to nest in trees located on the project site may not qualify as environmentally sensitive habitat area or rare, threatened, or endangered species, respectively, one of the main goals of the Long Beach LCP is to balance human use and ecological concern. Therefore, the appeals raise a substantial issue as to the consistency with two City-approved project designs with the biological resource protection policies of the certified LCP.

SUBSTANTIAL ISSUE FACTORS:

The Commission typically applies five factors in making a determination whether an appeal raises a substantial issue pursuant to Section 30625(b)(2).

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP. The main contention raised by the appellants with regard to the City's findings for approval of the local CDPs is that the City treats the baseline for the development as the previous Belmont Plaza Olympic Pool. The appellants, including Commissioners Dayna Bochco and Effie Turnbull-Sanders, state that the project should be treated as a new development on the site, which is currently developed as a public park. In addition, the City staff reports for the local CDPs do not address the project's consistency with several relevant LCP policies, including some related to public access, visual resources, and biological resources. Therefore, for the reasons described above, the factual and legal support given for City's approvals raises significant questions as to the consistency of the approvals with the certified LCP.

2. The extent and scope of the development as approved or denied by the local government. The City-approved BBAC, especially when analyzed as a new project in an existing public park area, is a large development involving nearly six acres of beach-front property that is currently accessible to the public for free, but would require a fee. The development would impact public views of the beach and water and involve the construction of project elements on what is currently sand. In addition, as stated by one of the appellants, the City is investing a large amount of Tidelands Funds on the project, which could otherwise be available for other coastal-dependent and public access projects prioritized in the LCP. Thus the extent and scope of the development, as approved by the City, raises a substantial issue as to the project's conformity with the public access and visual resource policies of the certified LCP and the public access policies of the Coastal Act.

3. The significance of the coastal resources affected by the decision. As described in the previous subsection, the Long Beach coastal zone is highly urbanized; thus, its coastal resources and public areas available for free use by all people are highly significant. The open space areas, including the public beach, are, as stated in the LCP, very important because they provide visual and psychological relief from the City. Additionally, access to the beach will likely become even more important as people seek to escape the urban heat island effect, which is expected to be exacerbated due to climate change. As sea levels

rise, much of coastal Long Beach is likely to be affected by flooding and portions of the project site, including some of the sandy beach area seaward of the City-approved facilities, are projected to be the last areas flooded in the project vicinity. The City's decision to fix the line of development on the sandy beach with a development that is not equitably accessible to the general public would result in more narrow beach widths overtime, thereby affecting public access. This raises a substantial issue with respect to the consistency of the City's approvals with the Coastal Act and the Long Beach LCP, which aims to protect and enhance coastal access for all people.

4. The precedential value of the local government's decision for future

interpretations of its LCP. The certified Long Beach LCP is a large program composed of over twenty different documents. Thus, it is understandable that some of the LCP policies may conflict with one another. However, the City's decision to approve the local CDPs without sufficient analysis of the projects' consistency with the certified LCP, and prior to amending the certified LCP, may set a precedent as to the degree of factual and legal support needed to find a project consistent with the certified LCP. In addition, the City's decisions could set an adverse precedent for prioritizing the development of recreational facilities, which may not be coastal-dependent or equitably accessible to all people, on or adjacent to the beach, over free public access to the sandy beach. The City could also prejudice its ability to implement hazards avoidance and adaptation through its LCP if the subject project was authorized to fix the line of development along the coast with the elevated plinth in the wave uprush zone, which could prevent the migration of the sandy beach and complicate future efforts to pull back the line of development as sea levels continue to rise.

5. Whether the appeal raises local issues, or those of regional or statewide

significance. The appeals raise local issues, as well as those of regional and statewide significance. The Belmont Plaza Olympic Pool that was constructed at the project site prior to the implementation of the Coastal Act, was a facility designed to Olympic standards and used by members of the public and by competitive swimmers and other aquatic athletes for training, regional swim and dive competitions, and Olympic swim trials. However, the issues discussed in Factors 3 and 4—the development's potential to significantly affect public access, including access to sandy beaches, and set a precedent for approving new facilities in areas subject to coastal hazards and in areas that are not easily accessible to a large segment of the population—are significant for future development along the coast in this region (especially Los Angeles and Orange counties) and across the State of California.

Conclusion

Therefore, the City of Long Beach's approval of both local CDPs for construction of the BBAC raise a substantial issue as to the decisions' conformity with the certified Long Beach LCP and the public access policies of Chapter 3 of the Coastal Act.

VI. MOTIONS AND RESOLUTIONS – COASTAL PERMITS

Motion I:

I move that the Commission **approve** Coastal Development Permit No. **A-5-LOB-17-0032** pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution I:

The Commission hereby **approves** Coastal Development Permit Application No. **A-5-LOB-17-0032** and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion II:

I move that the Commission **approve** Coastal Development Permit No. **A-5-LOB-20-0007** pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution II:

The Commission hereby **approves** Coastal Development Permit Application No. **A-5-LOB-20-0007** and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion III:

I move that the Commission **approve** Coastal Development Permit No. 5-18-0788 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution III:

The Commission hereby **approves** Coastal Development Permit Application No. **5-18-0788** and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

VII. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittees to bind all future owners and possessors of the subject property to the terms and conditions.

VIII. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Consistency with the LCP.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, certification of the City of Long Beach Local Coastal Program Amendment LCP-5-LOB-20-0014-1 by the Coastal Commission must be

final and effective in accordance with the procedures identified in the California Code of Regulations, Title 14, Division 5.5, Section 13544.

- 2. Final Revised Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director two (2) hard copies and one electronic copy of revised final plans in substantial conformance with the plans submitted January 21, 2020, except as follows:
- A. Revise the project plans to include a ten-foot (10') walkway, accessible to the public without paying to enter the facility, on top of the plinth around the outside of the perimeter wall, which shall be maintained for the life of the development; and a lateral path from east to west on the seaward side of the plinth (which does not require a fee to pass through or along), which shall be constructed and maintained onsite in perpetuity.
 - B. Revise the project plans to remove or relocate any hardscape or structures seaward of the plinth and seaward of the line of development between the plinth and the seaward extent of the adjacent parking lots on either side. No permanent development is authorized seaward of this line of development, including the proposed beach deck, the proposed water utility line, and the proposed fire hydrant. These elements may be relocated inland of the line of authorized hardscape within the project area (e.g. along the entry lane). Pedestrian trails seaward of the plinth may be replaced with easily removable, permeable paths made of natural materials or native dune vegetation.
 - C. Include a Signage Plan that clearly describes, at a minimum, the dimensions, material(s), text, and font of each construction, wayfinding, and/or monument sign. The signs shall facilitate, manage, and provide public access to the public amenities and shoreline throughout construction and the life of the development.
 - D. Relocate the proposed trash enclosure, transformer, and public restroom facilities that are sited seaward of the Belmont Pier parking lot to avoid, or if avoidance is not feasible, minimize, impacts to public views from the Termino Avenue view corridor and use of sandy beach area.
 - E. Include Bird-Safe Treatments on the plans. Plinth railing systems, fences, screen walls, windows, doors, and gates authorized by these permits shall use materials designed to minimize bird-strikes. Such materials may consist, all or in part, of wood; wrought iron; frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless they contain UV-reflective glazing that is visible to birds. No appliqués shall be used. Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas. All materials shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications.
 - F. Provide a final Foundation Plan, in substantial conformance with the plans dated April 6, 2020, that includes:

A-5-LOB-17-0032, A-5-LOB-20-0007, & 5-18-0788 (Belmont Beach & Aquatic Center)
Appeals – Substantial Issue & De Novo and CDP Application

- i. All permanent foundation elements including retaining walls, piles, footings, and concrete/cement, etc.
 - ii. The level of the current groundwater table in relation to all foundational elements and a note regarding potential changes to groundwater levels given projected sea level rise for the life of the development. The foundations of the structures shall be designed for shallow groundwater conditions over the full life of the development, accounting for both high groundwater levels under the highest observed tide in the present day (+7.7 ft NAVD88) and foreseeable increases in groundwater levels under the OPC (2018) high emissions, medium-high risk SLR scenario, with 6.7 feet of SLR by 2100. Accordingly, project structures shall be waterproofed and designed for buoyant conditions and hydrostatic forces below an elevation of +14.4 feet NAVD88 (+11.8 feet MSL). Additionally, all foundational elements shall be designed to accommodate any elevated liquefaction potential associated with future high groundwater levels.
 - iii. A final dewatering plan.
 - iv. Information about how each foundation element may be removed in the future.
 - v. Certification from a qualified geotechnical engineer that the final Foundation Plan has been reviewed, minimizes the amount of landform alteration to only the amount necessary to safely construct the facility, and will ensure geologic stability and public safety for the life of the development.
- G. Provide an Opportunistic Beach Fill Program for potential reuse of exported sediment that includes the following, at a minimum:
- i. A testing framework that provides assurance that the source material is uncontaminated and clean and that the grain size is appropriate for deposition at this beach.
 - ii. A site plan and associated detailed description of where sand may be potentially placed. Sand placement events shall avoid placement of material on wet sand or in marine waters.
 - iii. Onsite monitoring and supervision during implementation shall be provided.
 - iv. Procedures for producing and submitting to the Executive Director a Project Notification Report for each opportunistic sand deposition event.
- H. Provide a revised Planting Plan that:
- i. Includes in the plant palette primarily tree species that wading birds are known to nest in including New Zealand Christmas (*Metrosideros excelsa*) commonly called Pohutukawa, Monterey pine (*Pinus radiata*), Torrey pine (*Pinus torreyana*), and California fan palm (*Washingtonia filifera*) instead of thornless South American mesquite and chitalpa.

- ii. Places additional new trees in the entry way median(s) labelled “1” in the Planting Plan (i.e. New Zealand Christmas trees or California fan palms) and landscaped areas seaward of the pool facilities labelled “2” (i.e. palm trees).
 - iii. Designates specific areas (i.e. Olympic Plaza and the two locations identified in the previous subsection) as “quiet dark zones.” Tree planting shall be concentrated in these “quiet dark zones,” including taller, more mature trees suitable for wading bird roosting and nesting. Trees shall be planted in stands that create micro-climates including canopy cover attractive to wading birds for roosting and nesting.
 - iv. For the area seaward of the Bennett Avenue/Granada parking lot, modifies the plant palette to transition from upland palm grove to native backdune habitat to southern foredune habitat.
 - v. Consists of native plants or non-native drought tolerant plants, which are non-invasive. Salt-tolerant plants shall be used wherever feasible and the use of landscaping chemicals shall be minimized. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf> and <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).
 - vi. Uses reclaimed water for irrigation, where feasible. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.
- I. Provide a final Lighting and Noise Plan that includes:
- i. For the area east of the entry lane at Bennett Avenue, the following shall apply:
 - (1) All lights, with the exception of pedestrian safety lighting and lights that serve the parking lot, shall be turned off when the facility is not in use.
 - (2) The existing approximately 65-foot high Musco sports lighting and approximately 40-foot high LED lighting shall be removed.
 - (3) Lighting, only to the extent necessary to achieve safety and circulation illumination, will be allowed at the Myrtha pool deck level per IES standards. This lighting shall be no more than one foot below the maximum height of any adjacent wall or fence, shall be designed to shield light to the maximum extent feasible (e.g.

through the use of mounted sconces), shall average 8 foot candles at the pool deck, and shall not exceed 13 foot candles.

- (4) The surface of the pool deck shall be made of non-reflective materials.
 - (5) A photometric analysis of the existing lighting, including illumination levels at the canopy of the trees known to historically support bird nesting activities, and proposed lighting design shall be provided. The analysis shall clearly document a reduction in illumination from current conditions and that illumination at the adjacent tree canopies does not exceed one foot candle.
 - (6) There shall be no public address system.
 - (7) A list of expected aquatic programs that identifies anticipated noise levels (i.e. whistles, music, public address). The quieter programs shall, when feasible, be provided at the Myrtha pool.
- ii. For the landscaped areas surrounding the plinth west of the entry lane at Bennett Avenue, limits lighting to ground lighting necessary to provide public safety along public pathways.
 - iii. The lighting throughout the project area shall be turned off while the facilities are not in use and shall be designed to achieve the minimum degree of illumination necessary for public safety, minimize light trespass into adjacent non-target areas, and limit the illumination of open space and sensitive habitat areas to the maximum extent feasible. Lighting shall be downward directed, shielded, energy efficient, dark sky-compatible, and shall incorporate state-of-the-art improvements in lighting technology when replaced thereafter. Replacement bulbs or fixtures shall be upgraded to incorporate best available technology over the life of the installation. Programmable timing devices shall be utilized to turn off unnecessary lights where feasible. The lighting plan shall not include illuminated signs. Lighting on the east side of the development shall be limited to the minimum needed for pedestrians, traffic, and parking with motion detection lighting used to the greatest extent possible.
 - iv. Whistles used within the facility shall not exceed 90 decibels.
 - v. The use of whistles after 8:00 p.m. shall be prohibited except in emergency situations.
 - vi. The use of airhorns shall be prohibited.
 - vii. Public address (PA) systems shall be downward directed and shall not exceed 90 decibels. Amplified sound, including music, after 8:00 p.m. shall be prohibited.
 - viii. In the event the Long Beach Health and Human Services Department identifies nonconforming noise levels emanating from the facility, the permittee shall submit a CDP amendment application to implement additional noise reduction measures for the review and approval of the

Executive Director unless the Executive Director determines that no amendment is legally required.

- 3. Public Access Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, a Public Access Program in substantial conformance with the framework in the plan submitted August 10, 2018 titled “City-wide and Underserved Programming to Enhance Access to the Proposed Facility” except the program/plan shall be developed and expanded as required by this condition. The applicant shall:
- A. Include the hours and days of the week that the public will be able to access each of the public facilities (i.e. each pool/spa, the concession stands, the locker rooms, the spray garden, and other elements of the facility if different than normal operating hours). Provide the anticipated hours and days that the facilities would be used for competitive aquatic events. The public shall be allowed use of the facility from 5:30 a.m. to 9 p.m. Monday through Thursday, 5:30 am to 2 p.m. Fridays, and 8 a.m. to 2 p.m. on weekends, at a minimum.
 - B. Require that during normal operating hours, a minimum of four bodies of water, including at least one of the two 50M pools, be available to the general public for recreational purposes (i.e. not for competitive events, private instruction or use by exclusive clubs, or temporary events). Temporary events that are not available to the public for free or require closure of pool facilities to the public shall be minimized and require a coastal development permit unless the Executive Director determines that no permit is legally required. If closure of the facility for a temporary event is permitted, every effort shall be taken to provide the public with use of at least one water body onsite.
 - C. Provide and facilitate access for people with limited means to pay for pool use, including youth, seniors, and visitors from underserved communities (i.e. discounted and/or free pool passes). The concession stands shall stock relatively inexpensive food and drink items and offer food and drink items that can be easily carried out. There shall be no parking rate increases for the adjacent public beach parking lots as a result of operating the development.
 - D. Continue to work with transportation partners, including but not limited to Long Beach Transit, to identify and implement additional alternative transportation improvements.
 - E. Develop a Community Outreach Program, for review and approval by the Executive Director, that:
 - i. Includes a report of the underserved communities in Long Beach and tailored outreach methods and language access policies for these communities. The outreach methodology shall include culturally appropriate outreach methods, which may include digital, paper, and in-person options, and a language access protocol that outlines how materials will be developed in accordance with the City’s Language Access Policy, such as translation into non-English languages (including at a minimum Spanish, Tagalog, and Khmer), tailored to be culturally relevant, and written in plain language to prevent educational and cultural barriers from access to the project site.

- ii. Equitably engages and surveys Long Beach residents and/or all users of Long Beach community pools to:
 - (1) Collect baseline demographic and socioeconomic information on community use of Long Beach’s public pools.
 - (2) Determine how often pool users use community pool facilities, which pools they frequent, and what days of the week and times they use the facilities.
 - (3) Identify the mode(s) of transportation used to access community pools (i.e. public transit, personal car, carpool, bicycle, etc.).
 - (4) Determine whether enhanced access to the new pool facility and/or enhanced access to other existing community pools is preferred.
 - (5) Identify barriers to access to the Belmont Pool.
 - (6) Collect input on what types of programming is desired.
 - iii. Upon approval by the Coastal Commission’s Executive Director, is implemented. A final summary report of the public outreach and engagement process and survey results is required to be provided to the Executive Director in association with the revised Public Access Program described in the following subsection of this condition.
- F. Update the Public Access Program based on the results of the Community Outreach Program, including but not limited to changes to the hours of operation, entry fees, programming provided, and transportation options. If the programming included in the City-wide and Underserved Programming to Enhance Access to the Proposed Facility plan is part of the revised Public Access Program, then, at a minimum, the following details shall be added:
- i. A program schedule,
 - ii. Bus routes and timetables, and
 - iii. Details regarding the fees for the programs and use of the bus.

The revised Public Access Program shall be reviewed and approved by the Executive Director and, subsequently, implemented **PRIOR TO THE OPENING OF THE FACILITIES TO THE PUBLIC** and shall continue to be implemented for the life of the development.

- G. Establish an evaluation program of the revised Public Access Program and provide annual reports for each year that the facility is open to the public for the life of the development detailing the recreational programs developed and operated; the number, zip code of residence, and demographics of youth and adults participating in such programs; a summary of marketing and outreach efforts; and operational modes of transportation to and from the pool. The evaluation program shall identify whether public access improvements are equitably accessed by all communities in Long Beach. If the permittee or Executive Director finds that the evaluation program identifies substantial inequities in access to the facilities or adjacent beach, then the Public Access

Program shall be revised to address any inequities in public participation in recreational activities, subject to review and approval by the Executive Director.

- 4. Breeding and Nesting Bird Surveys During Construction.** For any construction activities, including tree trimming and relocation, between January 15th and September 1st, the applicant shall retain the services of a qualified biologist with experience in conducting bird behavior, nesting bird, and noise surveys (hereinafter, “biologist”) to conduct said surveys in order to assess bird behavior, the presence of nesting birds including, but not limited to, black-crowned night herons, great blue herons, great egrets, and snowy egrets, and to document ambient and project noise levels. All project construction and operations shall be carried out consistent with the following:
- A. The applicant shall ensure that a qualified biologist shall conduct the surveys 15 calendar days prior to the construction activities, including any tree trimming or relocation, to detect any active bird breeding behavior or active bird nests in all trees within 500 feet of the project and to document ambient and project noise levels. A follow-up survey must be conducted three (3) calendar days prior to the initiation of project activities and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first. All bird breeding behavior, nesting bird, and noise surveys shall be submitted to the Executive Director within two (2) days of completion.
 - B. If an active nest(s) of any song birds, shore birds, or wading birds is found within 300 ft. of the project, an active nest(s) for any raptor species is found within 500 ft. of the project, or bird nesting or courtship behavior is observed within the project site, the applicant’s biologist shall monitor bird behavior and construction noise levels. The nest(s) and nesting bird(s) shall not be removed or disturbed. The biologist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The biologist shall monitor birds and noise every day at the beginning of the project and continuing throughout all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below the demonstrated ambient noise levels or a peak of 65 dB at the nest site(s). If construction noise exceeds the ambient noise levels or a peak level of 65 dB at the nest site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction shall cease and shall not recommence until either new sound mitigation can be employed or the birds have fledged.
 - C. If an active nest of a federally or state-listed threatened or endangered species or bird species of special concern is found within 300 ft. of the project, or an active nest for any species of raptor is found within 500 ft. of the project, the applicant will notify the appropriate State and Federal Agencies within 24 hours, and appropriate action specific to each incident will be developed. The applicant will notify the California Coastal Commission by e-mail within 24 hours and

consult with the Commission regarding determinations of State and Federal agencies.

- D. The applicant must cease work if informed by the biologist that proceeding with any development authorized by this permit would adversely affect breeding or nesting birds. The biologist shall immediately notify the Executive Director if activities outside of the scope of the subject Notice of Impending Development occur. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicant shall be required to submit a revised or supplemental program to adequately mitigate such impacts.

5. Final Tree Replacement Plan and Bird and Tree Monitoring Plan. BY ACCEPTANCE OF THESE PERMITS, the permittee hereby agrees to implement a Final Tree Replacement Plan and a Bird and Tree Monitoring Plan, in substantial conformance with the application on file, except as modified herein, for the existing trees and any trees planted within the project area for the life of the development.

- A. Provide for replacement of any removed trees at a two to one ratio (2:1) ratio, including any trees removed from the site pursuant to the proposed project, any trees removed from the site within the last ten years without the benefit of a coastal development permit, and any trees removed from the site throughout the life of the development approved by this permit. Any trees which are, have been, or will be removed, shall be replaced with trees as large as a qualified arborist recommends that will survive consistent with the final approved landscaping plan and special conditions of this permit.
- B. Require the permittee to retain a qualified arborist to monitor any new or relocated trees annually for the first five years followed by annual monitoring on at least one day during bird nesting season for the life of the project. Annual reports prepared by the qualified arborist shall be submitted to the Executive Director. If the report includes recommendations from the arborist to improve tree health and success, then the City shall provide the Executive Director with evidence and written verification that the arborist's recommendations have been implemented within six (6) weeks of the City's receipt of the arborist's recommendation. Each annual monitoring report shall include:
- i. A summary of the prior annual report and discussion of implementation of recommendation(s) made by the qualified arborist;
 - ii. A list and map of any trees that required maintenance, trimming, or replacement during the prior year and a plan for continued monitoring of those trees;
 - iii. Photographic documentation of the trees' conditions after maintenance, trimming, or relocation;
 - iv. An "A" through "F" designation for each tree within the project site using the grading system identified in the final Monitoring Program;
 - v. A discussion of establishment success of new trees in the project area. If any of these trees have a "D" or "F" designation, then the tree establishment shall be considered unsuccessful and the City shall

submit a Tree Replacement Plan prepared by a qualified arborist to reestablish healthy trees that are suitable for nesting habitat on the project site. The Tree Replacement Plan shall specify measures to remediate the portions of the Program that failed or are not in conformance with the original approved Program and mitigate for any temporal impacts resulting from the Program's failures;

- vi. Recommendations for continued tree maintenance, including plans to improve the health of any trees with a "B" or "C" designation and irrigation plans.

C. Bird and Tree Monitoring Plan.

- i. For ten years, the applicant shall employ a qualified biologist and arborist, to survey breeding and nesting birds and tree health, respectively, annually during bird breeding season from January 15th through September 1st, including as follows:
 - (1) Annually during bird breeding season the biologist shall survey the number (adults, juveniles, chicks), breeding, and nesting activity, tree type and location of all birds within the project footprint.
 - (2) Annually during bird breeding season the arborist shall assess the health (e.g. "A" through "F" rating) of the trees within the project footprint.
 - (3) The arborist shall make recommendations for continued tree maintenance, including plans to improve the health of any trees with a "B" or "C" designation.
 - (4) Where the arborist finds that a tree (s) is a health and safety risk, dead, diseased, or dying (e.g. "D" or "F" rating), the applicant shall make provisions for replacement.
 - (5) No later than December of each year, the biologist and arborist shall submit a report to the Executive Director, USFWS, CDFW, and local Audubon Society summarizing the data collected, the patterns observed for the respective year and cumulatively (looking across all years), and adaptive management recommendations. The applicant, in consultation with the ED, USFWS, CDFW (and other), shall implement any such agreed upon adaptive management actions deemed necessary for the continued success of bird breeding and nesting and tree health (e.g. tree replacement/additions, lighting and/or noise adjustments, etc.).
- ii. Include a plan for appropriate disposal of trees that require replacement pursuant to the final Tree Replacement Plan.
 - (1) The City shall adhere to the Special Conditions of CDP No. 5-08-187, the City's Tree Trimming and Removal Policy for trees located within the Commission's retained jurisdiction area. The City shall maintain trees within the project area subject to the terms of these CDPs for the life of the development. Any removal or replacement

of trees within the project area in the future shall require an amendment to the CDPs, unless the Executive Director determines that no amendment is required.

- iii. If any annual report identifies impacts to mature trees within the project area, or if the Executive Director identifies cumulative impacts to habitat that supports nesting shorebirds within the project area, the Executive Director shall notify the City that a permit amendment is required to provide mitigation for the impacts. The City shall submit a permit amendment request to the Commission within sixty (60) days following notification from the Executive Director that a permit amendment is required.

- 6. Conformance with Geotechnical Recommendations.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, along with two (2) sets of final plans, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans to be submitted pursuant to Special Condition 2 including foundation, grading, and drainage plans and certified that each of those final plans are consistent with the recommendations contained in the Preliminary Geotechnical Report prepared by AESCO dated April 24, 2014, with the exception of any modifications to recommendations made in response to changes in the project since the preparation of the report.

The applicant shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 7. Archeological and Paleontological Resources Monitoring.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval by the Executive Director, a Construction (and Demolition) Monitoring Treatment Plan prepared by a qualified professional that includes the following:
 - A. A list of the applicant's retained qualified resource specialists [a paleontologist, an archaeologist, at least one Native American monitor, and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD] and their duties associated with the construction of the project. The applicant shall retain the services of a qualified paleontologist, an archaeologist, and a Native American monitor(s) for any ground disturbing activities.
 - i. Native American monitor(s) shall be selected from tribal groups with documented ancestral ties to the area, and preferably from groups that participated in the tribal consultation process.
 - ii. All project monitors shall be notified a minimum of 30 days prior to commencement of any construction activities that could disturb native soils; notification shall occur via email, telephone, and U.S. Mail.

- iii. Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archeological and Native American monitor of the requirements and procedures, and shall provide a copy of this special condition, any archaeological monitoring or research plans, past archeological reports, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor.
 - iv. The Native American MLD, as identified by the Native American Heritage Commission, shall be allowed a minimum of two weeks to arrive at the site to inspect human remains discovered on-site and identified by the coroner as pre-historic, and to offer recommendations for their disposition.
 - v. The landowner is agreeing at this time and by acceptance of this permit to allow MLD inspection of pre-historic human remains discovered on site.
 - vi. The recommendations of the Native American MLD, shall be the predominant guidance when addressing ultimate disposition of pre-historic human remains discovered on site.
- B. Monitoring requirements, procedures, and best management practices.
- C. The ultimate disposition of any other archaeological/cultural resources discovered at the site, shall be determined in consultation with the Native American groups with documented ancestral ties to the area as determined by the Native American Heritage Commission.
- 8. Construction Phase Pollution Prevention Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the written approval of the Executive Director, a Construction-Phase Pollution Prevention Plan that includes, at a minimum, the following requirements to protect coastal water quality during construction and demolition activities:
- A. General Best Management Practices and Procedures
 - (1) Construction work and equipment operations below the mean high water line shall be prohibited.
 - (2) All work shall be performed during favorable tidal, ocean, wind, and weather conditions that will enhance the ability to contain and remove, to the maximum extent feasible, construction and demolition debris.
 - (3) Equipment or construction materials shall not be allowed at any time in the intertidal zone.
 - (4) The footprint of areas within which demolition and construction activities are to take place (including staging and storage of equipment, materials, and debris; and equipment fueling and maintenance) shall be minimized to the extent feasible, to minimize impacts on the marine environment. Construction activities shall be prohibited outside of designated construction, staging, storage, and maintenance areas.

- (5) Vegetable-oil-based hydraulic fluids shall be used in heavy equipment used in construction lasting one week or longer overwater or adjacent to coastal waters, if feasible.
 - (6) Biodiesel fuel shall be used in heavy equipment used in construction lasting one week or longer overwater or adjacent to coastal waters, if feasible.
- B. Best Management Practices for Construction Activities Adjacent to Coastal Waters
- (1) All demolition and construction materials, equipment, debris, and waste shall be properly stored and contained, and shall not be placed or stored where it may be subject to wave, wind, rain, or tidal dispersion, to prevent pollutants from entering coastal waters, sensitive habitats, and the storm drain system.
 - (2) All stockpiles, construction materials, and demolition debris shall be enclosed on all sides, covered during rain events, and not stored in contact with the soil, and shall be located a minimum of 50 feet from coastal waters, sensitive habitat, and storm drain inlets.
 - (3) Sediment control BMPs shall be installed at the perimeter of staging and storage areas, to prevent sediment in runoff from construction-related activities from entering coastal waters.
 - (4) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs, to prevent the accumulation of debris, sediment, and other pollutants that may potentially be discharged into coastal waters.
 - (5) All trash and debris shall be disposed of in the proper trash and recycling receptacles at the end of every construction day.
 - (6) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
 - (7) All debris resulting from demolition or construction activities, and any remaining construction materials, shall be removed from the project site within 24 hours of completion of the project.
 - (8) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- C. Best Management Practices for Stockpile and Debris Management
- (1) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of construction products or materials that may have adverse environmental impacts. The discharge of any construction products or materials into coastal waters shall be prohibited.
 - (2) Leaks or spills of fuel, oil, grease, lubricants, hydraulic fluid, chemicals, preservatives, paints, or other construction products or materials shall be

immediately contained on-site and disposed of in an environmentally-safe manner as soon as feasible.

- (3) Construction vehicles operating at the project site shall be inspected daily to ensure there are no leaking fluids, and shall be serviced immediately if a leak is found.
- (4) Fueling and maintenance of construction equipment and vehicles shall be conducted off-site, if feasible. Any fueling and maintenance of mobile equipment conducted on site shall take place at a designated area located at least 50 feet from coastal waters, sensitive habitat, and storm drain inlets (unless these inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
- (5) Equipment, machinery, and vehicles shall be washed only in designated areas specifically designed to contain runoff and prevent discharges into coastal waters. Thinners, oils, and solvents shall not be discharged into the sanitary sewer or storm drain systems.

9. Water Quality Protection Measures and Best Management Practices. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a final Water Quality and Hydrology Plan, prepared by a qualified licensed professional.

A. The final Water Quality and Hydrology Plan shall demonstrate that the project complies with the following requirements:

- (1) Runoff from all new or replaced impervious and semi-pervious surfaces shall be addressed in the plan. For sites where the area of new or replaced impervious and semi-pervious surfaces is greater than or equal to 50% of the pre-existing impervious and semi-pervious surfaces, runoff from the entire developed area, including the pre-existing surfaces, shall be addressed in the plan.
- (2) Any Low Impact Development (LID), Runoff Control, and Treatment Control BMP (or suite of BMPs) implemented to comply with the plan requirements shall be sized, designed, and managed to infiltrate, retain, or treat, at a minimum, the runoff produced by the 85th percentile 24-hour storm event for volume-based BMPs, or two times the 85th percentile 1-hour storm event for flow-based BMPs.
- (3) The permittee shall provide overflow capacity calculations to substantiate the design of the pools within the project area to verify that the design of the pools can contain without overflowing the 85th percentile 24-hour storm event.
- (4) A final plan for the installation of the proposed permeable pavement, including a description of type of permeable pavement to be used, the type, size, and storage capacity of sub-surface materials sub-base, and any

related drainage systems associated with the permeable pavements on the project site.

- (5) Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training), to protect coastal water quality for the life of the development.
- B. The Water Quality and Hydrology Plan shall include, at a minimum, the following required components:
- (1) All project details related to site design strategies and source control BMPs.
 - (2) Documentation of polluted runoff and hydrologic characterization of the existing site (e.g., potential pollutants in runoff, soil properties, infiltration rates, depth to groundwater, and the location and extent of hardpan and confining layers) as necessary to design the proposed BMPs. Include a map showing the site's Drainage Management Areas, and calculations of the runoff volumes from these areas.
 - (3) A description of the BMPs that will be implemented, including documentation of the expected effectiveness of the BMPs. Include a schedule for installation or implementation of all post-development BMPs.
 - (4) A characterization of post-development pollutant loads, and calculations, per applicable standards, of changes in the stormwater runoff flow regime (i.e., volume, flow rate, timing, and duration of flows) resulting from the proposed development when implementing the proposed BMPs.
 - (5) Supporting calculations demonstrating that required BMPs have been sized and designed to infiltrate, retain, or treat, at a minimum, the runoff produced by the 85th percentile 24-hour storm event for volume-based BMPs, or two times the 85th percentile 1-hour storm event for flow-based BMPs.
 - (6) A description and calculations demonstrating that the 85th percentile design storm runoff volume will be retained on-site, giving precedence to a LID approach. If the 85th percentile runoff volume cannot be retained onsite using LID, an alternatives analysis shall demonstrate that no feasible alternative project design will substantially improve runoff retention.
 - (7) A description and schedule for the ongoing management of all post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development if required for the BMPs to function properly.
- C. The permittee shall undertake development in accordance with the Water Quality and Hydrology Plan unless the Commission amends this permit or the Executive Director issues a written determination that no amendment is legally required for any proposed minor deviations.

10. Structural and/or Non-Structural Best Management Practices.

- A. The applicant shall implement structural or non-structural Best Management Practices (BMPs) designed to minimize pollutant loads contained in runoff prior to entering the stormwater conveyance system, and to maintain post-

development peak runoff rate and average volume from the site at levels similar to pre-development conditions, to the extent feasible. The BMPs may include, but are not limited to:

- (1) Design elements that serve to minimize directly-connected impervious areas (i.e., impervious surfaces that impede stormwater infiltration and generate surface runoff) and maintain permeable space within the development shall be incorporated where feasible. Options include the use of alternative design features such as concrete grid driveways or pavers for walkways, or porous material for or near walkways and driveways; and
- (2) Routine maintenance, including inspection and regular cleaning of approved BMPs, to ensure their effectiveness prior to, and during, each rainy season from October 15th through April 31st of each year. Debris and other water pollutants contained in BMP device(s) shall be contained and disposed of properly. All BMP traps/separators and filters shall be cleaned before the start of the winter storm season, no later than October 15th each year. The BMPs shall be maintained to uphold their functionality.

- B. All permanent structural BMPs within the project area need to account for sea level rise and rising groundwater levels. If the BMPs are at risk of inundation (i.e., flooding or wave uprush) or rising groundwater making them non-functional, alternative BMPs should be considered.

11. Post-Development Treatment Control Best Management Practices. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a map, drawn to scale, showing the property boundaries, pavement footprint, runoff flow directions, and permanent water quality Treatment Control Best Management Practices locations. The applicant shall provide written documentation that demonstrates that the project protects or restores water quality to the maximum extent feasible.

12. Construction Staging Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the written review and approval of the Executive Director, two copies of a Construction Staging Plan. The construction staging plan shall:

- A. Specify where construction equipment is proposed to be stored during construction in order to minimize impacts to water quality, biological resources, and public access to the beach and parking lots.
- (1) Construction materials shall not be stored on the beach.
 - (2) The permittee shall post the site with a notice, in accordance with the City of Long Beach Language Access Policy, indicating expected dates of construction activities and/or closures of public amenities, including but not limited to the Myrtha pool.
 - (3) Use of public parking areas for storage of construction and/or maintenance materials shall be minimized to the greatest extent feasible.

- B. Identify a disposal site outside of the Coastal Zone for waste materials and recyclable materials.

13. Shoreline Change, Sea Level Rise Monitoring, and Adaptation Program.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the written review and approval of the Executive Director, two (2) copies of a Shoreline Change, Sea Level Rise Monitoring, and Adaptation Program (Monitoring and Adaptation Program). The Monitoring and Adaptation Program shall include the following:
 - i. Objectives of the monitoring program (e.g. to monitor long-term and seasonal changes in beach width over the life of the development, to monitor impacts to the site and access to the site from coastal hazards, to inform sea level rise adaptation planning, to develop triggers for adaptation measures, and to identify adaptation measures including, but not limited to managed retreat of some or all elements of the project).
 - ii. Baseline conditions based on the final project plans. Follow-up monitoring should, to the extent possible, compare future changes to these baseline conditions.
 - iii. Specific features that will be measured, including but not limited to beach width, duration and extent of flooding, damage from storms (such as bluff retreat, reduced beach width, etc.), and where the features will be measured, possibly shown on a map or site plan.
 - iv. Monitoring methods, which should be provided in written protocol, including how the important project features will be monitored through techniques such as visual inspection, technical beach surveys, surveys of pool users, qualitative examination of the project site, aerial photography, and regular photographs taken from the same vantage point in the same direction.
 - v. Beach change monitoring elements. The beach change elements of the Monitoring and Adaptation Program shall include, among other items:
 - (1) locations of at least 3 profile lines from wading depth to the line of development (including the seaward extent of paved areas and/or permanent structures, the plinth, and non-sandy landscaped areas) with precise coordinates to allow reoccupation of these same profile lines over the survey period;
 - (2) a monitoring schedule that will provide for biannual (winter and summer) or more frequent surveys and will include a plan for increasing monitoring frequency, including potential daily monitoring sufficient to allow detection of adaptation triggers, when there is evidence that the beach is narrowing or that there is increased frequency or intensity of storm events;
 - (3) a survey plan that will provide sufficient detail to identify seasonal and annual changes in the mean high tide shoreline position, beach slope, and width of dry beach, based on location of the mean higher high water shoreline position;

- (4) two or more fixed locations from which to take photographs or provide visual representation of the beach conditions at the time of the surveys;
- (5) any other features, such as scour, wrack lines, beach changes, or others identified and required to satisfy requirements of the adaptation plan for triggers or other responses;
- (6) survey methods and equipment that will be used to undertake profile surveys; and
- (7) qualifications of person or persons undertaking these surveys.

Survey results shall be provided annually in a monitoring report that includes analysis of changes and trends in the surveyed features.

- vi. Flooding and coastal hazard elements. The flooding and coastal hazard elements of the Monitoring and Adaptation Program shall include, among other items:

- (1) triggers or events that will be used to initiate surveys of flooding and coastal hazards, such as storms in excess of some recurrence interval, anticipated water levels in excess of some amount, King Tides, or other;
- (2) documentation for areas on the site and on the access roads of flooding extent, wrack lines or other indications of high water, scour areas, timing, and duration of any access or facility closures due to any flooding or erosion damages to the access or facility, tides, and sea levels at the time of the damage; and
- (3) qualifications of person or persons undertaking these surveys.

- vii. Stormwater and LID elements. If follow-up monitoring indicates that there is risk to stormwater and LID improvements, this would trigger a comprehensive report evaluating the effectiveness of stormwater and LID improvements for the project. If that report indicates that there is declining stormwater effectiveness and LID improvements, then the permittee shall submit a CDP amendment application to implement protective actions that will prevent impacts to coastal and marine water quality, for the review and approval of the Executive Director unless the Executive Director determines that no amendment is legally required.

- viii. Adaptation Program. The adaptation elements of the Monitoring and Adaptation Program shall include, among other items:

- (1) identification of triggers for submittal of a CDP amendment application that includes a comprehensive adaptation plan to preserve public access and coastal recreation opportunities when conditions that could threaten or limit the availability of public beach access seaward of the facility (with public beach access represented by the area between the facility and the mean high water location) or consistent access to the public facilities, including, at a minimum:
 - a. when the width of the dry sandy beach seaward of the development (including, but not limited to the seaward extent of paved areas, plinth,

- and landscaped areas) is less than or equal to 150 feet during a storm or King Tide event;
- b. when the site is inaccessible by public transit due to impacts from flooding or other coastal hazards for a period of five or more consecutive days or 15 days total throughout a one-year period;
 - c. when available parking at any of the public parking lots serving the development reaches 100% capacity (not in attributed to a special event) for more than three consecutive days; and
 - d. when flooding of the adjacent public parking areas, which provide access to the development, occurs for a period of five or more consecutive days or 15 days total throughout a one-year period.
- (2) establishment of the frequency and duration of any other occurrences that could limit public beach access or access to the public facilities through loss of public transit or parking capacity due to coastal hazards such that the public access and recreation resources reach the point of threat that would trigger adaptation responses;
- (3) development of a suite of possible adaptation responses that would restore, at a minimum, the public beach access of at least 150 feet, such as alternative access for the time that the minimum beach width is unavailable, beach nourishment, or removal or relocation of some or all facilities;
- (4) development of a suite of possible adaptation responses that would restore, at a minimum, temporary public shuttles that operate at least hourly during hours that the facility is open to replace the loss of public transportation; or shuttles and modified parking arrangements to restore parking losses;
- (5) an estimation of the time between identification of threats and ability to implement options to remove or remedy the threat; and
- (6) types of damage that could limit or restrict the use of the facility, such as flooding of the project site, some amount of scour at the foundation, limitations on access to the facility, measures to correct or remediate these damages, and triggers for damage that would be sufficient to preclude correction.
- ix. Reporting. The City shall provide monitoring reports to the Commission each year, beginning one year from the date of Commission issuance of this permit, including reports of all surveys, photographs, and documentation of the facility, beach access, and inland access, with analysis of trends and changes; and notification of all flooding and coastal hazard damages. If the permittee or Executive Director determine that any adaptation trigger is met, the permittee shall notify the Executive Director within 3 days and reporting shall also be provided within 3 months of any event that results in an adaptation trigger, providing all survey information developed prior to and as a result of the trigger event.

- C. The Monitoring and Adaptation Program may be integrated into regional adaptation efforts that have been approved by the Commission pursuant to a Local Coastal Program amendment or other action(s); however, any changes to the approved Monitoring and Adaptation Program shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment.
- D. When an access trigger is met, as determined by the Executive Director based on the information required pursuant to Special Condition 13, the permittee shall submit an application within one year of the Executive Director's determination that a triggering event has occurred to amend CDP Nos. 5-18-0788, A-5-LOB-17-0032, and A-5-LOB-20-0007 to implement an adaptation plan, such as a sand replenishment program, BBAC access enhancement plan, and/or a facilities removal program. If a sand replenishment and/or public access enhancement program are proposed, the CDP application shall include an alternatives analysis that also analyzes alternatives of removal of part or all of the development.

14. Assumption of Risk, Waiver of Liability, and Indemnity. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from bluff and slope instability, sea level rise, erosion, landslides and wave uprush or other tidal induced erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

15. Shoreline Protection Waiver and Removal of Development.

- A. By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that the development authorized by Coastal Development Permit Nos. 5-18-0788, A-5-LOB-17-0032, and A-5-LOB-20-0007—including the plinth, water bodies, park improvements, pool facilities building, and any future improvements—constitutes new development and is, therefore, not entitled to a shoreline protective device under Section 30235 of the Coastal Act or the Local Coastal Program. In addition, by acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Section 30235, the Local Coastal Program, or other applicable law.
- B. By acceptance of this permit, the permittee further agrees, on behalf of itself and all successors and assigns, that they are required to remove the development authorized by this permit, including all pool facilities (including the Myrtha Pool) and support structures, the plinth and foundational elements (per the final approved Foundation Plan), and park improvements, and restore the site if:

- (1) any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, flooding, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices;
 - (2) essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
 - (3) removal is required pursuant to LCP policies for sea level rise adaptation planning or a Commission-approved adaptation plan;
 - (4) or the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies.
- C. In the event portions of the development fall to the beach or water before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the beach, ocean, and/or bay and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit. Prior to removal, the permittee shall submit two copies of a Removal Plan to the Executive Director for review and written approval. The Removal Plan shall clearly describe the manner in which such development is to be removed and the affected area restored so as to best protect coastal resources, including the beach, Pacific Ocean, and Alamitos Bay.

16. Permit Compliance. The permittee shall undertake and maintain the development in conformance with the special conditions of the permit and the final plans, including but not limited to the final approved public access program and tree, bird, and shoreline monitoring programs. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission-approved permit amendment unless the Executive Director determines that no permit amendment is required.

17. Future Improvements. This permit is only for the development described in Coastal Development Permit Nos. 5-18-0788, A-5-LOB-17-0032, and A-5-LOB-20-0007. Pursuant to Title 14 of the California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development governed by Coastal Development Permit Nos. 5-18-0788, A-5-LOB-17-0032, and A-5-LOB-20-0007. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 of the California Code of Regulations Sections 13252(a)-(b) and temporary events (Public Resources Code Section 30610(i)), shall require an amendment to Permit Nos. 5-18-0788, A-5-LOB-17-0032, and A-5-LOB-20-0007 from the Commission or shall require an additional coastal

development permit from the Commission or from the applicable certified local government.

18. Conditions Imposed By Local Government. This action has no effect on conditions imposed by the City of Long Beach pursuant to an authority other than the Coastal Act, except as provided in the last sentence of this condition. The permittees are responsible for compliance with all terms and conditions of this coastal development permit in addition to any other requirements imposed by other local government permit conditions pursuant to the local government's non-Coastal Act authority. In the event of conflicts between terms and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of this coastal development permit shall prevail.

IX. FINDINGS AND DECLARATIONS – COASTAL DEVELOPMENT PERMITS

Note: The Findings and Declarations in the Substantial Issue section of this staff report are hereby adopted by reference into the Findings and Declarations for the De Novo review of A-5-LOB-17-0032, A-5-LOB-20-0007, and the review of CDP Application No. 5-18-0788.

A. PROJECT DESCRIPTION

The description of the project location in Section V.A of this staff report is hereby incorporated into this section. The project description, however, has been modified and clarified by the City since the appeals were filed—and the development within the Commission's retained jurisdiction has been detailed through the Commission's CDP application process (**Exhibit 8**). The cumulative development being analyzed pursuant to this action is as follows:

Regarding the physical characteristics of the proposed development, a large portion of the project is supported by construction of a 7-ft. high ovular plinth (on top of a deepened pile and concrete pad foundation) in the location of the Belmont Shore Beach Park. Construction of the plinth, as proposed, requires approximately 17,500 cubic yards (cy.) of cut and 9,000 cy. of fill for a net 8,500 cy. of export that would be lawfully disposed of and involves encroachment onto the sandy area of the park (within the Commission's retained jurisdiction area), demolition of the bike and pedestrian paths within the park, and removal of the park landscaping, including 27 trees. The City proposes to use any clean, beach-compatible sediment recovered from the site for beach nourishment; however, the details of the soil testing and potential testing have not been provided.

The proposed foundation system for the plinth is composed of a continuous 24 in. footing for the plinth wall, concrete slab on grade that varies by pool depth for each of the pools located on the plinth, 48 piles supporting the pool facilities building, 32 piles supporting the bleachers, and 16 piles total supporting the diving platform and zipline. The piles, as proposed, would be two feet in diameter, installed to a maximum depth of 80 ft. below grade. The remnants of the wooden piles from the previous pool facility would be removed. The southern half of the plinth is located within the Commission's retained jurisdiction and the foundations located under the arc at the southwest end of the plinth have been revised from supporting a seawall-like stair structure on 68 piles to a less massive set of terrace

stairs supported by a single 24 in. concrete footing. Lightly loaded structures at grade, such as the trash enclosure and public restrooms are proposed to be supported on a slab foundation founded up to one foot below grade.

Within and on top of the plinth are six of the seven water bodies (including spa and spray garden), the pool facilities building, 25.5 ft. high bleachers that provide permanent seats for approximately 1,500 spectators, an approximately 42 ft. high shade awning (with structural elements that extend up to 60 ft. from existing grade), twelve 60 ft. high light and sound poles, and an impervious pool deck. The six pools from west to east and north to south are: a 50m by 25m, 14,459 sf., 756,602 gallon main pool with a moveable floor; a 21m by 25m, 17 ft. deep, 688,267 gallon diving well with a 100 sf. dive spa, an approximately 33 ft. high dive tower, climbing wall, and zip line; a 500 sf. spa; a 1,500 sf., 43,593 gallon teaching pool; a 4,560 sf., 48,000 gallon recreational pool with play features, waterfalls, and volleyball nets; a 1,520 sf. spray garden; and the 50m by 25m Myrtha pool (approximately 6.5 ft. above-grade) with a ticket booth, restrooms, changing rooms, shower, and 310 bleacher seats and a shade structure above the seats with a maximum height of approximately 22 ft. The City anticipates that dewatering at the proposed location of the diving well may be necessary.

The spa, teaching pool, recreational pool, and spray garden are located within the Commission's retained jurisdiction area and the diving well is located within the City's retained jurisdiction. The main pool and Myrtha pool straddle both jurisdictions. All the water bodies located on the plinth are designed with surge capacity and gutter systems that can accommodate large amounts of displaced water. Additionally, the main pool and diving well are designed with fully recessed gutter systems, the spa is designed with a skimmer system, and the teaching pool, recreational pool, and Myrtha pool have deck-level gutter systems. Two ADA compliant lifts provide access to the main pool and diving well, a lift or ADA compliant staircase is identified on the plans at the teaching pool, and a lift or ramp will be provided at the recreational pool. In addition, ADA-compliant access routes are located throughout the development to ensure accessibility between the pool facilities, park areas, parking areas, and the beach.

The pool facilities building, which is located on the plinth in both the City's permit jurisdiction and the Commission's permit jurisdiction, is 15,376 sf. and approximately 22 ft. high including the roof structure (approximately 29 ft. above existing grade). The building contains a 1,198 sf. outdoor lobby area, public restrooms, public and staff locker rooms, family changing rooms, lifeguard offices, Parks & Recreation Department offices, a timing room, a work (meeting) room, building and aquatic support rooms (storage, pool filter, mechanical, electrical, technology/communication, custodial), and two concession areas approximately 298 sf. each and concession storage areas. One concession stand is located at the north end of the facilities building within the City's jurisdiction area and one is located at the south end of the building adjacent to a grass picnic area within the Commission's retained jurisdiction area.

At the southeast end of the plinth there is a series of changes in grade with a long, narrow spray garden on one of the steps that leads down to proposed paved pathways, a beach deck, and landscaped areas. The landscaped area at the base of the stairs is one of several segments of landscaping that surrounds the plinth, segmented by proposed

pervious and impervious public walking paths. On the south and west sides of the plinth, the landscaping is proposed to consist of a dunescape of grasses, low-lying brush, and cacti with a significant number of the replacement trees on the west side. The seaward-most area from the arc is proposed to be maintained as sandy beach area. The north side is proposed to be a wide pedestrian area lined with trees. The construction of this area, as proposed, necessitates the closure of Olympic Plaza to automobile traffic and removal of 40 free curbside public parking spaces. Bicycle parking is proposed to be provided at four locations throughout the site.

The City also proposes to demolish the two existing outdoor pools and their associated facilities at the southeast corner the site and replace them with an area landscaped with grasses, low-lying brush, and cacti. East of the plinth, the City is proposing to redevelop the entrance to the Bennett Avenue public beach parking lot to construct a pick-up/drop-off turnaround area with medians landscaped with native drought tolerant plants including agave, aloes, yucca, and coyote brush. This turnaround would also provide emergency access to the seaward portion of the site. On the west side of the plinth at the southeast corner of the Belmont Pier parking lot, the City proposes to construct an approximately 10 ft. high building with two 54 sf. public restrooms and a 308 sf. trash enclosure, and an approximately 7 ft. high transformer.

The “temporary” Myrtha pool that was constructed in the parking lot in 2013, pursuant to a local CDP (City’s permit jurisdiction), as a temporary replacement for the original Belmont Pool, is proposed to be maintained onsite. The City acted to extend the term of the local CDP in 2017, which was subsequently appealed to the Commission due to concerns relating to the Pool’s perceived impacts to wading birds known to nest in adjacent trees (A-5-LOB-17-0064). The Commission found no substantial issue was raised by the appeal on December 14, 2017, authorizing the pool to continue its temporary use for five additional years (plus two possible one-year time extensions). As proposed, the Myrtha pool would continue to be used for recreational and competitive swimming. The existing showers and restrooms would be removed, the street curb would be modified, and a new bench seat, 197 sf. ticket booth, two 87 sf. family changing rooms, showers, and restrooms would be added. The City proposes to chemically seal the liner seams of the pool to extend its useful life beyond 20 to 50 years.

In total, 27 trees would be removed from the site and 3 would be retained. As proposed by the City, any removed trees will be replaced at a two to one ratio with coast live oak (3), thornless South American mesquite (6), torrey pine (11), chitalpa (12), and California palm (22) trees. Members of the public have stated that other trees have been removed at the site and not replaced (approximately 10 trees within the City’s jurisdiction over the last several years without the benefit of a local CDP). These statements have not been acknowledged by the City, but are supported by a review of satellite images which shows there used to be more trees on the site than there are now; thus, the removal of the pre-existing trees within the project area that will now be covered by the plinth may be considered a request for after-the-fact development. These trees will also be replaced at a two to one ratio.

The construction staging area is proposed to be located within the Bennett Avenue parking lot and would require the temporary removal of approximately 80 parking spaces, including approximately 7 ADA spaces and temporary closure of the Bennett Avenue entrance.

There is alternative access to the parking lot, which will remain open during construction, from Granada Avenue. All bike and pedestrian paths in the vicinity, with the exception of those proposed to be demolished, will remain open during construction and post-construction.

Regarding public utilities, the City is proposing to remove electric conduits and water, gas, sewer, and storm drain lines and construct new water and sewer lines. Segments of the new water line would be located north of the facilities and on segment would be located below the firetruck accessway, seaward of the Bennett Avenue entrance and would extend seaward of any other public utilities onsite. As proposed, a fire hydrant would be located at the terminus of the waterline seaward of the plinth. The new sewer line segment would be located north of the plinth.

Regarding the operational and programmatic elements of the project, the City's proposal includes tentative hours of operation, entry fees, public programming, and enhanced programming for underserved Long Beach residents. The proposed hours of operation reflect current hours at the Myrtha pool: 5:30 a.m. to 9 p.m. Monday through Thursday, 5:30 am to 2 p.m. Fridays, and 8 a.m. to 2 p.m. on weekends. Proposed fees for use of the pools similarly reflect current prices at Long Beach community pools: \$4 for adults, \$3 for seniors, and \$1 for youth per entry with discounted swim passes. The City proposes that the fees, which would be used to cover operation and maintenance costs, may increase in the future based on operational costs and to prices that compare with regional, state, and national fees for similar aquatics operations.

The City proposes to continue to provide classes and programming for the general public all year round. In addition, the City would allow for temporary events, such as swim meets and other aquatic competitions. Furthermore, the City developed a task force of City employees from Public Works, Parks, Recreation, and Marine, Long Beach Transit, and the Health Department to develop a plan to enhance access to the BBAC for identified underserved populations within Long Beach. The plan includes a new after school learn-to-swim program, new weekend transportation to and from City parks, 10 new summer swim camps per year, addition of swim lessons to the LA84 Foundation Summer Swim Program, new low-cost summertime "dive in" movie events, free entry to groups through partnerships with civic organizations, continued and more frequent free water exercise classes for seniors, continued low-cost entry for youths, and 25% more participants in Aquatics Day Camp program. As proposed, the City would purchase one bus that would pick up and drop off participants at park areas throughout the City and transport them to and from the BBAC. Details regarding the bus routes and timetables have not been provided.

The City's proposal also includes general descriptions of a potential sand replenishment program and living shoreline on the beach seaward of the development within the Commission's retained jurisdiction area. The sand replenishment program, as proposed, would be implemented when an average beach width of less than 50 ft. was reached, and could involve placement of approximately 30,000 cy. of sand along the shoreline from Bluff Park (upcoast) to the downcoast third of the Bennett Avenue/Granada parking lot. The nourishment activities would widen the beach by approximately 100 ft. Sufficient details needed to analyze impacts associated with this project element were not provided.

Similarly, the City also suggests that City-approved lawn area seaward of the arc in the plinth may be converted to beachscape and/or a living shoreline.

As described in the Substantial Issue portion of this staff report, the City is also requesting to amend the certified Long Beach LCP (LCP-5-LOB-20-0014-1) to create a new planned development subarea specifically for this project site that would allow for increases in height, reductions in parking requirements, and changes in authorized uses as compared to the current LCP policies for this area, which restrict the site to Park related uses of a lesser height than the proposed development. The staff recommendation for the LCP amendment is addressed in a separate staff report.

B. ALTERNATIVES

In selecting the original proposed alternative in 2016, the City analyzed a no project alternative, five alternative designs, and four alternative project sites (**Exhibit 1**) for the new natatorium complex. The City did not conduct further analyses of alternatives compared to the revised project design in 2020.² Two project alternatives—the no project alternative and a reduced project alternative with no diving well and no outdoor components—were found to be environmentally superior. However, these alternatives do not achieve the City’s project objectives to provide a new pool complex with significant programmable space to replace the Belmont Plaza Olympic Pool. Similarly, the alternative designs to maintain the temporary pool, reduce the number of new pools, expand the passive park area, site the diving well outdoors to reduce the overall project height, and eliminate outdoor components were determined by the City to not achieve the project objectives to the same degree as the selected 2017 City-approved design. The standard of review for the subject CDPs is not, however, the degree to which the proposed development aligns with the City’s project goals, but rather the Chapter 3 policies of the Coastal Act for the Commission’s CDP and the certified LCP and Coastal Act public access and recreation policies for the de novo CDPs. A fully covered pool complex was also considered, but was ruled out due to greater view and community character impacts than the selected alternative.

The City’s analysis of potential alternative locations for the proposed facilities was limited to locations within the coastal zone because the main source of funding for the project is Tidelands Funds,³ which can only be used for public access improvements within the coastal zone. The City considered locating the new pool complex just east of the proposed project site within the Granada public beach parking lot. However, that location was ruled out because it is at a lower elevation and is more vulnerable to coastal hazards including flooding and wave uprush as sea levels rise. The City also looked at two locations within the Port of Long Beach, Pier J at Queens Highway: Harry Bridges Memorial Park, a 4.1 acre public park developed with landscaping and small facilities for outdoor events, and

² The City-approved EIR Addendum found that there is no new information, mitigation measures, or alternatives to the project that would substantially reduce one or more significant impacts identified in the 2016 certified EIR.

³ The Tidelands Fund sources its revenue from oil operations located on tidelands and is required to spend it on public access improvements within the City of Long Beach that are prioritized by the City and approved by the State Lands Commission every five years.

the Queen Mary site, which includes the Queen Mary, Queen Mary Events Park, Sea Walk Village, a cruise terminal, and public parking.

The Harry Bridges Memorial Park site was not selected due to an existing long-term lease with approximately 35 years remaining, limitations on use of the property for outdoor recreation only, site constraints that would limit the size of the development and would not align with project goals, current use of the site for park replacement mitigation and temporary events, lack of parking, barriers to easy public access, health risks associated with areas in close proximity to operating ports, and requirements that all development be outdoors (thereby precluding the development from including a pool facilities building with lockers, etc.). For similar reasons, the Queen Mary site was not selected. In addition, there is another development proposed at the site that would fund the maintenance of the Queen Mary, whereas the income from the pool complex is proposed to only cover the facility's operation and maintenance costs.

The City also considered siting the development within the Convention Center parking lot (or Elephant Lot). The Elephant Lot is an approximately 13-acre surface parking lot located adjacent to the Long Beach Convention & Entertainment Center and in close proximity to Marina Green Park, Alamitos Beach, Shoreline Village, and Downtown Long Beach, including a large public transportation hub. The City did not select this alternative, in part, because the site is currently used for recurring special events committed through 2020, including the Long Beach Grand Prix,⁴ and there is a contract that allows Jehovah Witness to use 1,915 parking spaces within the Elephant Lot for the annual Jehovah Witness Convention that extends through 2029. In addition, the City has entered into agreements with the LA28 Olympics Committee to reserve the site, as currently developed, for Olympic events (water polo and BMX) and staging for the 2028 Olympics. Furthermore, an LCP amendment would be needed to allow for the proposed use.

Some of these alternatives will be discussed in more detail in the following sections of the staff report as they relate to specific coastal resource impacts.

C. STANDARD OF REVIEW

The standard of review for projects heard on appeal by the Coastal Commission that are located between the first public road and the sea is the City's certified Local Coastal Program and the public access and public recreation policies of the Coastal Act. The standard of review for the portion of the project within the Commission's retained jurisdiction area is the Chapter 3 policies of the Coastal Act.

D. COASTAL HAZARDS

Coastal Act Policies

Section 30253, *Minimization of adverse impacts*, states, in part:

New development shall do all of the following:

⁴ Since 1975, the Commission has approved permits for the Grand Prix event. The most recent was CDP No. 5-16-0808, which is a multiyear permit that covered the events occurring from 2017 to 2020. The Grand Prix Association of Long Beach and the City of Long Beach applied for a new multi-year permit (CDP Application No. 5-20-0063) that will likely come before the Commission in early 2021.

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 30235, *Construction altering natural shoreline*, states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

LCP Policies

Goal 3 of the Open Space and Recreation Element states:

Provide for and maintain sufficient open space for adequate protection of lives and property against natural and man-made safety hazards.

Public Health and Safety, *Goal (b)*, of the open space policies states:

To utilize open space as one strategy by which the public can be protected from natural disasters.

Program 3.2 of the Open Space and Recreation Element states:

Continually monitor areas that are physically hazardous.

The proposed project site is located immediately adjacent to a natural sandy beach and would be constructed on top of silty sands and young estuarine and alluvium deposits with current water table levels ranging between 5 and 9 ft. below ground surface. There are several faults in close proximity to the site, including one active fault 1.5 miles from the project site. Thus, the site is subject to seismic hazards and, given the relatively loose granular soils and relatively shallow groundwater table, may be subject to liquefaction during a seismic event. The previous Belmont Pool facility, which was constructed in 1967/1968, was condemned and demolished due to seismic instability. However, the BBAC, as proposed, will meet all current building code regulations and Seismic Safety Element (an uncertified part of the Long beach General Plan) policies.

The site has also been subject to flooding events during large storms and high tides, which are expected to be exacerbated by sea level rise in the coming decades. To alleviate some of these concerns, the BBAC is proposed to be located, in part, on a plinth elevated 7 ft. above the surrounding grade (approximately 10 ft. above mean sea level). In addition, the project has been redesigned to be located immediately inland of a wave uprush limit associated with approximately 5.7 ft. of sea level rise (**Exhibit 8**).

Sea Level Rise Projections

Sea level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea level rise (SLR) rates ranging from about 1.2

mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of SLR continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea level from space indicate an average global rate of SLR of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years.⁵ Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, the best available science demonstrates that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century.

The State of California has undertaken significant research to understand how much SLR to expect over this century and to anticipate the likely impacts of such SLR. In April 2017, a working group of the Ocean Protection Council's (OPC) Science Advisory Team released Rising Seas in California: An Update on Sea-Level Rise Science.⁶ This report synthesizes recent evolving research on SLR science, notably including a discussion of probabilistic SLR projections as well as the potential for rapid ice loss leading to extreme SLR. This science synthesis was integrated into the OPC's State of California Sea-Level Rise Guidance 2018 Update.⁷ This Guidance document provides high-level, statewide recommendations for state agencies and other stakeholders to follow when analyzing SLR. Notably, it provides a set of projections that OPC recommends using when assessing potential SLR vulnerabilities for various projects. Taken together, the Rising Seas science report and updated State Guidance account for the current best available science on SLR for the State of California. The updated projections in the 2017 Rising Seas report and the 2018 OPC Guidance suggest sea levels could rise between 2.1 and 6.7 ft. by 2100 at the Los Angeles tide gauge,⁸ depending on future greenhouse gas emissions. The OPC Guidance recommends that development of only moderate adaptive capacity, including residential development, use the high end of this range, 6.7 ft., to inform decisions regarding development. The updated Rising Seas science report and OPC Guidance also include an extreme scenario (termed the "H++" scenario) of 9.9 ft. of SLR by 2100 based on recent modelling efforts that look at possible SLR associated with rapid ice sheet loss. These projections and recommendations are incorporated into the 2018 update of the Coastal Commission Sea Level Rise Policy Guidance.⁹

As our understanding of SLR continues to evolve, it is possible that SLR projections will continue to change as well (as evidenced by the recent updates to best available science). While uncertainty will remain with regard to exactly how much sea levels will rise and

⁵ <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>

⁶ Griggs, G, Árvai, J, Cayan, D, DeConto, R, Fox, J, Fricker, HA, Kopp, RE, Tebaldi, C, Whiteman, EA (California Ocean Protection Council Science Advisory Team Working Group). Rising Seas in California: An Update on Sea-Level Rise Science. California Ocean Science Trust, April 2017.

⁷ OPC State of California Sea-Level Rise Guidance, 2018 Update:
http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A OPC_SLR_Guidance-rd3.pdf

⁸ The OPC Guidance provides sea level rise projections for 12 California tide gauges, and recommends using the projections from the tide gauge closest to the project site. The projections for the LA tide gauge can be found on page 72 of the OPC Guidance.

⁹ <https://www.coastal.ca.gov/climate/slrguidance.html>

when, the direction of sea level change is clear and it is critical to continue to assess SLR vulnerabilities when planning for future development. Importantly, maintaining a precautionary approach that considers high or even extreme SLR rates and includes planning for future adaptation will help ensure that decisions are made that will result in a resilient coastal California.

Application to this Project

The proposed development is analyzed as having moderate adaptive capacity given the type (not a critical facility for public health and safety) and scope (some of the structural elements will be difficult, if not infeasible, to remove from the site) of the development. Therefore, as stated above, according to the best available science, the BBAC should be designed with consideration given to a potential scenario of 6.7 ft. of SLR by the end of the development's 75 year design life. The City of Long Beach Vulnerability Assessment¹⁰ (AECOM, 2018) finds that open coast beaches, such as Belmont Beach, have high sensitivity to permanent inundation and low adaptive capacity, in part, due to the development of the backshores. For the near-term, the Vulnerability Assessment anticipates that less than 5% of the Belmont Pier and Plaza area will be exposed to flooding on the inland side of the parks from annual King Tide events with as little as 11 in. (approximately 1 ft.) of SLR. The Vulnerability Assessment includes analyses of SLR scenarios, including 66 in. (5.5 ft.) of SLR. Under this scenario, which is less conservative than the best available science suggests, the beach at Belmont Shore is anticipated to range from 100 to 600 feet in width and would be the widest of the last two remaining open coast beaches in Long Beach. The beach is currently approximately 330 ft. wide. Using a variety of SLR data and models, including the United States Geological Survey's Coastal Storm Modelling System (CoSMoS), impacts to site could include intermittent flooding of Ocean Boulevard and the Bennett Avenue parking lot entrance with 2.5 ft. of SLR and no storms, longer term flooding of the parking lot entrance and intermittent flooding of the proposed Olympic Plaza pedestrian path with approximately 4 ft. of SLR, flooding of the entire Bennett Avenue/Granada parking lot (including the site of the Myrtha pool) with approximately 5 ft. of SLR, and with approximately 6 ft. of SLR, long-term flooding of the majority of the project site with the exception of the plinth and area between the plinth and the current location of the regional bike and pedestrian path (where mean sea level is anticipated to be with that amount of SLR) (**Exhibit 6**).

Accounting for storms, including 100-year storm events, the plinth could become subject to wave uprush and could effectively exist as an island by the end of the anticipated design life (by 2100). Under this scenario, the majority of the southeast area of Long Beach including the Los Cerritos wetlands, Naples Island, the Long Beach Peninsula, Belmont Shore, Colorado Lagoon, and even parts of the Cal State Long Beach campus (approximately 3 miles inland of the site) would experience flooding given current development (i.e. existing seawall heights). While the proposed structures located on the plinth may not be directly damaged under this scenario, as proposed, access to the site may be blocked from inland flooding, the plinth may fail due to wave uprush, and rising groundwater levels may cause the pools to become buoyant.

¹⁰ *Climate Change Vulnerability Assessment Results; Long Beach Climate Action and Adaptation Plan* dated November 12, 2018 and prepared by AECOM for the City of Long Beach.

Future sea level rise will also likely lead to an increase in groundwater levels at the project site, potentially having additional impacts on project structures. At present, groundwater is thought to occur approximately six to nine feet below the ground surface at the project site. Due to the proximity of both the Pacific Ocean and Alamitos Bay, the high permeability of the sandy soils underlying the site, and negligible fresh groundwater influence, groundwater levels at the site are near mean sea level and are tidally influenced. The applicant's preliminary geotechnical report recommends that all structures extending below a design groundwater elevation of +5 ft. above mean sea level (MSL) (+7.6 ft. NAVD88), corresponding to the local highest observed high tide, should be designed for buoyant conditions. Under the OPC (2018) high emissions, medium-high risk aversion SLR scenario with 6.7 ft. of SLR by 2100, the extreme groundwater elevation could be on the order of +11.8 ft. above present-day mean seal level (+14.4 feet NAVD88).

The City submitted an amended SLR and wave uprush study, dated September 18, 2019 and prepared by Moffatt & Nichol, to account for best available science that has evolved since the City's original 2017 approval of the project. The study, which uses CoSMoS data, finds that no long-term shoreline erosion hazards are anticipated for the BBAC throughout the century and some lateral access along the beach seaward will be possible even under a 6.6 ft. SLR scenario. In addition, the study finds that with 6.6 ft. of SLR and extreme storm events, the BBAC will have minimal exposure to wave uprush and there will be no flooding of the facilities, given the proposed finished floor elevations. However, the applicant's hazards analysis may not be predictive of future conditions. For example, if sea level rise or storm activity is more severe than anticipated and the plinth wall is subject to frequent wave attack, then alternative adaptation strategies such as buffering the development with natural shoreline enhancements (e.g. sand replenishment and dune creation) or removal of the development may be required.

Alternative projects and project sites were considered, but each would also be vulnerable to coastal hazards, including sea level rise. The Granada parking lot site (adjacent to the proposed project location) is at a slightly lower elevation and is expected to be more vulnerable to sea level rise and flooding hazards. For the two Pier J sites, Harry Bridges Memorial Park is only anticipated to flood with 6.6 ft. of SLR and a 100 year storm event; portions of the Queen Mary site, on the other hand, are anticipated to experience longer term flooding with 5.7 ft. of SLR and no storm events. The inland portion of the Elephant Lot is expected to experience intermittent flooding with 5.7 and 6.6 ft. of SLR and most of the site could be flooded with 6.6 ft. of SLR and a 100 year storm. A no project alternative at the proposed project site would allow the majority of the project site (with the exception of the elements located within the Bennett Avenue parking lot) to remain as a passive public park that would be entirely free to access, but use of the site could still be severely limited due to flooding of the adjacent roadways. Additionally, if the proposed development does not move forward, the Tidelands Funds allotted to the BBAC project could be used for sea level rise adaptation strategies that would maximize public access to the coast or other public access enhancements.

Thus, with regard to hazards relating to SLR, the sites that would minimize risk to the proposed development are Harry Bridges Memorial Park, the Elephant Lot, and the proposed project location, respectively. All of these projections, however, assume certain characteristics about future conditions such as the continued existence of the Long Beach

Breakwater and maintenance of current seawall and bulkhead heights in residential and public areas adjacent to Alamitos Bay. Changes to the breakwater and the bulkheads may be implemented by 2100, which cannot be anticipated as part of the development's adaptive capacity, but which would change the extent to which the development is subject to flood hazard and wave uprush.

Consistency with the Standards of Review

The Coastal Act (Section 30253) requires that all new development minimize risks to life and property and assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along coastal bluffs or cliffs. As discussed above, Section 30253, in conjunction with public access and visual resources policies of the Coastal Act, strongly discourage (if not prohibit) the construction of shoreline protective devices for new development, because of the numerous adverse impacts they have on beaches, public access, visual resources, and natural landforms. However, Section 30235 of the Coastal Act requires approval of shoreline protective devices (SPDs) in certain limited situations, including when necessary to protect coastal-dependent uses and existing structures and public beaches in danger from erosion, when designed to eliminate and mitigate adverse impacts on shoreline sand supply.

In this case, the proposed development is not coastal-dependent or existing and would not serve to protect a beach in danger of erosion. Thus, the applicant is not proposing a shoreline protective device, nor is the applicant entitled to shoreline protection under Section 30235 of the Coastal Act or the certified LCP. Moreover, if it became necessary at some point in the future, construction of a seawall or other type of armoring to protect the proposed development would likely be inconsistent with Coastal Act policies because, as sea levels rise, the structure could contribute to erosion of the public beach surrounding the site, adversely impact public access and recreation, and degrade visual resources. In addition, LCP policies, including but not limited to public access, recreation, and visual resource policies, do not support the construction of shoreline protective devices. For example, the certified Open Space and Recreation Element requires the City to maintain open space adequate to protect lives and property against natural and man-made hazards, which suggests that open space, rather than a shoreline protective device should be used to minimize risks from hazards. The City's policies regarding the maintenance of sufficient beach width also support this directive. Furthermore, the LCP contains policies that require the City to improve access to natural environments. Given, the adverse impacts shoreline protective devices have on natural beach systems and shoreline processes, the construction of a shoreline protective device would also likely be inconsistent with such access policies.

Therefore, in this case, the applicant is not proposing, and the Commission would not approve, the construction of a seawall, revetment, or similar type of shoreline armoring to protect the proposed development from sea level rise-related hazards. The portion of the development within the Commission's retained jurisdiction area, as proposed, consists of landscaping, pedestrian paths, bike racks, and the seaward half of the plinth structure. The BBAC facilities and foundational elements along the seaward line of development have been revised so that their design will not function as a shoreline protective device. As proposed, the perimeter of the plinth is stabilized by a continuous 24 in. concrete footing

located approximately 1.5 ft. below grade. While this continuous footing supports a wall around the 7 ft. high plinth, the wall is not expected to function as a shoreline protective device due to its shallow and easily removable foundation system.

To ensure that the City does not propose to deepen this foundation system in the future or otherwise alter or add to the project in any manner that would provide shore protection, **Special Conditions 14 and 15** address future risks and future shoreline armoring. Specifically, **Special Condition 14** requires the City to assume the risk of development in a hazardous area and **Special Condition 15** requires the City to waive rights to future shoreline protection, remove the development if required by any government agency, and recover any debris that may fall to the beach, ocean, or bay. With the exception of the 80 ft. deep piles, the development is removeable. The piles, however, would remain in the ground and would, therefore, need to be cut at a sufficient depth to minimize impacts to the beach and visual resources. **Special Condition 2** requires a final foundation plan that includes the extent of removability of the foundational elements to inform potential future removal of the development. In addition, although the City may need to remove the development if required to do so by a government agency as a result of coastal hazards, it may be possible to implement adaptation measures prior to that to avoid the need for both shoreline protection and removal of the development.

The Long Beach LCP also contains coastal hazards policies that require the City to provide for and maintain sufficient open space for adequate protection of lives and property against natural and man-made safety hazards, utilize open space as one strategy by which the public can be protected from natural disasters, and require continual monitoring of areas that are physically hazardous. As proposed, the development reduces risks associated with seismic hazards by designing the BBAC to conform with all current code requirements and has been redesigned to reduce risks to the development from wave uprush by relocating the development inland of the projected extent of flooding under a 5.7 ft. sea level rise scenario with a 100-year storm event. However, as proposed, the project raises questions as its consistency with the Coastal Act and LCP policies that require risks to life and property and landform alternation to be minimized, sufficient open space to be maintained, and hazards to be monitored, considering there are project alternatives that may further reduce risk from coastal hazards. Thus, to ensure consistency with these policies, several special conditions are imposed.

To address concerns relating to adequate foundation design that accounts for rising groundwater levels and minimal landform alteration, **Special Condition 2** requires the City to provide final foundation plans that are designed to account for best available SLR science, including SLR effects on groundwater levels, and involve the minimum amount of development necessary to assure stability and structural integrity, thereby, minimizing landform alteration. **Special Condition 2** also requires hardscape and other more permanent facilities to be removed from areas seaward of existing paved areas and the plinth thereby maximizing open space and prohibiting new hardscape on the sandy beach. **Special Condition 16** requires the development to be carried out consistent with the final approved plans and **Special Condition 17** further requires a CDP amendment for any future proposed changes to the project unless the Executive Director determines that no CDP is required. However, the development, as proposed, would still extend the line of development across the site and seaward of the adjacent parking lots in an area

vulnerable to coastal hazards under medium-high risk aversion scenarios with large storm events by the end of the expected design life of the development.

While the proposed project is sited to minimize risks from a 100-year storm and 5.7 ft. of sea level rise, there remains some uncertainty about the long-term response of the beach to future sea level conditions and the availability of public beach access over the life of this development. Thus, adaptive management of the site is necessary to ensure the development is safe from coastal hazards and does not adversely affect the adjacent beach areas and coastal-dependent development for the entire project life. **Special Condition 13** is imposed to require a Shoreline Change, Sea Level Rise Monitoring, and Adaptation Program be developed by the City and approved by the Executive Director that includes detailed monitoring requirements and triggers for the City to come back to the Commission with a comprehensive adaptation plan for the site if certain conditions occur. Per this condition, the City would be required to document baseline conditions, monitor beach change and coastal hazards associated with storm or King Tide events, and report monitoring results annually (for beach change) or within 14 days of storm events. In addition, the condition requires that the City prepare an Adaptation Program that identifies triggers for when a CDP amendment application must be submitted that will include a plan to maintain adequate beach widths seaward of the development and access to the BBAC facilities or to remove the development.

The Long Beach LCP requires that ocean beaches be maintained at a minimum width of 150 ft., which would safeguard public beach access and recreational opportunities and provide coastal development with a buffer against coastal hazards. In order to be consistent with this policy that may provide guidance as to the project's conformance with Chapter 3 of the Coastal Act, one of these triggers is required to be, at a minimum, when the width of the sandy beach is 150 feet or less during a storm or King Tide event. Another trigger, discussed in more detail in the following section, is required to be when the BBAC is, at a minimum, inaccessible to the general public by public transportation for five or more consecutive days or 15 days within one year. **Special Condition 13** also lists two triggers relating to the availability of parking in the adjacent public beach parking lots, which provide access to the beach and would provide access to the proposed facility. The City may also develop additional triggers or triggers that are more protective of coastal resources as part of the required Adaptation Program. Once a trigger is met, as determined by the Executive Director (based on required annual reports of site conditions) or a qualified beach monitor that is approved by the Executive Director, the City is required to notify the Executive Director within three days of the triggering event, provide a complete report of the site conditions associated with the trigger within three months, and submit a CDP amendment application to implement an adaptation plan that maximizes public access at the site within one year.

Thus, given the constraints of project alternatives, the development, as conditioned, minimizes risks to life and property and is consistent with the coastal hazards policies of Chapter 3 of the Coastal Act (for the portion of the development within the Commission's retained jurisdiction area) and the certified LCP (for the portion of the development within the City's permit jurisdiction area).

E. PUBLIC ACCESS & RECREATION

Coastal Act Policies

The Chapter 3 public access policies of the Coastal Act that are included in the Substantial Issue Analysis section of this staff report are hereby incorporated.

Section 30255, *Priority of coastal-dependent developments*, states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Section 30220, *Protection of certain water-oriented activities*, states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221, *Oceanfront land; protection for recreational use and development*, states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223, *Upland areas*, states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252, *Maintenance and enhancement of public access*, states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

LCP Policies

The public access and recreation policies from the Long Beach LCP that are included in the Substantial Issue Analysis section of this staff report are hereby incorporated.

Belmont Pier Planned Development District, *Subarea 5, Access*, of the LCP document states, in part:

**post-certification of LCP Amendment No. LCP-5-LOB-20-0014-1, if modified as suggested*

A-5-LOB-17-0032, A-5-LOB-20-0007, & 5-18-0788 (Belmont Beach & Aquatic Center)
Appeals – Substantial Issue & De Novo and CDP Application

(1) Public access to Subarea 5 and any public facilities therein shall be maximized for all people. All recreational opportunities provided within this subarea shall be lower cost and visitor-serving.

(2) Vehicular. Vehicular access shall be provided from Ocean Blvd. via a southerly prolongation of Bennett Ave. Access to the site by public transportation shall be increased and encouraged.

(3) Pedestrian.

(a) Along a walkway not less than twenty feet (20') in width, in the former Olympic Plaza right-of-way between Termino Ave. and Bennett Ave., with unobstructed views of the Belmont Beach and Aquatics Center.

(b) Ocean Blvd., south curb west of Bennett Ave.

(c) Along beach frontage. A lateral path from east to west on the seaward side of the Belmont Beach and Aquatics Center with unobstructed views of the beach and ocean shall be provided and maintained onsite in perpetuity.

(4) Beach. Public access to the sandy beach and ocean shall be provided through the maintenance of not less than one hundred and fifty feet (150') of beach width seaward of the line of development or through the implementation of a Coastal Commission-approved alternative sea level rise adaptation plan that conforms with the Chapter 3 policies of the Coastal Act.

Summary, *Coastal Resources*, of LCP document states, in part:

The beaches are dedicated in perpetuity by the [park] dedication policy, and enhanced by limited development programs which will encourage sensible public use.

The Park Dedication Policy states, in part:

...all parks and beaches within the coastal zone (as defined by the Coastal Act) designated by the Local Coastal Program and now in public ownership be immediately dedicated in perpetuity as public park land.

Park Use Development Standards, *Section 21.35.205 – General Provisions*, of the certified Zoning Code states, in part:

Any conversion of parkland must be replaced on an amenity-for-amenity basis on at least a 2:1 ration. One acre of replacement land shall be located in the park service area where the land was converted and an additional acre of replacement land shall be located in the park service area needing parkland as determined by the Recreation Commission.

Outdoor Recreation, *Goal (c)*, of the open space policies states:

To utilize public easements for a system of connecting corridors between major recreational facilities and open space.

Part of the intent of the City's proposal is to re-establish the subject site as a public pool facility that will be visited by local, regional, and potentially international recreators and competitive swimmers who can, once there, enjoy the other coastal resources the area has to offer. The existing public access and recreational amenities in the project vicinity include sandy beach, Rosie's Dog Beach, volleyball courts, the regional bike and pedestrian paths that extend from the east end to the west end of the City, a kitesurfing area, the Belmont Pier and adjacent visitor-serving area, Leeway Sailing Center, and

Bayshore Beach (bayside). The project site is currently designated as Park in the certified LCP and developed with the Myrtha Pool and Belmont Shore Beach Park. Belmont Shore Beach Park would be converted from an entirely accessible passive park area with sand, landscaping, and bicycle and walking paths to the BBAC—which incorporates passive park area with walking paths and landscaping that would be accessible for free, as well as community pools and associated facilities that would require entry fees. Also, once the BBAC is constructed, access would be limited during certain hours and for special events like swim competitions.

The Long Beach LCP requires that only beach-dependent recreational facilities be allowed on the beach. As described previously, the Belmont Shore Beach Park was the site of the pre-existing Belmont Plaza Olympic Pool complex, which was demolished pursuant to CDP No. 5-14-1057-W. That CDP authorized the site to be developed as a shallow stormwater detention basin covered with four in. of sand. Thus, while the sandy area onsite is currently used for beach recreation, the site was backfilled post-removal of the previous pool complex and is designated in the LCP for park use, which allows for athletic, including pool, facilities. In addition, the certified LCP is not the standard of review for the portion of the development (within the Commission's jurisdiction) the site located on/adjacent to the beach.

The recreation policies of Chapter 3 of the Coastal Act require that properties in the coastal zone, especially those in close proximity to the beach, be reserved for coastal recreational uses, including water-oriented uses that cannot feasibly be provided inland and prioritize coastal-dependent uses. While pools are water-oriented recreational uses that could be located inland, athletic facilities including swimming pools are permitted uses for the LCP's current Park designation. The Belmont Pool Complex—the previous name for the Belmont Shore Beach Park—is specifically designated as a Special Use Park by the LCP, and, with the proposed swim lesson programming, does encourage more and safer beach access and recreation.

The certified LCP also requires designation of public parks in perpetuity and replacement of any parkland removed from a site to be replaced at a 2:1 ratio (two acres created for any one acre removed). While the proposed development involves the conversion of some existing open space to pool facilities, these uses are consistent with the LCP Park designation and, therefore, such a conversion does not require replacement of parkland. The project and associated LCP amendment, as proposed, do change the land use designation from Park to a special Planned Development subarea; however, the new designation still allows for all uses permitted in Park districts.

In addition to the Coastal Act policies that support public access and equal opportunities for recreation, the Commission has the responsibility to protect the public trust and public trust uses. Coastal Act regulations define public trust lands as "all lands subject" to the common law public trust and associated with trust purposes, including recreation. While public trust lands or tidelands often correspond to the area located seaward of the mean high tide line, in the City of Long Beach, Tidelands include filled and unfilled tide and submerged lands that are identified as the area seaward of the "Chapter 138 line," which

was drawn pursuant to Chapter 138 of the 1964 Statutes of California¹¹ and corresponds with the inland boundary of the Commission's retained jurisdiction. Per this statute, the State Lands Commission, which administers leases on public trust lands, granted the tidelands and revenues therefrom to the City of Long Beach. Section 6 of the statute lists specific categories of uses allowed on public trust lands. One of the uses (Section 6(c)) is for "construction, reconstruction, repair, operation and maintenance of...recreational facilities...on or adjacent to the Long Beach tidelands...for the benefit and use of said tidelands." Projects fulfilling such uses must be approved by the State Lands Commission prior to the dedication of Tidelands Funds to any project. For the subject project, the State Lands Commission approved the use of the Tidelands Funds for the development¹², thereby finding it consistent with the public trust.

Sea Level Rise

As discussed in the previous section, under the OPC medium-high risk aversion sea level rise scenario, (i.e., 6.7 ft. of SLR by 2100) the proposed development will be vulnerable to intermittent wave uprush during large storm events from the seaward side of the development and longer term flooding from the inland side of the site by the end of the anticipated BBAC's useful life (**Exhibit 6**). The resulting impacts to public access and recreation are twofold: 1) impacts to sandy beach access and 2) restricted recreation and public access to the recreational opportunities provided by the development itself. The proposed location of the facility (including landscaped areas) would occupy approximately 150,000 sf. (or nearly 3.5 acres) of sandy beach, assuming the existing outdoor pools are still removed, that would otherwise be available for present and future public use. While this beach area, which is inland of the regional bike and pedestrian path, is not currently as heavily used as the beach seaward of the bike path, as the sea level rises, the potential use of the area for beach recreation may become more valuable in the future. The sandy beach, which is currently approximately 330 ft. wide, will narrow overtime as sea levels rise and the beach is unable to migrate landward of the proposed development. This will also eventually affect the volleyball courts and regional bike and pedestrian path that exist seaward of the development.

From the inland side, flooding along Ocean Boulevard and the Granada/Bennett Avenue parking lot entrance is already known to occur and is expected to increase in frequency and severity over time. If the parking area is inaccessible, public access to the facility will be limited and visitors that access the BBAC by car or public transit (likely those that do not live in close proximity to the BBAC) will be disproportionately affected. As proposed, the City does not have a detailed plan to ensure than public access and recreational opportunities are protected.

Therefore, as described in the previous section, **Special Condition 13** requires the City to prepare a Shoreline Change, Sea Level Rise Monitoring, and Adaptation Program for approval by the Executive Director that includes detailed monitoring requirements and

¹¹ Statutes of California, 1964 1st Extraordinary Session, Chapter 138

¹² On June 16, 2015, the City of Long Beach City Council approved a 5-year Capital Improvements Plan that included the subject development. The City's adopted Fiscal Year 2020 Capital Improvements Plan also includes the proposed development. The State Lands Commission approved the use of funds for the project and additional expenditures on May 24, 2012, April 26, 2013, and April 23, 2014.

triggers for the City to come back to the Commission with a comprehensive adaptation plan for the site when significant impacts to the beach occur or when the development is inaccessible to the public. For example, when the width of the sandy beach is reduced to 150 ft. or less during a storm or King Tide event, the BBAC is inaccessible to the general public by public transportation for a period of five or more consecutive days or 15 days within one year, parking areas are flooded for five consecutive days or 15 days within one year, or when the parking lots reach capacity for more than three consecutive days, the City must notify the Executive Director within three days, provide a complete report on site conditions within three months, and submit an application to amend the CDPs within one year to maintain a beach width of 150 ft., protect access to the facilities, and/or remove the development. Thus, if use of the public beach is threatened or if the BBAC does not provide sufficient or equitable public access to the area, an adaptation plan will be prepared to protect and restore public access to the site.

These triggers, and others that the City could propose pursuant to **Special Condition 13**, ensure that the public will continue to use and enjoy the sandy beach and pool facilities throughout the anticipated life of the development. **Special Condition 13** also ensures that when a trigger is met, the City will develop concrete adaptation measures to prevent long-term, significant impacts to the public beach, and to the facility, well before they occur so that public access to the coast is protected. This adaptation plan, which must include an alternatives analysis that contemplates removal of all or part of the development, is required to be approved by the Coastal Commission and, subsequently, implemented. Likewise, **Special Condition 15**, requires removal and restoration of the site if required pursuant to a Commission-approved adaptation plan. Therefore, risks to the beach and public access to the coast are minimized because the City must adapt the project to changing conditions *before* the site incurs substantial impacts to public access.

In addition, **Special Condition 2** requires the City to include a public pathway around the perimeter of the top of the plinth and a lateral accessway from west to east up and over the plinth that will ensure that the public will be able to access the water in the case that wave uprush and/or flood waters reach the plinth prior to implementation of a Commission-approved adaptation plan. Also pursuant to this condition, all hardscape (including walking paths and public utilities) seaward of the plinth and lateral accessway is required to be relocated inland of the plinth and existing line of development (i.e. the paved areas associated with the parking lots). Furthermore, through **Special Condition 15**, the City waives its rights to a shoreline protective device and is required to remove the development if required by any government agency as a result of coastal hazards, if required by LCP policies regarding sea level rise adaptation planning, and (as discussed) if required by a Commission-approved adaptation plan. Removal of the facilities could potentially enhance public access and allow the beach to migrate naturally if adaptation measures do not succeed in maintaining a useable sandy beach. As conditioned, public access will be maintained even as sea levels rise.

Environmental Justice

The proposed project raises significant environmental justice concerns because of the inequitable distribution of the pool facility's benefits and limited access for residents of Long Beach. Throughout California's history, underserved communities including low-income populations, communities of color, and other marginalized populations, have faced

disproportionate social and physical barriers, often caused or exacerbated by discriminatory land used patterns and economic policies, disconnecting them from coastal access and recreational opportunities.¹³ In the case of the proposed project, for example, the pool is located in the more affluent section of Long Beach which has a higher socio-economic demographic than the rest of the city.

Section 30210 of the Coastal Act requires that maximum access to the coast and coastal recreational opportunities be provided for all people. The City's LCP also requires that such access to recreational facilities for all community members be provided. The Commission has the authority under Section 30604(h) of the Coastal Act to consider environmental justice or the equitable distribution of environmental benefits throughout the state, when acting on a coastal development permit. The Commission adopted an environmental justice policy in March 2019, recognizing that equitable coastal access and recreational opportunities for all populations is encompassed in, and protected by, the public access policies of Chapter 3 of the Coastal Act.

When considering environmental justice issues related to the proposed facility, the first concern is the location of the project site in a part of coastal Long Beach that is more affluent, predominantly white, and not easily accessible from other parts of the City. The City of Long Beach has a population of 462,628, a median household income of \$60,551,¹⁴ 72% of people identify as people of color, and 47% speak a language other than English at home.¹⁵ Despite the size and population, there are currently only three year-round public pools in Long Beach that offer open swim lessons and aquatics programming (the two indoor pools are closed during the pandemic), and three additional pools at high schools that are opened in the summertime to meet additional demand. The proposed project, which would be the largest pool facility and offer greater programming and recreational opportunities, will be located far from communities more burdened with public health impacts of pollution and have greater sensitivity to the pollution (**Exhibit 7**). While, with seven water bodies and associated facilities, the BBAC would greatly increase the aquatic recreational opportunities in the area, these benefits will be difficult to easily access for underserved members of the City who do not live near the proposed location and have less disposable income to spend on aquatic programs, pool use, and transportation to the site. According to the City of Long Beach, more than twice the percentage of Black households lack car access than other households and Latino, Asian/Pacific Islander, and Black workers all earned lower wages compared to White workers.¹⁶ As a result, the BBAC will provide recreational opportunities that disproportionately benefit those wealthier residents who live close to the proposed project site and enjoy access to more recreational amenities, those who can afford cars, and those with time to transport themselves to the proposed pool complex. Currently, the site is only accessible by one bus that runs once or

¹³ Robert Garcia and Erica Flores Baltodano, Free the Beach! Public Access, Equal Justice, and the California Coast, 2 Stanford Journal of Civil Rights and Civil Liberties, (143, 2005).

¹⁴ U.S. Census Bureau Quick Facts for Long Beach city, California.
<https://www.census.gov/quickfacts/fact/table/longbeachcitycalifornia#>

¹⁵ City of Long Beach. Equity Infographic - http://www.longbeach.gov/globalassets/health/healthy-living/office-of-equity/clb_infographic-v2

¹⁶ City of Long Beach. *Advancing Economic Inclusion in Long Beach*.
<http://www.longbeach.gov/globalassets/economic-development/media-library/images/economic-inclusion-infographics-final-02-07>

twice an hour under normal weekday circumstances. The closest bus stop is approximately ½ mile from the project site and an approximately 15 minute ride from the Downtown Long Beach Transit Mall where transfers would be required to reach inland Long Beach.

Siting a large pool complex in a location that is less accessible by underserved communities in Long Beach perpetuates historic patterns of discrimination that created barriers to coastal access and recreation in communities of color and low-income communities. In Long Beach and elsewhere throughout the state, inequitable laws and practices, such as redlining, restrictive covenants, and lack of funding for schools, created and furthered geographic disparities by race, ethnicity, and income. Spatial analysis of 2010 Census data across demographic groups and proximity to public shoreline access points in California shows that a majority of Californians (79.7%) live within 62 miles of the coast, but populations closest to the coast are disproportionately white, affluent, and older than those who live farther inland.¹⁷ The same analysis conducted for Los Angeles County revealed even greater disparities among Hispanic and Latino residents compared to other racial/ethnic groups.

In addition to geographic inequities, there are inequities in terms of who learns to swim and death rates caused by unintentional drowning. According to the Centers for Disease Control and Prevention, there is an increased likelihood of African American youth and young adults drowning in swimming pools compared to other race/ethnicities and differences in swimming skills may explain this inequity.¹⁸ Research indicates that a history of racial discrimination in provision of and access to swimming pools and lessons resulted in fewer Black communities participating in aquatic activities than White individuals.¹⁹ In addition to racial disparities, there is also a growing class-disparity in swimming abilities that emerged due to pool closures and less investment in building new, affordable public pools. The decline in public pools disproportionately burdens lower-income families who cannot afford to pay for costly swim club memberships or classes at private facilities.

To alleviate some of the concerns regarding the project's location, the City considered the Elephant Lot as an alternative site in the coastal zone. The Elephant Lot, located in the Downtown Shoreline area of Long Beach, is within a half-mile of the Long Beach Transit Mall and the end of the Metro Blue Line, which connects Downtown Los Angeles to Long Beach. While this site is more easily accessible to residents throughout the region, the City raised environmental justice concerns about the Elephant Lot because it is closer to the ports of Long Beach and Los Angeles and could expose more people to poor air quality. While the project could be redesigned as an indoor facility to alleviate that concern, the City also said it was committed to other uses for that site. That area is a popular visitor-serving center and the City considered the Elephant Lot for other future developments

¹⁷ Coastal Access Equity and the Implementation of the California Coastal Act (2016) Reineman, et al., Stanford Environmental Law Review Journal, v.36, pages 96-98.

¹⁸ Gilchrist, J. and Parker, E.M. (2014). Racial/Ethnic Disparities in Fatal Unintentional Drowning Among Persons Aged <29 Years – United States, 1999-2010. CDC.
<https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6319a2.htm>

¹⁹ Wiltse, J. (2014) The Black-White Swimming Disparity in America: A Deadly Legacy of Swimming Pool Discrimination. Journal of Sport and Social Issues. Vol 38(4) 366-389

including a new Angels Stadium and for other shorter-term projects, such as swimming and BMX Olympic events during the 2028 Olympics. As a result, the Elephant Lot is not a feasible alternative for the City under current conditions.

Another environmental justice concern is the conversion of passive park area onsite, which is free and completely accessible to the public, to a partially exclusive pool complex where even the lower cost entry fees (currently \$4 for adults, \$3 for seniors, and \$1 for youths, per entry, with discounted passes) may be a barrier to regular access for lower income individuals and families. This inequity will be exacerbated as rising sea levels limit the amount of beach and park area that is accessible for free by the general public and as inland residents seek refuge from rising temperatures along the coast. The City states that public use of the facilities will be balanced with private and competitive use of the facilities and the City will offer discounted, subsidized, or free programming, as proposed in its access enhancement plan. However, the proposed fee requirement would allow entry fees to increase as needed to cover operation and maintenance costs for the facility. Thus, as proposed, the development does not encourage or maximize use of the facilities by all people.

Additionally, the City's proposed programming to enhance access to the BBAC for underserved communities was not developed in consultation with representatives from those communities and may not, therefore, maximize access from those parts of Long Beach. The proposed programs include: a new after school learn-to-swim program, new weekend transportation to and from City parks, new summer swim camps, the addition of swim lessons to the LA84 Foundation Summer Swim Program, new low-cost summertime "dive in" movie events, free entry for partnerships with civic organizations, continued and more frequent free water exercise classes for seniors, continued low-cost entry for youth, and additional participation in the Aquatics Day Camp. The City also proposes to invest in one bus that would provide direct transportation from public parks throughout the City to the BBAC. However, as proposed, it is not clear how much the bus would cost, whether it has appropriate capacity for potential demand, or whether it would cut down on transportation time. It is also not clear how much the previously mentioned programs would cost to participating underserved community members.

To address these concerns and the insufficiencies in the City's proposed public access enhancement plan with regard to public participation and project details, **Special Condition 3** is imposed to require the City to conduct City-wide community outreach that will inform a revised public access program to be submitted to the Executive Director for review and approval. Specifically, this condition requires the City to develop a Community Access Program to be reviewed and approved by the Executive Director that includes tailored, culturally appropriate outreach methods to equitably engage and survey Long Beach residents and users of Long Beach community pools to collect input on what type of recreational programming at the BBAC (if any) is most desired and how it could best be accessed. The survey and public engagement results will inform the revised Public Access Program, which will also be submitted to the Executive Director for review and approval. Until the Public Access Program is approved and ready to be implemented, the BBAC shall not be opened to the general public or any other user group. **Special Condition 3** also requires the City to establish an evaluation program and provide annual reporting on participation in the final approved programming. If a program evaluation identifies

substantial disparities in access to the facility, then the City would be required to amend the Public Access Program to address the disparities.

Furthermore, **Special Condition 3** requires the City to provide public access to the facilities for the number hours included in the City's proposal, at a minimum. The condition also requires that at least four of the seven water bodies at the complex (including one of the 50M pools) shall be available for use by the general public as opposed to private or exclusive use by swim clubs, sports teams, or private classes on any given day. Temporary events that would require more exclusive use of the facilities would also require a coastal development permit (or determination that no permit is required) and reservation of at least one water body for general public use, if feasible. **Special Condition 3** also requires that any change to the final approved Public Access Program, including changes in entry or parking fees, shall require CDP amendments unless the Commission's Executive Director determines that no amendment is required. As conditioned to implement the final approved Public Access Program, which will be informed by community-identified needs and preferences and ensure the BBAC will function as a lower cost recreational facility, the development is consistent with the public access and recreation policies of the Coastal Act and certified LCP.

Parking

The proposed development results in the loss of 40 vehicle parking spaces along Olympic Plaza which are currently free. The City proposes to construct bicycle racks as part of the project, but does not propose to develop any new vehicle parking spaces. The existing parking in the project vicinity consists of 707 spaces in the Bennet Avenue/Granada public beach parking lot, 276 spaces in the Belmont Pier parking lot, and 169 spaces along Ocean Boulevard for a total of 1,152 parking spaces. These parking areas currently provide access to the beach, coastal-dependent uses in the project vicinity, and the "temporary" Myrtha pool. The total number of parking spaces is nearly double what is required for those uses by the certified LCP, which is 614 parking spaces. Per the certified LCP (including as proposed to be amended and suggested to be modified by the Coastal Commission per LCP-5-LOB-20-0014-1), existing parking must be retained; however, 108 parking spaces were recently added along Ocean Boulevard by restriping the existing curbside parking to angled parking. Thus, the closure of Olympic Plaza (within the City's permit jurisdiction area), which is also planned for in the certified LCP, is consistent with the City's LCP and will not adversely affect the public parking supply in the area.

Per the coastal capacity and use data provided by the City on May 8, 2020, use of the Bennett Avenue parking lot at peak occupancy during the summer is, on average, 55% (approximately 318 available spaces) and, during a weekday average peak, is 13% capacity. Use of the Belmont Pier parking lot is 74% (approximately 72 available spaces) at peak occupancy and 26% during peak weekday usage. Therefore, at peak use times, the available parking spaces in the two lots would provide approximately two-thirds of the required parking for the project. In addition, there is parking along Ocean Boulevard and new bicycle parking. However, during peak use or special events hosted at the BBAC, parking demands may exceed available parking, which could spill over into the residential neighborhoods or impact coastal access and use of the beach and associated recreational amenities by people that get to the area by personal vehicle.

Thus, as proposed and conditioned large-scale temporary events would require preparation of Event Traffic Management Plans and would require a coastal development permit to avoid or mitigate any impacts (**Special Condition 3**). Parking may also be limited during King Tides or storm events that cause flooding. However, as conditioned, flooding of the parking areas adjacent to the BBAC (Bennett/Granada, Belmont Pier, and Ocean Boulevard) for five or more consecutive days or 15 days in a year or meeting full parking capacity for more than three days (not associated with a special event) would trigger submittal of a CDP amendment application to maintain access (**Special Condition 13**). In addition, **Special Condition 3** requires the City to continue working with Long Beach Transit and other transportation partners to enhance alternative transportation to the site. The certified LCP has an entire element (Mobility Element) and several other policies (See Section IX.I) geared toward reducing reliance on automobiles and increasing public transit and alternative transportation options. Thus, by not providing additional automobile parking, the proposed development incentivizes use of alternative transportation methods with the goal of reducing automobile dependency, consistent with the policies of the LCP.

Traffic

The certified LCP also includes a policy that requires new development to avoid intrusion of traffic into residential neighborhoods. Given that there are residential neighborhoods to the north of the site (within the City's permit jurisdiction area), the portion of the development located within the City's jurisdiction must be found consistent with this policy. The development is proposed adjacent to Ocean Boulevard, which is a collector street with medium traffic volumes that has been designed (and recently redesigned) to enable coastal visitors to travel safely by car, by bus, by bike, or by foot. As stated in the previous section, traffic is only anticipated to be an issue in the case of large special events, which would be required to go through the CDP process and prepare and implement an Event Traffic Management Plan. Thus, there are no significant impacts to public access and recreation anticipated in association with the proposed development.

Access during Construction Activities

During construction, which is expected to last approximately one and a half years, the City proposes to demolish the existing passive park walkways and bike path, close the Bennett Avenue parking lot entrance, and use approximately 80 public parking spaces for construction staging. During that time, there will be alternative bike and pedestrian access available along the adjacent regional bike and pedestrian coastal trail and along Ocean Boulevard. Additionally, for automobile access to the Bennett Avenue/Granada beach parking lot, the Granada entrance located approximately 1/3 mile downcoast will remain open and, given the parking utilization rates described in a previous subsection, use of 80 parking spaces for construction staging is not anticipated to adversely impact public access to the beach and local recreational facilities.

In any case, **Special Condition 12** requires the City to prepare and submit a final Construction Staging Plan that requires the City to post a notice that is developed in accordance with the City's Language Access Policy with details regarding construction timing and any closure of public amenities including the Myrtha pool, avoid storage of construction materials on the beach, and minimize use of public parking for construction staging. Additionally, **Special Condition 2** requires final construction plans and wayfinding signage plans during and post-construction to be submitted for review and approval by the Executive Director and **Special Condition 16** requires the development to be carried out

in accordance with the final plans. As proposed and conditioned, impacts to public access during construction activities are minimized.

In conclusion, even as conditioned, the proposed development raises questions as to the equitable distribution of benefits associated with the project and the LCP's requirement to provide access to recreational facilities for all individuals in the community given the nature and location of the selected alternative. However, project alternatives that would provide a similar amount of public benefit were determined to be infeasible due to funding constraints and other City commitments. In any case, swimming pools are a permitted use at the site and the BBAC would attract more visitors to this coastal area for active and passive lower cost recreation (especially as conditioned). Additionally, safe access to aquatic coastal areas will be encouraged through the provision of programs that teach people to swim. Therefore, as conditioned, the proposed development is consistent with the public access and recreation policies of the Coastal Act and the certified LCP.

F. BIOLOGICAL RESOURCES & WATER QUALITY **Coastal Act Policies**

Section 30230 of the Coastal Act, *Marine resources; maintenance*, states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act, *Biological productivity; waste water*, states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act, *Oil and hazardous substance spills*, states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30240 of the Coastal Act, *Environmentally sensitive habitat areas; adjacent developments*, states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

LCP Policies

The public biological resource policies from the Long Beach LCP that are included in the Substantial Issue Analysis section of this staff report are hereby incorporated.

Preservation of Natural Resources, *Goal (h)*, of the open space policies states:

To locate, define and protect other beneficial natural habitats in and about the City.

Policy 1.1 of the Open Space and Recreation Element states:

Promote the creation of new and reestablished natural habitats and ecological preserves including wetlands, woodlands, native plant communities and artificial reefs.

Program 2.3 of the Open Space and Recreation Element states, in part:

Preserve and protect water resources available to the City of Long Beach...

The City of Long Beach is a highly urbanized coastal City with limited natural habitat areas remaining. The Los Cerritos Wetlands and City's sandy ocean beaches are two such areas that maintain at least some resemblance of the natural form of the coastline prior to development over the last century. Due to the limited natural habitat available to coastal wildlife, many species, including wading bird species such as great blue herons, snowy egrets, and black-crowned night herons have adapted by using stands of street trees and other urban landscaping for roosting, breeding, and nesting activities.

Sandy Beach Habitat

The sandy beach seaward of the proposed development is important habitat for the nearshore ecosystem. Infaunal organisms live in the sand and beach wrack (seaweed) supports and provides for numerous species including fish and birds. Sensitive bird species, including western snowy plovers (threatened) and California least terns (endangered), nest and forage on the beach, and sensitive marine species, such as California grunion, spawn in the intertidal zone. In fact, according to eBird, a citizen science initiative that keeps records of public sightings of bird species, there have been sightings of snowy plovers and least terns in the project vicinity as recently as July 2020. In addition, Belmont Shore is one of the top grunion spawning beaches in southern California.

As the beach seaward of the proposed development narrows (which is expected to be one of the last two remaining sandy ocean beaches in Long Beach when severe sea level rise occurs), the geographical area where such sensitive habitat and coastal species exist will also be reduced and eventually eliminated if the line of existing development is maintained or pushed seaward. Therefore, **Special Condition 13** is imposed to require the City to prepare a Shoreline Change, Sea Level Rise Monitoring, and Adaptation Program for approval by the Executive Director that includes detailed monitoring requirements and triggers for the City to come back to the Commission with a comprehensive adaptation plan for the site, including but not limited to when the width of the sandy beach is 150 ft. or

less during a storm or King Tide event. This triggers the City's preparation of an adaptation plan that will maintain at least 150 ft. of sandy beach area sufficient to support the sensitive species that use Belmont Beach throughout the anticipated life of the development. Per this special condition, the City must notify the Executive Director within three days of meeting a trigger, provide required reporting within three months, and submit a CDP application or CDP amendment application with the adaptation plan within one year of that trigger event.

In addition, as the beach narrows, the pool facility's proposed lighting, sound systems, and operations have the potential to impact wildlife using the sand beach habitat for nesting, foraging, or spawning. While a beach width of 150 ft. should provide sufficient distance between the BBAC facilities and the intertidal zone and wrack line, **Special Condition 2** requires that all lighting minimize trespass onto adjacent sites by directing lighting downward, directed, and shielded away from the beach and landscaped areas. Specifically, lighting is also required to be dark-sky compatible, limited to the minimum necessary for public safety, and turned off when the facilities are not in use. Furthermore, **Special Condition 2** reduces noise impacts beyond the construction of the City-proposed plinth wall by limiting decibel levels and hours for music and PA system use and by prohibiting the use of airhorns.

Bird Roosting, Breeding, and Nesting Habitat

As stated previously, many bird species have adapted to use urban landscaping, including stands of palm trees, in areas near wetlands, coastal waters, and other open spaces. In particular, herons and egrets have adapted by relocating their roosting and nesting sites to stands of tall non-native pine, palm, ficus, and coral trees within highly developed areas. In many southern California locations, herons and egrets roost at colony sites all year. Herons and egrets are critical members of coastal ecosystems and their roosting and nesting colonies provide important ecosystem functions. Some of these species also play a key role in maintaining an ecological balance that serves to sustain the biological productivity of coastal environments and maintain healthy populations of marine and coastal species, as required pursuant to Coastal Action Section 30230. In addition, Program 1.1 of the certified Open Space and Recreation Element of the LCP requires the City to ensure compliance with federal and state laws, like the Migratory Bird Treaty Act, which prohibits the take or killing of listed migratory birds or their nests.

While existing trees onsite and in the project vicinity may not qualify as environmentally sensitive habitat areas, as defined in the Coastal Act, some are documented to have historically supported bird species, including blue herons (GBH), snowy egrets (SE), and black-crowned night herons (BCNH). These species are protected by the Migratory Bird Treaty Act of 1918; however, they currently are not listed as State or Federal threatened or endangered species. While these wading bird species have apparently adapted to the urban environment, nests and individual birds have been adversely affected by activities in the project area, including tree trimming and removal activities.

El Dorado Audubon (EDA), a local chapter of the National Audubon Society, has GBH, SE, and BCNH nesting data for the trees adjacent to the Myrtha pool from 2007 to 2017 that shows a general downward trend in nests observed during bird nesting season. For example, there was a general decline from 75 BCNH nests to 55 nests between 2007 and

2012. In 2013, the number of BCNH nests dropped to eight and only two BCNH nests remained in 2017. The decline in observed nests may have coincided with the construction of the “temporary” Myrtha Pool,²⁰ which opened December 19, 2013, and the birds may not have returned to those trees due to use of the pool (including impacts from lighting and noise associated with pool use); however, considering active traffic in the area, other construction projects within and adjacent to the parking lot and trees since 2013, and a multitude of other potential causes of the decline in nest counts of these species, without further study, causation between the construction and use of the pool facilities and the decline in observed BCNH and SE nests cannot be substantiated.

The City also provided nesting and roosting data from 2013, 2014, 2015, and 2019 for trees with evidence of nesting and/or roosting located within or in close proximity to the project site, including some of the trees monitored by EDA. Of these 15 trees, four were observed to have BCNH nests and one was observed to have a SE nest. Both a BCNH and SE were observed nesting in one of these trees in 2015. The Commission requires that wading bird roosting or nesting trees not be removed until no bird activity has been documented within five years because of known roosting and nest fidelity of wading birds. The City’s 2019 survey was conducted during the nonbreeding season and, while stick nests were observed in five of the 15 surveyed trees, the biologist was unable to confirm the species as there was no nesting or breeding activity. Thus, it is unclear whether birds will try to return to these trees in the coming years.

In April of this year, a member of the public stated that they observed increased nesting activities adjacent to the “temporary” pool when the pool was closed to the public. This information suggests that bird behavior is responsive to surrounding human development and behavior affecting the environment. Thus, the development, as proposed will increase the intensity of human use of the site and includes 60 ft. tall light and sound poles that have the potential to adversely impact wading bird species that play an important role in maintaining a balanced marine ecosystem. To ensure the project is consistent with the marine resource protection policies of the LCP and Coastal Act, special conditions are imposed to provide direct protection of birds and to protect and enhance habitat used by birds throughout the life of the development.

To protect birds from potential collisions with structures associated with the BBAC, especially transparent elements such as the perimeter wall around the plinth that is partly made of glass, **Special Condition 2** requires the final revised plans to include bird-safe treatments. **Special Condition 2** also requires a final Lighting and Noise Plan that would minimize potential impacts of lighting and noise associated with the proposed development by requiring lights and speakers to be directed downward and shielded to minimize trespass onto the beach and adjacent green spaces. In addition, lights shall be dark-sky compatible and noise levels (music, PA announcements, and whistles) would be limited to decibel levels that are not likely to impact birds that are adapted to urban environments. Per this special condition, light in the passive park areas surrounding the plinth must be the minimum necessary for public safety. Furthermore, the plan requires that the City

²⁰ Construction of the Temporary Myrtha Pool was approved by the City on April 8, 2013. Commission staff do not know precisely when construction activities began. In addition, the drop in the number of nests observed by EDA was recorded in April 2013, but it is unclear which date.

revise the lighting plans to eliminate tall lights, use non-reflective materials on the pool deck, limit light spill adjacent to tree canopies to one candle foot, and concentrate quieter swimming programs on east side of the development (beginning at the Bennett Avenue parking lot entrance).

Per the revised planting plan required as part of **Special Condition 2**, trees shall also be added and concentrated on the east side of the development to establish new potential roosting, breeding, and nesting habitat in areas where light and noise are minimized. For example, the condition requires the planting of a palm grove that would transition to dune habitat seaward of the Bennett Avenue entry turnaround. In addition, the planting plan will be revised to modify the planting palette to replace certain tree species (South American mesquite and chitalpa) with trees that are more often used by coastal bird species in urban areas, such as Monterey and Torrey pines and New Zealand Christmas trees. Additionally, Commission staff is aware that a number of trees have been removed from the project site over the last several years without the benefit of a CDP. In order to resolve this matter going forward **Special Condition 5** requires the City to prepare and submit a final Tree Replacement Plan and Bird and Tree Monitoring Plan that provides for replacement of any one tree removed with two trees, as proposed by the applicant, requires monitoring of tree health by a qualified arborist for ten years, and preparation of a new plan if tree health is failing, and annual bird monitoring. If any reports of these monitoring activities identifies impacts, including cumulative impacts, to mature trees or birds, then in consultation with the Executive Director, the City must submit a permit amendment application to mitigate for any such impacts.

Special Condition 5 also requires the City to adhere to the special conditions of CDP No. 5-08-187, the City's Tree Trimming and Removal Policy, which prohibits any tree trimming and removal during nesting season unless determined to be necessary for public health and safety. If trimming or removal is required during nesting season, several specific protection measures must be implemented. This policy will be implemented throughout the life of the development, including during construction, unless replaced by a new City-wide policy pursuant to a new CDP or LCP amendment. **Special Condition 4** will also protect birds and their habitat during construction by requiring the City to conduct bird breeding and nesting surveys during nesting season (January 15th through September 1st) and limit construction activities if breeding or nesting birds are observed.

With regard to the alternative project sites considered by the City, only the Elephant Lot would have less potential to impact coastal wildlife and marine resources. The two sites located at Pier J are adjacent to the ocean and support similar mature trees and, thus, would have similar associated impacts. The site within the Bennett Avenue/Granada parking lot would also have similar impacts to the proposed site, except that the bigger facility (as opposed to the "temporary" pool) would be closer to some of the trees with higher numbers of nests that are monitored by the EDA. There are very few trees immediately adjacent to the Elephant Lot and the site is surrounded by other large, tall structures, thus, a similar project at that location could minimize potential impacts to biological resources including migratory birds. However, as described in previous sections, this alternative was determined to be infeasible. In its appeal of the 2017 City-approval, the EDA suggested another project alternative at the proposed site that would involve the removal of the temporary Myrtha Pool and use of that area for additional stands of trees,

but the City has stated that removal of that pool from the proposed complex would greatly limit the amount of public programming that could be offered. Therefore, these alternatives do not significantly reduce potential impacts associated with the proposed development.

Landscaping

As stated in the previous subsection, native trees are part of the City's proposed landscaping plan, which is required to be revised through **Special Condition 2**. In addition, the majority of the remaining (non-tree) landscaping is also proposed to be composed of native, non-invasive plant species. Considering that groundwater levels will rise as sea levels do, bringing more saline water to the surface, **Special Condition 2** also requires that salt-tolerant plants shall be used in the planting plan wherever feasible. To enhance the natural coastal environment and provide transition from the BBAC to the sandy beach, **Special Condition 2** requires revised landscape plans to identify the conversion of the landscaped area at the southeast corner of the site to dune habitat that transitions from sandy beach to southern foredune habitat to native backdune habitat to upland palm grove.

As conditioned, the project will enhance coastal habitat areas, avoid the spread of invasive plant species, and improve the BBAC's compatibility with the open, natural sandy beach character of the area consistent with the Chapter 3 policies of the Coastal Act and the policies of the certified LCP.

Water Quality

The project site is located within a paved parking lot and adjacent to a sandy beach. Runoff from project construction and pool operations could adversely impact water quality if not adequately controlled and directed away from the beach and ocean. In addition, sea level rise can increase the risk to stormwater infrastructure from hazards such as saltwater intrusion, tidal inundation, erosion and increasing extent and frequency of stormwater flooding. Sea level rise leading to flooding and wave uprush could corrode stormwater treatment equipment, flood buildings, and degrade water quality.

There are existing utilities, including stormwater and sewer lines onsite, and new sewer and water line segments proposed. The drainage at the Granada parking lot was recently improved with the installation of biobasins and drainage devices (CDP No. 5-16-0859). Furthermore, as proposed, the City would prepare, submit, and implement a final Low Impact Development (LID) plan and Stormwater Pollution Prevention Plan (SWPPP) consistent with the submitted LID concept plan (**Exhibit 8**). LID emphasizes the use of small-scale, distributed BMPs to retain runoff close to the source, by means of infiltration, evapotranspiration, harvesting for later use, retention, or detention of runoff. The plan, as proposed, was developed to account for large storm events with landscaping, decomposed granite, pervious pavement, catch basins, and storm drain inlets. In addition, there are no anticipated impacts to water quality associated with pool overtopping because each water body within the proposed pool complex is designed with surge capacity and gutter systems to capture and retain displaced and excess water. In any case, final project details are required to confirm the City's overflow capacity calculations can effectively contain 85th percentile 24-hour storm events without overflowing.

Special Condition 9 is imposed to require the City prepare and submit, for approval by the Executive Director, a final Water Quality and Hydrology Plan that contains all project

details related to site design strategies and source control best management practices (BMPs). If the proposed development will not retain on-site the runoff produced by the 85th percentile 24-hour design storm using an LID approach, the applicant would need to conduct an alternatives analysis to demonstrate that there are no appropriate and feasible alternative project designs that would substantially improve runoff retention. If on-site infiltration of runoff may potentially result in adverse impacts, the development shall substitute alternative BMPs that do not involve on-site infiltration, to minimize adverse changes in the site's runoff flow regime to the extent appropriate and feasible. **Special Condition 10** outlines structural and nonstructural BMPs that must be implemented to minimize pollutant loads contained in runoff prior to entering the stormwater conveyance system. **Special Condition 11** requires a post-development water quality treatment control plan that includes a map showing the locations of runoff flow directions, pavement footprint, and permanent BMPs, as well as written documentation that demonstrates that the project protects or restores water quality to the maximum extent feasible for the life of the development.

If, during the life of the development, required sea level rise monitoring identifies risk to stormwater and LID improvements, the City must prepare a comprehensive report evaluating the effectiveness of such improvements (**Special Condition 13**). If this report indicates that there is declining effectiveness of these improvements, then the City is required to submit a CDP amendment application to implement protective actions to protect coastal and marine water quality. Finally, to avoid potential impacts to water quality during construction, **Special Condition 8** is imposed to require the City to submit, for review and approval of the Executive Director, a final SWPPP that includes general BMPs and procedures, including performing work during favorable weather and tides, minimizing the footprint of construction activities and staging, and using vegetable oil based hydraulic fluids and biodiesels for heavy equipment; BMPs for construction activities adjacent to coastal waters, including proper storage and containment of project materials, sediment control, and regular debris disposal; and BMPs for stockpile and debris management, including spill prevention, leak control, and offsite fueling and maintenance of construction vehicles.

As conditioned, the proposed development is consistent with the water quality and marine resource protection policies of the Coastal Act and the certified Long Beach LCP.

G. VISUAL RESOURCES & COMMUNITY CHARACTER

Coastal Act Policies

Section 30251, *Scenic and visual qualities*, states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253, *Minimization of adverse impacts*, states, in part:

New development shall do all of the following:

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

LCP Policies

The visual resource and community character policies from the Long Beach LCP that are included in the Substantial Issue Analysis section of this staff report are hereby incorporated.

Park Use Development Standards, *Section 21.35.230 – Screening Required*, of the certified Zoning Code states, in part:

All storage and maintenance equipment shall be screened from public view to the satisfaction of the Director of Planning and Building.

Preservation of Natural Resources, *Goal (c)*, of the open space policies states:

To acquire and remove privately owned properties that intrude upon the open character of the shore.

Chapter 3 of the Coastal Act includes policies that protect the character of coastal communities and prevent degradation of visual resources within the coastal zone. More specifically, the certified LCP includes policies that limit the design of development to protect coastal resources including scenic views along the coast and blue water views. The proposed development is located on a site designated as a Special Use Park within the Belmont Pier Planned Development (PD) area of Long Beach. Currently, both the park use policies and the Belmont Pier PD policies apply to the project and where there is a conflict, the PD policies supersede the park use policies because they are more specific.

As approved by the City, the revised BBAC design is consistent with the lot coverage, yard, and landscaping requirements of the certified LCP. The open and landscaped area totals 233,855, which is greater than 50% of the approximately 5.8 acre (or 252,648 sf.) project site. In addition, as required by the LCP, areas at least 10 ft. from any street right-of-way are open and landscaped. Finally, the proposed landscaping is required by the City to comply with Chapter 21.42 of the zoning code, which includes standards for landscaping associated with new development. However, the proposed height (from current grade) of approximately 29 ft. for the pool facilities building is inconsistent with the current 25 ft. building height requirement for the Planned Development District (the maximum permitted height for buildings on sites designated Park is 30 ft.).

LCP amendment request (LCP-5-LOB-20-0014-1), which is also before the Commission, would create a new Belmont Pier PD subarea for this project to accommodate the proposed building height. The LCP amendment, as proposed by the City and suggested to be modified by the Commission, would allow for the maximum proposed building height of 30 ft. from grade and a maximum height of 60 ft. for structures such as shade awnings and light/sound poles that do not significantly impact coastal resources including scenic resources. **Special Condition 1** requires the associated LCP amendment to be certified by the Commission prior to issuance of the project CDPs. Therefore, as conditioned, the project design is consistent with the standards of the certified LCP.

The LCP also currently requires that all buildings shall be located and designed to provide the maximum feasible unobstructed views towards the beach and recreational facilities and that views of the beach and water from Ocean Boulevard and Termino Avenue be preserved. The LCP was developed to protect those views especially because the 60 ft. high Belmont Plaza Olympic Pool facility was in existence. The proposed LCP amendment would not change any of these requirements. The project site currently provides clear views of the beach and ocean from these public view areas and unobstructed views from the passive park. The proposed development would disrupt those views with a 7 ft. tall plinth that supports taller structures, including the pool facilities building, bleachers, and diving tower. As redesigned to be a mostly open air/outdoor facility, the proposed BBAC reduces view obstructions as compared to the 2017 City-approved design and the demolished Belmont Plaza Olympic Pool. The standard of review is not the pre-existing structure or the pre-existing design, but the proposed project alternative is less impactful than those alternatives and satisfies the “maximum feasible” requirement of the LCP while providing lower cost recreation activities.

In addition, the approximately 29 ft. pool facilities building height provides space for uses that support coastal access and active recreation. Other proposed structures that extend up to 60 ft. high—shade awnings, light poles, sound system poles, diving platforms, and bleachers—are narrow or not entirely solid in appearance, are few in number, and are spaced relatively far apart and, therefore, are not anticipated to significantly impact or degrade public views. In any case, the LCP policy restated above protects views not only to the beach, but to recreational facilities, which could include the BBAC.

Potential impacts to visual resources are also minimized through the imposition of **Special Condition 2**. This condition requires the trash enclosure, public restrooms, and transformer that are proposed to be located at the southeast corner of the Belmont Pier parking lot within the Termino Avenue viewshed, which currently provides unobstructed beach and blue water views from the public street and lot, to be relocated to another portion of the site where they will not significantly impact scenic views. In addition, it provides for the construction and maintenance of public pathways located around and across the elevated plinth, which will also provide scenic views. Thus, as proposed and conditioned, the proposed development will not have a significant adverse effect on visual resources.

Given the current use of the project site as a passive park with unobstructed views and the general character of the area as consisting of mostly older, two to three story commercial buildings and multi-family residences, the proposed development raises questions regarding the BBAC’s visual compatibility with the area. In response to concerns raised about the project’s impact on the character of the surrounding community, the LCP, which was certified while the Belmont Plaza Olympic Pool was still standing, identified the Belmont Pool Beach complex as one of the “principal facilities in Area C which serve visitors and provide recreation” and “is unusually important in the training of U.S. athletes for international events.” The concept for this pool complex was approved as a proposition (Prop 7) by voters in 1962 and the LCP references a recreational pool complex at the site that includes elements that are, otherwise, non-conforming to other standards of the LCP. Thus, a new pool at this location is consistent with the LCP, especially as proposed to be

amended and suggested to be modified through LCP Amendment No. LCP-5-LOB-14-0014-1.

As proposed and conditioned, the development is a mainly outdoor facility with native landscaping and outdoor play areas that are consistent with recreational and visitor-serving uses seaward of the commercial and residential uses. Therefore, as conditioned, the proposed development is consistent with the visual resource and community character policies of the Coastal Act and the certified LCP.

H. ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Coastal Act Policies

Section 30244, *Archeological or paleontological resources*, states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

LCP Policies

Outdoor Recreation, *Goal (b)*, of the open space policies, states:

To identify and preserve sites of outstanding scenic, historic and cultural significance or recreational potential.

Outdoor Recreation, *Goal (j)*, of the open space policies, states:

To encourage citizen participation in the identification and preservation of historic and cultural sites.

Based on the Paleontological Assessment for the Belmont Pool Revitalization Project (LSA, June 6, 2014) and Cultural Resources Memorandum (LSA, May 15, 2013) attached as Appendix D to the project's EIR, the location of the project site contains 1.5 to 3.5 ft. of artificial fill on top of alluvium and beach and estuary-type sediments that extend approximately 75 ft. below ground surface. The alluvial, estuarine, and beach deposits can contain plants, animals, and other modern species' deposits. Some of the older alluvial sediments, which may begin to occur at depths of approximately 23 ft. below ground surface at this site, have the potential to contain fossils. A bison specimen was found 800 ft. northwest of the site. In addition, fossil marine vertebrates and invertebrates and fossil specimens of mammoth and ground sloth were found along the coast a little over one mile west of the project site. Thus, the project site has the potential to contain paleontological, archeological, and Tribal cultural resources onsite.

As previously stated, much of the shallow surface of the site has already been graded and structural elements from the previous pool facility have already disturbed the soils at greater depths. However, the project involves grading and excavation for the construction of the plinth and pools. The diving well will require the most excavation for the proposed 18 ft. depth and foundational elements beneath. In addition, the project, as proposed, involves the installation of nearly 100 two ft. diameter, 80 ft. deep piles, which have been reduced in number from previous design iterations. **Special Condition 2** requires the final foundation plan to minimize the amount of landform alteration, thereby minimizing the potential for

impacts to paleontological, Tribal cultural, and archeological resources consistent with Section 30244 of the Coastal Act and the certified LCP's open space policies.

While the City conducted a records search and expert evaluation in 2013 that supported a finding that there are no resources that have been discovered within a quarter-mile of the project site, native peoples are known to have occupied the coastal areas of Long Beach for thousands of years. Therefore, there is potential for Tribal cultural resources to occur onsite. Both the Coastal Commission and the City initiated Tribal consultation processes in October 2018 and November 2019, respectively. Neither agency received responses to requests for consultation. Thus, to be protective of potential Tribal cultural resources, **Special Condition 7** is imposed to require the presence of at least one Native American monitor onsite during all ground disturbing activities.

The City's certified EIR contains a mitigation measure that requires the City to retain a paleontologist to monitor grading activities occurring at or below a depth of 23 ft. unless there are discoveries at shallower depths. However, the City does not require any monitoring of construction activities at shallower depths, which could impact potential plant and animal remains and Tribal cultural resources. Thus, **Special Condition 7** also requires the City to prepare a plan that includes the City's monitoring procedures and best management practices and retain qualified archeological, paleontological, and Native American monitors to monitor any ground disturbing activities. As conditioned, the development conforms with Section 30244 of the Coastal Act and the certified LCP's open space policies.

I. ENERGY USE & VEHICLE MILES TRAVELED

Coastal Act Policies

Section 30253, *Minimization of adverse impacts*, states, in part:

New development shall do all of the following:

(c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.

(d) Minimize energy consumption and vehicle miles traveled.

LCP Policies

Mobility of People Policy 5-2 of the Mobility Element states:

Reduce vehicle miles traveled (VMT) and vehicle trips through the use of alternative modes of transportation and TDM.

Mobility of People Policy 5-3 of the Mobility Element states:

Encourage the use of low- or no-emission vehicles to reduce pollution.

Alternative transportation, *Policy 3*, Scenic Routes Element states:

Encourage the use of bicycles as an inexpensive, energy conserving, and pleasant means for recreation and utilitarian transport.

Chapter 3 policies of the Coastal Act and policies of the certified LCP require air quality impacts, energy consumption, and vehicle miles traveled (VMT) to be minimized. While a no project alternative would avoid increasing energy use and VMT, and construction of the development at the Elephant Lot site, which is located in close proximity to a public transportation center, would also minimize VMT, one of the reasons the proposed alternative was selected by the City was for its proximity to bike and pedestrian paths that would encourage alternative transportation and minimize VMT. As proposed, the development provides bike racks at four locations and does not incentivize use of automobiles by creating additional vehicle parking spaces. **Special Condition 3** memorializes the City's efforts to enhance public transportation to this area and requires the City to continue working with Long Beach Transit and/or other transportation organizations, such as rideshare or scooter companies, to establish additional alternative transportation opportunities. The community outreach required through **Special Condition 3** can also shed light on the modes of transportation most used by the pool users and Long Beach residents to get to the area to inform where the City might focus its transportation enhancements.

Additionally, as proposed, the development is designed to meet Leadership in Energy and Environmental Design (LEED) Gold certification standards, which minimize energy use. Furthermore, **Special Condition 2** requires lighting and landscaping improvements that should minimize energy consumption. **Special Condition 16** requires all development to be carried out in conformance with the final approved plans. Therefore, as proposed and conditioned, the project is consistent with the Chapter 3 and LCP policies regarding air quality and energy use.

J. LOCAL COASTAL PROGRAM

The description of the certified Long Beach LCP included in the Substantial Issue portion of this staff report (Section V.B) is hereby incorporated into this section. Additionally, the findings in the previous subsections relating the proposed development's consistency with the City-proposed policies of LCP Amendment No. LCP-5-LOB-19-0014-1, as suggested to be modified (See the staff report for LCP Amendment No. LCP-5-LOB-19-0014-1) are hereby incorporated into this section.

As discussed in this staff report, the proposed project, as conditioned, conforms to the provisions of the City of Long Beach Certified LCP, as proposed to be amended by the City and suggested to be modified.

K. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Long Beach is the lead agency for the purposes of CEQA review. On March 2, 2017, the City Council certified the Final EIR (01-16) for the BBAC project. To account for

A-5-LOB-17-0032, A-5-LOB-20-0007, & 5-18-0788 (Belmont Beach & Aquatic Center)
Appeals – Substantial Issue & De Novo and CDP Application

the revisions to the project following certification of the EIR, the City adopted an EIR Addendum (EIRA-03-19) on December 19, 2019.

In addition, the proposed project has been conditioned to be found consistent with Chapter 3 of the Coastal Act and the certified LCP. As conditioned to minimize risks associated with natural hazards, enhance public access, provide lower cost recreational opportunities, and minimize impacts to coastal wildlife, water quality, and visual resources, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment and provide a similar degree of public access to this part of the Long Beach coastline from the construction of the proposed development. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Draft Environmental Impact Report (State Clearinghouse No. 2013041063) *City of Long Beach Belmont Pool Revitalization Project*. Prepared by LSA Associates, Inc. April 2016.
- Final Environmental Impact Report (State Clearinghouse No. 2013041063) *City of Long Beach Belmont Pool Revitalization Project; Response to Comments and Errata*. Prepared by LSA Associates, Inc. August 2016.
- Environmental Impact Report Addendum (State Clearinghouse No. 2013041063) *City of Long Beach Modified Belmont Pool Revitalization Project*. Prepared by LSA Associates, Inc. December 2019.
- LCDP Application No. 1405-01 Notice of Final Local Action and City staff report dated March 2, 2017.
- LCDP No. 19-023 Notice of Final Local Action and City staff report dated December 19, 2019.