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STAFF REPORT: REGULAR CALENDAR

Consistency Certification No.	**CD-0007-21**
Applicant:	Department of the Navy
Location:	Naval Base Point Loma Old Town Campus (OTC), San Diego, San Diego County.
Project Description:	Redevelopment of two sites of approximately 70 acres within the OTC through replacement of existing warehouses and associated support structures with up to 19,589,268 square-foot mixed-use, office, residential, hotel, and retail public-private development comprised of up to 109 low-, mid-, and high-rise buildings and parking structures, including a new facility for the Naval Information Warfare Systems Command.
Staff Recommendation:	Objection.

SUMMARY OF STAFF RECOMMENDATION

The Navy has submitted a consistency determination (CD) for the removal of existing warehouses and ancillary structures and construction of Naval Information Warfare Systems Command (NAVWAR) facilities and new private commercial, retail and

residential development across approximately 70 acres of its Old Town Campus (OTC) in San Diego. The proposed NAVWAR facilities would consist of approximately one million square feet of office and laboratory space. The private development would consist of up to 10,000 residential units, 1.3 million square feet of office space, two high rise hotels with 450 total rooms, 250,000 square feet of retail space, and a 140,000 square foot transit center. In total, the project proposes a maximum development area of 19,589,268 square feet, with 109 low-, mid-, and high-rise buildings raging in height from a maximum of 350 feet to a minimum of 30 feet **(Exhibit 3)** across two sites of approximately 70 total acres. Both sites are located on the federal property of Naval Base Point Loma and are landward of the coastal zone. The Navy is proposing to grant access and development rights to a private developer for this land in exchange for construction of its new NAVWAR facility, thus allowing the facility to be constructed without federal funding. The project has the potential to meet the Navy's operational needs while also providing high-density, transit-oriented residential and commercial development to help meet the future demands of the San Diego area.

The Navy expects the proposed NAVWAR facility to be constructed within approximately five years while it estimates that the private development would take place over the next 25-30 years. At this time, the Navy has not selected a private developer as a project partner, and no specific construction, site or design plans have been prepared.

In its consistency determination, the Navy describes the project in general terms as a conceptual "development envelope" in order to provide maximum design flexibility for its future development partner. As such, specific information about the design, configuration, timing, construction/demolition, and duration of the proposed project is not included in the Navy's consistency determination. Similarly absent are descriptions of individual elements such as traffic management and circulation plans, stormwater systems, greenhouse gas minimization and mitigation plans and hazardous materials and spill prevention and response plans. Although the project presents many potential benefits and opportunities, access to this type of specific information is critical for the Commission's review, and its absence prevents the assessment of the project's potential to adversely affect coastal resources. Because of the project's location outside of the coastal zone, this assessment is limited to those "spillover" effects caused by the project that would extend beyond the project sites and affect coastal resources within the coastal zone. Among the most likely spillover effects are those related to traffic and coastal access, air quality, greenhouse gas emissions, hazardous materials, water quality and biological resources, and environmental justice.

The staff therefore recommends the Commission object to the Navy's consistency determination, finding that the Navy has not provided sufficient information to enable the Commission to determine the proposed development's consistency with Sections 30210, 30230, 30231, 30232, 30240, 30250, 30252, and 30253 of the Coastal Act and the Commission's Environmental Justice (EJ) Policy.

For the above reasons, Commission staff recommends **Objection** to CD-0007-21. The motion and resolution are on page 5. The standard of review is the enforceable policies of the California Coastal Management Program, consisting of the policies in Chapter 3 of the Coastal Act.

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Table of Contents

EXHIBITS

I. FEDERAL AGENCY'S CONSISTENCY DETERMINATION

The Navy has determined the project is fully consistent with the California Coastal Management Program (CCMP), and thus, that it satisfied the standard of being consistent to the maximum extent practicable.

II. MOTION AND RESOLUTION

Motion:

> *I move that the Commission **concur** with consistency determination CD-0007-21 that the project described therein is consistent to the maximum extent practicable with the enforceable policies of the California Coastal Management Program.*

Staff recommends a **NO** vote on the motion. Failure of this motion will result in an objection to the determination and adoption of the following resolution and findings. An affirmative vote of the majority of the Commissioners present is required to pass the motion.

Resolution:

> *The Commission hereby **objects to** consistency determination CD-0007-21* made *by the Navy for the proposed project, finding that the consistency determination does not supply sufficient information to determine if the project is consistent to the maximum extent practicable with the enforceable policies of the California Coastal Management Program.*

III. APPLICABLE LEGAL AUTHORITIES

A. Standard of Review

The federal Coastal Zone Management Act ("CZMA"), 16 U.S.C. § 1451-1464, requires that federal agency activities affecting coastal resources be "carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs." Id. at § 1456(c)(1)(A). The implementing regulations for the CZMA ("federal consistency regulations"), at 15 C.F.R. § 930.32(a)(1), define the phrase "consistent to the maximum extent practicable" to mean:

> *...fully consistent with the enforceable policies of the management programs unless a full consistency is prohibited by existing law applicable to the Federal agency.*

This standard allows a federal activity that is not fully consistent with California's Coastal Management Program ("CCMP") to proceed, if full compliance with the CCMP would be "prohibited by existing law." In its consistency determination, the Navy did not argue that full consistency is prohibited by existing law or provide any documentation to

support a “maximum extent practicable” argument. Therefore, there is no basis to conclude that existing law applicable to the Federal agency prohibits full consistency. Since the Navy has raised no issue of practicability, as so defined, the standard before the Commission is full consistency with the enforceable policies of the CCMP, which are the policies of Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5).

B. Objection Based on Lack of Information

The federal consistency regulations (15 CFR § 930.43) provide for state agency objections based on lack of information, as follows:

> *§ 930.43 State agency objection.*
>
> *(b) If the State agency’s objection is based upon a finding that the Federal agency has failed to supply sufficient information, the State agency’s response must describe the nature of the information requested and the necessity of having such information to determine the consistency of the Federal agency activity with the enforceable policies of the management program.*
>
> *(c) State agencies shall send to the Director a copy of objections to Federal agency consistency determinations.*
>
> *(d) In the event of an objection, Federal and State agencies should use the remaining portion of the 90-day notice period (see § 930.36(b)) to attempt to resolve their differences. If resolution has not been reached at the end of the 90-day period, Federal agencies should consider using the dispute resolution mechanisms of this part and postponing final federal action until the problems have been resolved. At the end of the 90-day period the Federal agency shall not proceed with the activity over a State agency’s objection unless:*
>
> *(1) the Federal agency has concluded that under the “consistent to the maximum extent practicable” standard described in section 930.32 consistency with the ‘enforceable policies of the management program is prohibited by existing law applicable to the Federal agency and the Federal agency has clearly described, in writing, to the State agency the legal impediments to full consistency (See §§ 930.32(a) and 930.39(a)), or*
>
> *(2) the Federal agency has concluded that its proposed action is fully consistent with the enforceable policies of the management program, though the State agency objects.*
>
> *(e) If a Federal agency decides to proceed with a Federal agency activity that is objected to by a State agency, or to follow an alternative suggested by the State agency, the Federal agency shall notify the State agency of its decision to proceed before the project commences.*

As described above, if the Commission's objection is based on lack of information, the Commission must identify the information necessary for it to assess the project's consistency with the CCMP.

As fully described in Sections IV C, D, E, F, G, H, and I. of this report below, the Commission finds this consistency determination to lack the information needed for the Commission to determine whether the proposed project is consistent to the maximum extent practicable with Sections 30107.3, 30210, 30230, 30231, 30232, 30240, 30250, 30251, 30252, and 30253 of the Coastal Act. To determine the project's consistency with the CCMP, the Commission requests[1] the Navy provide it with the following necessary information:

1. **Project Description.** Provide a detailed project description, site plans and project plans specifying the intensity of development proposed for the Navy's proposed project – referred to as the Public-Private Redevelopment-NAVWAR and Higher Density Mixed Use with a Transit Center. The project description, site plans and project plans should include, but not be limited to, the following:
    - Specific or anticipated development constraints, criteria, restrictions or requirements that would be included in future development agreements between the Navy and its private development partner(s);
    - Siting for all of the individual development (buildings, streets, drainage systems, support infrastructure, etc.);
    - Heights for all of the individual structures;
    - Uses for all of the individual development elements;
    - Densities for all of the individual residential and visitor-serving accommodation development elements;
    - Architectural design, exterior surfaces and appurtenances (parapets, architectural features, air traffic safety lighting and spotlights, telecommunications equipment, HVAC equipment, elevator housings, etc.);
    - Utilities demand for individual development and how utilities demand would be met;
    - Transportation and streetscape improvements;
    - Parking requirements for individual development and how parking demand would be met;
    - Construction timelines and schedules for all of the proposed development (construction and demolition);
    - Construction staging, materials storage, and waste disposal for all of the proposed development (construction and demolition);
    - What hazardous materials could be encountered during construction, demolition and site preparation of individual development elements and

[1] In addition to the list of information requests provided here, Commission staff also requested this information in phone calls and correspondence with the Navy staff, including on June 23rd, July 6th, July 14th, August 12th, and August 24th as well as a letter from Commission staff to the Navy dated August 12th.

specific management practices proposed to avoid adverse impacts from hazardous materials;
- Specific proposed construction Best Management Practices (BMPs);
- Low Impact Design (LID) features and whether development would be Leadership in Energy and Environmental Design (LEED) certified;
- The proportion of affordable and market rate housing proposed to be provided in both residential development and hotel accommodations;
- Lighting plans for the individual development features and overall project sites; and
- Landscaping plans, features and locations, including view corridors, open space areas and vegetation with the proposed development area.

2. **Coastal Zone-Specific Traffic Analysis.** Please provide an analysis of the traffic-related impacts to the existing transportation network specifically within the Coastal Zone of the City of San Diego, including major coastal accessways (Interstate 5, Interstate 8, and Pacific Coast Highway) and surrounding areas, that would be generated by the proposed project (demolition, construction and operation) for peak weekday traffic as well as peak times for visitors to the coastal areas of San Diego County (Summer Weekends, Holidays, etc.). Additionally, please provide information on engagement and coordination efforts initiated by the Navy with the City of San Diego Planning Department, City of San Diego Transportation Department and the California Department of Transportation regarding the proposed project, its potential traffic impacts, and measures to avoid and/or mitigate those adverse impacts.

3. **Transit Center.** The proposed project includes the construction of a transit center with the public-private redevelopment envisioned on OTC Site 1; however, other than identifying an area of 140,000 square feet and potential construction window of 2026 to 2034, no other definite details are provided about the development of the transit center, how it would function within the San Diego area and if it is a definite element of the proposed project. Please provide additional information regarding the development of the transit center including, but not limited to, the following:

    - The modes of transportation that the transit center would service;
    - The volume or intensity of transportation provided for each mode serviced by the transit center;
    - Clarity on if there are other transportation improvements or plans, including multi-modal transportation, anticipated within the San Diego area in the future and how the proposed transit center would function with those improvements or plans;
    - Additional clarity regarding the level of certainty that the transit center would be developed and information regarding necessary steps for developing the transit center, including development agreements, memoranda of understanding or other types of agreements, between the

Navy and the San Diego Association of Governments (SANDAG) or other agencies for its construction.

4. **Greenhouse Gas Emissions.** Please provide a GHG Reduction Plan (Plan) describing the proposed project elements and their construction. The Plan should include, but not be limited to, the following:

    - Identification and quantification (both projected and actual) of the types and amounts of GHG emissions that would be associated with the construction and operation of the project;
    - Identification, evaluation and development of GHG emission reduction measures for incorporation into the design, construction and operation of the proposed project. Emission reduction goals should be consistent with the Final Guidance for Federal Departments and Agencies on Consideration of GHG Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews, the San Diego Air Pollution Control District (APCD) and/or the City of San Diego Climate Action Plan;
    - Identification of corrective actions or mitigation in the event that the project is not consistent with the Final Guidance for Federal Departments and Agencies on Consideration of GHG Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews, the San Diego Air Pollution Control District (APCD), and/or the City of San Diego Climate Action Plan.

5. **Other Air Emissions.** Please provide an Air Pollution Reduction Plan (Plan) for the proposed project describing each of the proposed project elements and their construction. The Plan should include, but not be limited to, the following:

    - Identification and quantification of the types and amounts of air emissions that would be associated with the construction and operation of the project;
    - Identification, evaluation and development of air pollution reduction measures for incorporation into the design, construction and operation of the proposed project. Emission reduction goals should be consistent with the requirements of the San Diego Air Pollution Control District (APCD) and State Implementation Plan (SIP) for San Diego County;
    - Identification of corrective actions or mitigation in the event that the project is not consistent with the requirements of the APCD and SIP.

6. **Environmental Justice (EJ).** Please provide a more comprehensive analysis for the proposed project's consistency with the Commission's EJ policy and intersections with the enforceable policies of the California Coastal Management Program (CCMP). Specifically, the EJ analysis should consider EJ communities south of the project area along the Interstate 5 corridor that may use Interstate 5, Interstate 8, and Pacific Coast Highway to access beaches north and west of the project site, San Diego Bay, and Mission Bay to recreate and what effects

potential project-related traffic impacts (during demolition, construction, and operation phases of the project) would have on coastal access and recreation for those communities.

The Draft EIS determined that the proposed project would result in significant impacts to EJ communities in the region of influence (ROI) due to increased traffic; however, an explanation of the process of determining the ROI was not included. Please provide additional information describing how the ROI was chosen and why EJ communities outside of the ROI who may be affected by significant adverse impacts of traffic were not included in the ROI.

Finally, please provide information on how meaningful engagement of EJ communities was pursued in addition to general public outreach conducted for the Draft EIS and how targeted engagement in affected EJ communities would be conducted as the project proceeds (including minimum requirements for public engagement in EJ communities), for EJ communities both within the ROI as well as well as those outside the ROI who would be affected by traffic impacts while in transit to the coastal zone, whether for recreation or work.

7. **Mitigation Measures.** Please clarify which of the proposed mitigation measures and/or plans would be specifically included and required for the proposed project. Additionally, please provide timelines and schedules for implementation for each of the required mitigation measures as well as detailed analyses describing how adverse impacts would be avoided and/or minimized through implementation of the mitigation measures and the contingency steps that would be taken if performance criteria are not met or successful implementation of a mitigation measure is not achieved.

These information needs, as well as the reasons the information is needed to determine the project's consistency with the applicable Coastal Act policies, are described in greater detail in Sections IV C, D, E, F, G, H, and I. of this report below. To assist in identifying these information needs in the findings of the staff report they will henceforth be referenced using the numbers identified above. In summary, the information is needed to fully analyze the project under the public access (Section 30210, 30252, 30253), air quality (30253), climate change (30253), hazardous materials (30232), water quality and biological resources (30230, 30231, 30240), environmental justice (30107.3, 30210, 30211, 30250, 30252, 30253), and visual resource (30251) policies of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

Jurisdiction and Spillover Effects

The proposed project area consists of two sites totaling 70.5 acres on the federal land of Naval Base Point Loma: OTC Site 1 (48.7 acres) and OTC Site 2 (21.8 acres). The

two sites are separated by Pacific Coast Highway (PCH). In addition to being on federal land, the sites are also located immediately outside of the Coastal Zone Boundary, as shown in **Exhibit 2**.

Because the project sites are on federal land and outside the Coastal Zone, the Commission's review is limited to an analysis of potential "spillover" effects of the project to coastal resources within the Coastal Zone. For example, if the proposed demolition or construction activities resulted in the spread of hazardous materials or contaminants out of the project sites and into San Diego Bay through stormwater flow and resulted in the loss of marine life or reduction in water quality, the Commission would have the authority to consider those "spillover" effects. Subsequent sections of this report evaluate potential project effects within this analytic framework.

Phased Review

Due to the current lack of information regarding the specific design, composition, configuration and timing of the full proposed project and its division into distinct elements – including initial demolition of existing warehouses and support structures; site preparation and construction of the NAVWAR facility within approximately five years; and construction of the private residential, hotel, commercial and retail development over the subsequent 25 years - Commission staff suggested to the Navy that it pursue a phased consistency determination for the project. The Coastal Zone Management Act (CZMA) allows for and encourages phased consistency determinations in cases where federal decisions to implement an activity are also made in phases. Specifically, Section 930.36 (d) of the CZMA implementing regulations provides:

> *(d) Phased consistency determinations. … In cases where federal decisions related to a proposed development project or other activity will be made in phases based upon developing information that was not available at the time of the original consistency determination, with each subsequent phase subject to Federal agency discretion to implement alternative decisions based upon such information (e.g., planning, siting, and design decisions), a consistency determination will be required for each major decision. [15 CFR Section 930.36(d)]*

The benefits of this type of phased review are that: (1) it provides the federal agency, in advance of specific project or plan implementation, notice of what issues are likely to arise under the CCMP; (2) it provides the Commission with an overall planning context within which to review specific plans or projects subsequently proposed; and (3) it addresses the current lack of information about the project as a whole by allowing the Commission to review project phases once they have been fully developed and are available in sufficient detail to facilitate a comprehensive consideration and evaluation.

However, Navy staff declined to modify its consistency determination to make use of this approach and directed Commission staff to continue reviewing the project in its entirety at this time. Through a variety of correspondence and phone calls in June, July,

and August of 2021[2], Commission staff conveyed its concerns to the Navy about its ability to evaluate a project that was only conceptually defined, still under development and proposed to be designed and implemented over thirty years. Commission staff also explained that due to the lack of certainty regarding specific project details and elements, and adverse impacts to resources, Commission staff did not have adequate information to thoroughly analyze the potential spillover impacts to coastal resources and would have no option but to recommend that the Commission object to the consistency determination due to that lack of information. Additionally, Commission staff identified the additional information that would be required in order to adequately analyze the impacts of the project. Those information requests are also identified in a letter to the Navy dated August 12, 2021 and are consistent with the information requests identified in Section III B of this staff report above. Navy staff has conveyed that it understands of Commission staff's position and expressed its desire for Commission staff to proceed with its review without the requested information.

Site Condition and Historic Uses

As stated by the Navy in the draft EIS, initial construction of the OTC sites was completed in 1941 as a government-owned, contractor-operated facility known as "Consolidated Aircraft Plant 2" used during WWII to build components of the B-24 "Liberator" bombers and "Catalina" flying boats. Over subsequent decades, the property was used for manufacturing Navy Terrier missile prototypes, the U.S. Air Force's F-102s and F-106s fighter planes, Atlas missiles (first used as Intercontinental Ballistic Missiles and then space launch vehicles), components of the Space Shuttle and the Tomahawk Cruise Missile. In 1997, as a result of a Base Realignment and Closure action, the facility became NAVWAR headquarters and it has been used since that time as laboratory, warehousing and storage, and office and administrative space for NAVWAR. NAVWAR is the Navy command responsible for the development, delivery, and maintenance of the Navy's communications, networks, information, and space capabilities.

As shown in the figure below, the OTC property is almost completely (95 percent) developed and covered with low-rise buildings and pavement. Current facilities on OTC Site 1 include three former WWII-era aircraft manufacturing warehouses (approximately 310,000 square feet each) that are used as administrative offices, laboratory and warehouse spaces, and several smaller buildings. Paved vehicle parking and materials storage areas are located throughout the remainder of OTC Site 1. OTC Site 2 includes an operational supply building (approximately 136,000 square feet) surface parking and a few small outbuildings.

[2] This correspondence and communication includes phone calls between Commission and Navy staff on June 23rd, July 6th, July 14th, August 12th and August 24th as well as a letter from Commission staff to the Navy dated August 12th.

Figure 1 – OTC Site 1 (large warehouse buildings in foreground between the I-5 freeway and PCH) and OTC Site 2 (smaller warehouse buildings seaward of PCH)

Project Purpose

In the draft EIS and in its consistency determination, the Navy describes the purpose of the project as follows:

> …to provide modern facilities to enhance NAVWAR's operational and sustainment effectiveness through redevelopment of OTC. The current facilities are beyond their useful life and do not comply with current seismic design requirements, applicable antiterrorism force protection standards, nor do they provide controlled access and independent utility systems for secure spaces.

In addition to meeting the purpose of modernizing the NAVWAR facilities, the Navy also found that due to the large size of the OTC sites and the proposed consolidation of NAVWAR facilities, there would be ample available space to incorporate other types of development on the OTC sites:

> Due to the size of the OTC property, and the opportunity to optimally design the modern NAVWAR facilities and functions to achieve greater operational efficiency, the Navy has determined that OTC could support redevelopment that not only modernizes NAVWAR's facilities, but also introduces new uses without negatively impacting NAVWAR's security or mission requirements. Therefore, the purpose of and need for the proposed project can be achieved through Navy redevelopment alone, or in collaboration with private developers to fund NAVWAR redevelopment on OTC through mixed-use redevelopment on other parts of the property.

Although the primary objective of the project is limited to development of a new NAVWAR facility, to achieve that objective without federal funding, the Navy is seeking a private development partner that would construct the NAVWAR facility in exchange for exclusive development rights to the remainder of the OTC 1 and 2 sites. This follows the approach used by the Navy for the Broadway Complex project (reviewed by the Commission as CD-047-90) at a 16 acre site on the downtown San Diego waterfront.

The Navy's Broadway Complex project initially proposed replacement of existing Navy administrative offices and parking lots with two high-rise office buildings (a portion of which would be used by the Navy), a hotel, maritime museum, retail space, parking structures and 1.9 acre public park. The office space for the Navy was to be constructed by a private developer without federal funds in exchange for exclusive development rights and access to the remainder of the site. The Commission concurred with that project on May 7, 1991, but it was not until November of 2006 that the Navy entered into an agreement with a specific developer to build the project. The Broadway Complex project proposed by that developer differed significantly from the original project approved by the Commission. After reviewing that proposal, the Commission found that due to the changes made to the proposed development and changes in the surrounding area that had occurred in the over 20 years since its initial approval, the Broadway Complex project was no longer consistent to the maximum extent practicable with the CCMP. In November 2011, the Commission therefore objected to the Navy's consistency determination for the version of the project proposed by the Navy and its private development partner.[3] The Broadway Complex project was the subject of several additional years of legal dispute, and the courts ultimately allowed the development to proceed in 2017. This example, with its changes between the initial and final project proposal, protracted planning and development process and multiple Commission reviews highlights some of the challenges presented by reviewing projects decades before construction-level designs and site plans are available.

Project Description

In the proposed project, the existing three former World War II-era aircraft assembly warehouses and other buildings would be demolished and replaced with private development comprised of a mix of residential, office and retail space. Specifically, up to nine mid-rise buildings, 33 mid-high-rise buildings, 18 high-rise buildings, one mid-high-rise hotel, one high-rise hotel, and a transit center would be constructed on OTC Site 1 and one mid-rise building, 18 mid-high-rise buildings, and nine high-rise buildings would be constructed on OTC Site 2, as shown in the figure below from the Navy's Consistency Determination. Please note, however, that this figure is provided only as a conceptual "representative" diagram and does not show the proposed design, configuration or location of the various project elements.

[3] Staff report here: California Coastal Commission Staff Report and Recommendation Regarding Reopening Consistency Review of Consistency Determination No. CD-047-90 (Navy, San Diego)

Figure 2 – Representative Development Diagram from Consistency Determination

The project would also include redevelopment of OTC Site 2 with a new NAVWAR facility and would include two low-rise buildings, one mid-rise building, two mid-high-rise buildings, and two standalone parking structures. Proposed low-rise buildings would be one to two floors and up to 30 feet tall, low to mid-rise buildings would be three to eight floors and up to 89 feet tall, mid-rise buildings would be nine to 21 floors and up to 240 feet tall, and high-rise buildings would be over 22 floors and over 240 feet tall. The specific configuration, composition and design of these structures and their layout on the project sites have yet to be determined and will remain unknown until the Navy identifies a development partner and approves a development agreement.

The project would be constructed over approximately 25 years and in total, the Navy proposes approximately one million square feet of office and laboratory space for its NAVWAR facility and a private development of 10,000 residential units, 1.3 million square feet of office space, 450 hotel rooms, 250,000 square feet of retail, and 140,000 square feet of transit facilities across the remainder of OTC Sites 1 and 2. In total, the proposed project includes construction of approximately 109 buildings, including two standalone parking structures for a total development area of 19,589,268. The tallest buildings would be approximately 350 feet.

As previously noted, the Navy indicated that there is currently no certainty about the final development footprints, layouts, densities, number of buildings, heights, proposed uses and inclusion of a transit facility with the proposed project; rather, the conceptual development envelope described in the draft EIS and consistency determination is meant to provide assumptions on these project characteristics in order to facilitate what the Navy determines to be a reasonable analysis of potential impacts.

Similar to the absence of specific information in the Navy's consistency determination about the design, location and configuration of proposed development (buildings, landscaping and supporting infrastructure such as roads, sidewalks, lighting, sewage and storm water systems), specific information about how and when demolition and construction activities would be carried out is also not provided in the project's consistency determination. Information about the type and number of construction equipment, quantity and type of materials, as well as the location of material and equipment access and staging areas (storage, re-refueling, maintenance, etc.) was also not provided by the Navy.

The full project description provided to Commission staff by the Navy is included in **Exhibit 3**.

Project Timing

In the draft EIS the Navy explained that development of the proposed project would occur in three phases (demolition of existing buildings, construction of the NAVWAR facilities, and construction public-private development). Construction of the new NAVWAR facilities is proposed to be implemented over a 5-year period but the exact start date would depend on the availability of funding and identification of a private development partner. Development of the remainder of the OTC sites is proposed to be implemented over a 25-year period, through a phased development approach. Phasing of the remaining site development would be based on identification of a private development partner, establishment of a development agreement and a variety of development and real estate factors. However, the Navy assumes the project would begin in 2021/2022, with full build out by 2050. The Navy estimates that the NAVWAR facilities would be constructed first, between 2021/2022 and 2025, followed by the proposed commercial, residential and retail development. Private development is estimated to start construction in 2026 and achieve full buildout by 2049, with full operations beginning in 2050. The Navy also estimates that if a transit center is included in the project, its construction would begin in 2026 and would be completed in 2034, with operations beginning in 2035.

The Navy issued a Request for Interest (RFI) in 2018 to evaluate the availability and adequacy of potential business sources to fund NAVWAR facilities and infrastructure by redeveloping OTC through a public-private agreement. The RFI process resulted in 12 responses, four of which contained market research conducted by private developers for potential mixed-use redevelopment scenarios. Of the four responses that contained market research, two private developers provided a detailed program for private redevelopment. The Navy considered these responses as a starting point for the buildout of private development envisioned in the proposed project. To aid in its review, Commission staff have requested these two detailed redevelopment programs from the Navy. To date, this information has not been provided.

B. Consultations and Other Agency Approvals

State Historic Preservation Office (SHPO)
Section 106 of the National Historic Preservation Act requires that federal agencies consult with the Advisory Council on Historic Preservation, State Historic Preservation Officer, interested and affected federally recognized Indian tribes, other interested parties, and the public. As part of this process the Navy notified the Advisory Council on Historic Preservation (ACHP), the California State Historic Preservation Officer (SHPO), and the federally recognized tribes of the proposed redevelopment project. This notice included the notice of intent to prepare an EIS, the Area of Potential Effects (APE), the identification of historic properties within that APE, and the initial determination of adverse effect to historic properties.

United States Fish and Wildlife Service (USFWS)
The Navy conducted a USFWS Information for Planning and Consultation search to identify the potential occurrence of federally threatened and endangered species in the Region of Impact (ROI). According to the Navy the OTC site does not contain habitat or resources for any federally listed wildlife species or bird species designated as California species of special concern; therefore, the Navy determined that consultation with USFWS in compliance with Section 7 of the Endangered Species Act would not be required.

Tribal Consultation
During its preparation and release of the draft EIS the Navy did extensive outreach throughout the project region to potential interested parties and received no questions or concerns from tribes. In addition, Commission staff has been working with the California Native American Heritage Commission to identify potentially affected tribes and has also not received any information regarding tribal concerns.

California Department of Parks and Recreation
The California Department of Parks and Recreation (State Parks) submitted a comment letter on the draft EIS stating that the project did not adequately analyze or address adverse effects to the Old Town San Diego State Historic Park and the San Diego Coast District State Park Headquarters. The potential adverse effects most concerning to State Parks staff include air quality for employees, traffic and access to the state park and headquarters for employees and visitors, potential adverse impacts to the historic properties of the state park, and possible exposure of visitors and State Parks employees to hazardous materials released from the OTC sites during proposed demolition and construction activities.

California Department of Transportation
The California Department of Transportation (Caltrans) submitted a comment letter on the draft EIS in which Caltrans asked the Navy to specifically consider transportation mitigation measures at three intersections to minimize potential queuing on I-5. Caltrans also requested coordination on the completion of complete streets for all transit users (bicyclists, pedestrians, vehicles, etc) and development of the multi-modal

improvements included in the proposal. Caltrans notified the Navy that any work performed within Caltrans' Right-of-Way would require approvals from Caltrans.

California Department of Toxic Substances Control and California Regional Water Quality Control Board

The Navy concluded that based on the analysis of hazardous materials and waste from the draft EIS, the continued implementation of the restoration program at OTC and future development activities would need to be coordinated with the Regional Water Quality Control Board and the Department of Toxic Substances Control. This coordination would be focused on ensuring the proposed development (including mixed uses) would be compatible with subsurface conditions (i.e. contaminated materials known and potentially present on the sites).

City of San Diego

Because the OTC site is federal property, any development within the sites is exempt from local land use development control and planning and zoning approval. However, the City noted in a comment letter on the draft EIS that future community plan amendments and/or specific plan amendments, or approval of offsite improvements envisioned for the project would likely require City approval and be subject to the City's California Environmental Quality Act (CEQA) thresholds. In its letter, the City provided 49 comments on the project including: the need for a clear project description, the need for each phase of development to be analyzed individually to better understand potential adverse effects and avoidance and/or mitigation, the need for more detailed analysis regarding the project's consistency with community plans, and more clarity on how the proposed mitigation measures would be implemented.

C. Traffic and Coastal Access

Section 30210 of the Coastal Act 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 30252 of the Coastal Act States (in part):

> 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…

Section 30253 of the Coastal Act states (in part):

> New development shall do all of the following:…
>
> (d) Minimize energy consumption and vehicle miles traveled…

The Navy OCT property is located at the northern end of San Diego Bay and lies approximately three miles south east of Mission Bay and Mission Beach, three miles east of Ocean Beach, and one mile northeast of Liberty Station, as shown in **Exhibit 1**. Pacific Coast Highway (PCH) bisects the two OTC sites that the project would be located on and runs in a north-south alignment from Mission Bay into downtown San Diego, consisting of two to three lanes in each direction. Interstate 5 is located immediately east of OTC Site 1 while Interstate 8 is located approximately one mile to the north.

PCH and both interstates function as important coastal access corridors, providing accessways for vehicles traveling to northern San Diego County Beaches and Mission Bay, west to Ocean Beach, and south to San Diego Bay and the downtown shoreline. A network of offramps and streets such as Camino Del Rio, Rosecrans and Sports Arena Boulevard assist in connecting travelers from PCH and the interstate highways to local coastal access areas.

In addition to vehicle use, a range of metropolitan bus routes also pass through the area of the OTC property and connect to beaches and coastal recreation areas. As such, the project location sits near the intersection of three major vehicle transportation routes as well as a network of streets and transportation modes that provide access for residents and visitors to popular coastal access and recreation areas throughout the greater San Diego area. Although some of these access routes are outside the coastal zone – or contain segments both inside and outside of it – if project construction/demolition activities or increased demand generated by the project's proposed commercial, residential, hotel and retail development would create detours, worsen traffic conditions, or exceed the capacity of the portions of the existing transportation network used for coastal access, the project would have an adverse spillover effect on coastal access.

Navy Analysis

Although it did not individually consider or evaluate effects to the transportation network and traffic that would be caused during the proposed demolition and construction phases of the proposed project by discussing the duration of these activities, or the location and use of detours, staging areas, equipment and personnel access routes, and material ingress/egress and transit routes, the Navy's CD and draft EIS does evaluate the effects of the completed project. To do this, the Navy evaluated baseline conditions for the existing transportation network for both interrupted (signalized and stop controlled intersections) and uninterrupted flow facilities (multi-lane highways) using 2020 turning data collected at each intersection and Average Daily Trip (ADT) data on each existing street segment. For interrupted flow facilities, the analysis used

control delay (or the delay caused by a traffic control device) as the primary metric to define the Level of Service (LOS) of each facility. For uninterrupted flow facilities like freeway segments the analysis used density and the ratio of volume of cars versus the capacity of the segment to define LOS.

LOS is a qualitative measurement of operational conditions using letter designations "A" through "F." LOS "A" represents free-flow operating conditions and LOS "F" represents highly congested conditions. Typically, the threshold for an acceptable LOS is between LOS C and LOS D. These LOS ratings provided a baseline summary of the current operational conditions of roads and intersections in the project area for comparison with conditions expected after implementation of the project. Under this baseline summary of current conditions, the following key coastal access corridor segments and associated intersections operate at LOS conditions at or worse than "D": Rosecrans Street, Friars Road, and PCH.

To analyze potential adverse impacts to traffic, the Navy evaluated peak hour conditions (weekday traffic counts and AM 7:00–9:00 a.m. and PM 4:00–6:00 p.m.) for the additional traffic expected to be added to the existing transportation network (intersections, street segments, mainline freeway segments, and one on ramp meter location) if the conceptual development envelope described above in the project description section of this report were to be built. Results indicating that the project would degrade conditions to an unacceptable LOS (E or F), or increase metrics such as V/C ratio, speed, or delay for portions of the transportation network already expected to operate at LOS E or F, are identified in the project draft EIS as significant impacts.

Based on the conceptual development envelope presented by the Navy for the proposed project, the total ADT anticipated to be added to the transportation network on weekdays is 70,022 trips in a single day with a peak of 5,157 trips in the morning and 6,476 trips in the afternoon. Based on this calculated ADT and Peak Hour Trips, the project would be expected to result in significant impacts to 26 intersections, 25 street segments, 10 freeway segments and 1 ramp meter for a total of 62 impacted locations. The degree of significance varies among the locations, but examples of some of the most severe adverse impacts include the addition of over 40,000 daily trips along segments of PCH and delays of upwards of one hour at intersections along PCH.

Insufficient Information

However, in its consistency determination submittal, the Navy did not include a sufficient coastal zone-specific traffic analysis that specifies which of these 62 impacted locations would be within the coastal zone and affect portions of the transportation network that are particularly important for coastal access. Although the consistency determination does provide a discussion of project effects to transit within the Coastal Zone, as discussed in more detail below, this discussion is incomplete and lacks sufficient detail.

In addition, it should also be noted that the Navy's analysis and estimates are based on 2020 conditions as a baseline. With construction of the most significant project features (the approximately 100 residential, commercial and retail buildings) proposed to be

carried out decades in the future, any other regional developments, population growth or changes in transit patterns that occur between 2020 (the baseline year used by the Navy in its analysis) and that future date could significantly alter or worsen the project's effects on traffic. With regional growth projections estimating that San Diego will have an additional 400,000 residents by 2050[4], the available capacity of the transportation network is expected to be severely affected. Because coastal access and recreation are among the most popular pursuits for San Diego residents and visitors, the network of streets, freeways, highways and public transit facilities serving the coast would experience a particularly significant growth in demand, even without the proposed project. However, the Navy has not provided in its consistency determination an assessment of this future growth and how the local transportation network would be affected at the time the project's most substantial phases begin construction and use.

In addition to the absence of an adequate coastal zone and coastal access-oriented traffic analysis, and the use of 2020 traffic information to evaluate the potential effects of a project that would be completed in approximately 2050, the lack of detail regarding the project design and site configuration also prevents a thorough analysis of effects to traffic and coastal access. The Navy has presented a conceptual development envelope meant to provide general assumptions on project characteristics in order to facilitate what the Navy determines to be a reasonable analysis of potential impacts. However, as occurred with the Broadway Complex project, the final plans for the project would progress and evolve over time as developers are selected and external factors such as demand and design trends, market dynamics and real estate use patterns are addressed. While the development envelope approach was deemed appropriate by the Navy for the purposes of determining the maximum ADT and A.M. and P.M. trips, and resulting traffic impacts, this approach leaves considerable uncertainty about what the project's effects on local and regional traffic patterns would be and how they would affect critical coastal access corridors.

For example, the project proposes over one million square feet of NAVWAR development, 10,000 residential units, over one million square feet of office space, and 250,000 square feet of retail; however, this development could be constructed anytime over the course of 25 years, anywhere within the corresponding project sites, with countless siting configurations, densities, uses, parking, and streetscape improvements available for the Navy and its development partner to select. Each of these individual options may have significant effects on transportation and traffic and changing any one of these components of the development therefore affects the resulting traffic analysis and potential effects on coastal access. For example, construction of all or most of the proposed 10,000 residential units on one side of the OTC sites versus the other side would result in different ingress and egress routes and usage of the transportation network. This different usage of the transportation network would result in different changes to LOS at intersections and along roadway segments which could have alternative adverse effects to coastal access than currently anticipated for the project. Similarly for the construction and demolition work, phasing the project incrementally over a ten or 15 year span could result in long term effects to the transportation network

[4] https://www.sandiego.gov/economic-development/sandiego/population

and substantial shifts in use patterns that could affect a larger area whereas a shorter term construction phase could result in more severe but shorter term and localized adverse impacts (worse traffic, more detours) due to increased numbers of construction personnel moving on- and offsite and higher numbers of daily truck trips for materials transport. These differences and their effects are not captured by the envelope traffic analysis used by the Navy.

In order for Commission staff to appropriately analyze the project and its potential adverse impacts on coastal access, a more detailed and specific project description is necessary. This project description would need to include information such as development agreements between the Navy and its private development partners (so that the project and construction constraints, limits, and controls can be considered), siting, uses, densities, transportation and streetscape improvements, as well as focused timelines for implementing and constructing the development. Without a more concrete, detailed, and thorough project description there is significant uncertainty regarding what the final project would be, what effects on traffic and coastal access it would have, and if those effects would be avoided or minimized.

Transit Center

Redevelopment in an urban area like the OTC site has the potential to provide benefits in terms of creating much needed housing within already dense areas that are near coastal access opportunities and providing for alternative modes of transportation that fit into the existing transportation network. The proposed Transit Center is identified in the project's draft EIS as a key feature of the development and important measure to reduce and mitigate traffic impacts. The transit center is simply described as having a footprint of 140,000 square feet within OTC Site 1.

Insufficient Information

However, this project element does not have a definite timeline or certainty for construction and the consistency determination does not include information on what types of transportation modes it would service, what volume or intensity of transportation it would be designed for, or how it would function within the larger transportation network. The only information regarding the proposed transit center provided in the Navy's consistency determination is the identification of a maximum footprint of 140,000 square feet and a construction window from 2026 to 2034. Because of this lack of information and certainty, Commission staff cannot analyze the transit center's effect on reducing vehicle traffic and protecting or maximizing coastal access. Commission staff requested from the Navy information on the proposed transit center including, but not limited to, the modes of transportation that the transit center would service, the volume or intensity of service, how the transit center would function with other transportation systems or improvements within the San Diego area, and details regarding the necessary steps for developing the transit center. As of the date of this staff report, that information has not been provided to Commission staff.

Coastal Zone Effects
Since the project is located on federal property, the Commission's review is limited to its potential spillover effects to traffic and coastal access within the Coastal Zone. In order to assess these spillover effects, it is necessary to separate project effects within the Coastal Zone from the larger traffic and access analysis.

Regarding potential project effects on traffic and access within the Coastal Zone, the Navy found that the project is not expected to result in significant impacts. Specifically, the project draft EIS states that:

> …the project is expected to add less than 50 peak hour trips to coastal access roadways such as Harbor Drive in the Embarcadero area, Rosecrans Street in the Liberty Station and Point Loma areas, Sunset Cliffs Boulevard in the Ocean Beach area, and Shelter Island Drive. The City of San Diego utilizes a traffic analysis requirement threshold for projects that generate more than 50 peak hour trips on the network. This project would add an insignificant amount of traffic to the coastal access roadways listed above, and the added traffic would be less than the day-to-day fluctuation in traffic based on the City of San Diego guidelines.
>
> It should also be noted that the Navy's analysis considered peak weekday commuter periods. In addition, due to the nature of the project and the corresponding heavy weekday trip generators such as office and residential uses, the amount of traffic the project would add to the street system would be much less on weekends – a timeframe in which coastal access by residents and visitors is high.

<u>Insufficient Information</u>
While the Navy determined that the project is not expected to adversely affect coastal transportation networks, and by extension coastal access, its summary analysis of coastal transportation and conclusion regarding effects to coastal access roadways raises a number of questions. The answers to these questions are necessary to objectively evaluate the accuracy and completeness of the Navy's analysis. Key questions include:

- What coastal access and recreation areas were considered in the Navy's analysis?
- How was the coastal access roadway network that facilitates access to these areas determined?
- Are the 50 peak hour trips within coastal areas a result of uses that are more likely to generate trips to the coast such as residences and hotels, or are the coastal traffic peak hour trips a result of adding up all expected trips at the site and distributing them evenly throughout the transportation network?
- How would the different phases of construction over the anticipated 30 year timeline affect coastal traffic and access?

- Which of the specific road segments and intersections within the Coastal Zone are anticipated to be affected by the project and what would be the magnitude of these effects?
- Other than cars, are there other transportation modes used by coastal visitors (like bus) within the Coastal Zone that may be affected by the project?
- Would the project affect coastal access and recreation in other parts of the greater San Diego area (e.g., vehicles traveling along the interstates and PCH to northern San Diego County beaches)?
- Would traffic flows and peak hour counts within the coastal areas change depending on the time of the day, the season, weather conditions, holidays or special events?
- Did the traffic analysis and calculation of 50 peak hour trips consider that each of the proposed land uses has a different daily and weekly traffic pattern and possibly a different effect on transportation and coastal access?
- How would population growth projections and implementation of local and regional long-range planning objectives affect the project related traffic analysis for 2050 (anticipated project completion date)?
- What would be the location and duration of construction-related road closures and detours during project demolition and building phases?
- How would these construction-related closures and detours affect local traffic patterns?

As illustrated by these questions, coastal transportation and access can differ from transportation within other areas analyzed as part of the project and more information specific to traffic within the Coastal Zone is necessary. Without this Coastal Zone and coastal access focused traffic analysis, the Commission cannot determine the project's consistency with the CCMP's enforceable policies regarding coastal access and traffic. For example, potential impacts from the project could be overlooked and the project could result in significant traffic delays for the coastal transportation network which would have the effect of limiting or even obstructing access to coastal areas. Commission staff noted these concerns and the need for a coastal-specific traffic analysis with Navy staff in the phone calls and comment letter previously described in this report; however, to date the Navy has not provided the requested analysis.

Mitigation Measures

The project proposes a total of five management practices, 52 mitigation measures, and six active transportation measures in order to avoid adverse impacts or mitigate unavoidable adverse impacts at the 62 locations described in the project draft EIS as likely to experience significant declines in LOS. Several of these mitigation measures would alter the physical transportation infrastructure for locations that would be adversely affected by the project to reduce adverse impacts to a less than significant level, including reconstructing the I-5/Old Town interchange. For locations where physical improvements have been deemed infeasible either due to physical constraints, right-of-way constraints, or jurisdictional constraints - and where the physical mitigation measures would not fully address the project's effects - the Navy suggests contributing to the implementation of Transportation Systems Management (TSM) technology to

improve traffic operations along various corridors. Additionally, the Navy proposes implementation of Transportation Demand Management (TDM) measures by individual public-private projects within the OTC Site as they are developed to reduce vehicular traffic and help lessen traffic effects on study area intersections, street segments, and freeway segments.

Insufficient Information

Regarding the proposed management practices, mitigation measures or active transportation measures identified to address the significant adverse impacts to traffic that would result from the project, the Navy does not provide in its consistency determination any surety as to whether they would be specifically required as part of the project, how they would be implemented, and when they would be implemented. Additionally, the Navy does not provide affirmative commitments that certain measures would be implemented, required or included as part of the proposed project. Instead, potential options are noted in place of specific or concrete actions, and implementation is deferred to an unspecified date or contingent on potential future coordination with other agencies. Based on this lack of clarity, the Commission is unable to adequately analyze the full scope of the project's potential adverse impacts and the adequacy and likelihood of success of the proposed mitigation. As a result, project impacts may not be fully mitigated and traffic within the coastal zone that would adversely affect coastal access may worsen.

To properly analyze the proposed mitigation, Commission staff asked the Navy to clarify which of the mitigation measures or plans would be specifically required as part of the project. Additionally, Commission staff also asked the Navy to include timelines and schedules for implementation of the various mitigation measures. Lastly, Commission staff asked for a more detailed analysis describing how impacts would be avoided and/or minimized through implementation of the selected mitigation measures. To date, this requested information has not been provided.

Additionally, the project and proposed mitigation practices, measures and active transportation measures do not appear to incorporate and consider improvements from other approved plans for adjacent communities and areas. For example, the Midway Community Plan covers the area surrounding the project sites and includes various bicycle and pedestrian improvements that are intended to be developed adjacent to and along the proposed development. However, the bicycle and pedestrian improvements identified in the proposed project as mitigation include no discussion as to how they are intended to function with the Midway Community Plan. Considering the size, scope, and lengthy construction period for the project, there are numerous other local transportation and modal plans that could also be affected by it in the near-term or future. Without sufficient information or clarify about the project's consideration of and consistency with these types of local plans, it is difficult to understand the consequences it may have on these plans and efforts.

Finally, even assuming the adequacy of the Navy's impacts analysis and full implementation and efficacy of the proposed management practices, mitigation

measures and active transportation measures, the project would still be expected to result in a total of 29 significant and unavoidable adverse impacts to the local transportation network. In its draft EIS, the Navy recognized that the transportation network would experience these significant adverse impacts from implementation of the project, and that while mitigation strategies could help alleviate those impacts, some would remain. In its consistency determination, however, the Navy does not provide further discussion about those remaining significant adverse impacts or what those impacts mean for the transportation network and coastal access.

Conclusion

Coastal Act Section 30210 requires new development to provide maximum access and recreational opportunities. Coastal Act Section 30252 requires new development to maintain public access to the coast by ensuring sufficient transit and non-automotive transport while Section 30253(d) requires new development to minimize energy consumption and vehicle miles traveled.

The project site is located at the intersection of major coastal accessways and transportation networks which serve as a vital link between residents and visitors of the larger San Diego area and multiple coastal access and recreation areas.

Redevelopment in an urban area like the OTC site has the potential to provide benefits in terms of creating much needed housing within already dense areas that are near coastal access opportunities and providing for alternative modes of transportation that fit into the existing transportation network. The project also has the potential to result in a significant number of vehicles added to the local transportation network (as much at 70,000 trips per day) as well as decreased levels of service at 62 locations and potential increases in the duration and frequency of traffic delays. These delays could have the effect of impeding or blocking coastal access for residents and visitors that make use of the transportation network to access the coast. While some of the potential benefits of the project are understandable, due to the uncertainty regarding the specific design, configuration, and timing of the project and implementation and efficacy of its mitigation measures, the real extent of adverse impacts to coastal access are unknown. Likewise, this lack of information regarding specific designs or certain mitigation measures means that any proposed benefits of the development, such as increased density with enhanced transportation, remain speculative.

The Coastal Act Sections identified above require new development to maintain and enhance access and account for the adverse effects of increased vehicle traffic by incorporating measures to minimize vehicle miles traveled and provide for non-automotive circulation. Here, the Commission is unable to analyze the first part of this requirement because the lack of project detail prevents a full accounting of the project's effects on increased vehicle traffic. In addition, the Commission is also unable to analyze the efficacy of the project's mitigation measures because it is unclear what measures would be implemented, when they would be implemented and how effective they would be. As such, the lack of information provided to Commission staff about the project impedes its ability to evaluate the project's consistency with the aforementioned

Coastal Act Sections. Unless the Navy provides the information requested by Commission staff, this impediment would remain.

In conclusion, the Commission finds that the Navy has not provided sufficient information on the proposed development and its potential adverse impacts to transportation and coastal access. In order for the Commission to determine the project's consistency with Section 30210, 30211 30252, and 30253, the information previously identified in Section II.B above is necessary, specifically **Items One, Two, Three and Seven.**

Item One requests a detailed project description, development agreement and project plans specifying the intensity of development for the proposed project including information on siting, uses and densities for all development, transportation and streetscape improvements, and construction timelines. Collectively. this information would provide more clarity on what the final project would be and when it would be constructed, and also what adverse effects the trip generation from the project may have on the transportation network and coastal access.

Item Two requests a Coastal Zone and coastal access focused traffic analysis. This would allow Commission staff to better understand how traffic within the Coastal Zone was analyzed and how the anticipated 50 peak hour trips within coastal areas was determined. Additionally, a Coastal Zone and coastal access focused traffic analysis would allow a more comprehensive analysis of coastal traffic patterns and potential adverse effects that may result from the project, taking into account how factors such as time of day or year and weather influence coastal access differently than non-coastal access.

To better understand if or when the transit center would be constructed and also how the proposed transit center would function within the greater San Diego transportation network, **Item Three** is necessary. Similarly, **Item Seven** asks the Navy to clarify which mitigation measures would be specifically required as part of the proposed project and to include timelines for implementation, analysis describing how impacts would be avoided and/or minimized through implementation of the measures, and contingency steps that would be taken if the measures are unsuccessful.

Without this information, the Commission is unable to determine whether the proposed project is consistent with the traffic and public access policies of the CCMP (Coastal Act Sections 30210, 30252, and 30253). The Commission therefore objects to the Navy's consistency determination, based on a lack of adequate information to determine the project's consistency with the traffic and public access policies of the CCMP.

D. Air Quality

Section 30253 of the Coastal Act 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.

In addition, Section 307(f) of the federal CZMA specifically incorporates the Clean Air Act into the CCMP. Under the Clean Air Act, the federal government has established ambient air quality standards to protect public health (primary standards) and secondary standards to protect public welfare. The State of California has established separate, more stringent ambient air quality standards to protect human health and welfare. As described below, the San Diego region is not currently attaining all air quality health standards, and there are plans in place that are designed to help achieve attainment of those Clean Air Act standards.

Although the proposed project would be located adjacent to the Coastal Zone, air emissions from vehicles, equipment and building machinery associated with the proposed demolition, construction and future use of the OTC sites would pass into the Coastal Zone. In addition, construction vehicles and vehicles coming and going from the commercial, residential, hotel, and retail development proposed for the project sites would transit into and through the Coastal Zone, thus releasing air emissions directly within it. As such, an analysis of the project's consistency with the enforceable policies of the CCMP must include an assessment of project related air emissions, in particular ground-level ozone.

Ground-Level Ozone

Coastal Act Section 30253(c) requires that development be consistent with the requirements of the local air pollution control district (APCD). For this project, the local air pollution district is the San Diego APCD. This APCD recently published a plan to help lower levels of harmful ground-level ozone within San Diego County, called the Final 2020 Plan for Attaining the National Ozone Standards (2020 Ozone Plan). Ground-level ozone is the result of human activities including combustion processes and use of chemicals that emit potentially harmful Volatile Organic Compounds (VOCs). The proposed development, including the associated vehicle trips, energy consumption and application of VOC materials, has the potential to result in the creation of significant amounts of ground-level ozone. According to the APCD, exposure to unhealthy levels of ozone can cause respiratory symptoms like airway inflammation or decreased lung function. Children, older adults, people with pre-existing conditions, and people who are working or recreating outside are at a greater risk of adverse health impacts from Ozone exposure.

In order to measure, monitor and regulate the levels of criteria pollutants, including ground-level ozone, the USEPA categorizes areas as attainment or non-attainment depending on whether the area meets the National Ambient Air Quality Standards (NAAQS) for a specific pollutant. The Navy provided the following discussion in the draft EIS on attainment and how it relates to San Diego:

> Areas that are and have historically been in compliance with a NAAQS are designated as attainment areas. Areas that violate a NAAQS are designated as nonattainment areas. Areas that have transitioned from nonattainment to attainment are designated as maintenance areas and are required to adhere to maintenance plans to ensure continued attainment.
> …
> The USEPA currently designates San Diego County as a nonattainment area for national 8-hour ozone, with a classification of serious under the 2008 standard and moderate under the 2015 standard (USEPA, 2020a). The USEPA designates San Diego County as in attainment for all other NAAQS.
> …
> The Ozone portion of the current State Implementation Plan (SIP) aimed at bringing San Diego into attainment is the aforementioned SDAPCD Ozone plan titled “2008 Eight-Hour Ozone Attainment Plan for San Diego County”. The Eight-Hour Ozone Attainment Plan addresses the national 8-hour ozone standard of 0.075 parts per million (ppm) established by the USEPA in 2008 and it identifies control measures and associated emission reductions needed to demonstrate attainment of the 2008 ozone standard. It relies on the SDAPCD’s Regional Air Quality Strategy to demonstrate how the region will comply with the national ozone standard. In October 2020, the Air District Board approved the Final 2020 Plan for Attaining the National Ozone Standards (2020 Ozone Plan). Within the Ozone Plan are projected growth and emissions estimates for combined Navy and Marine Corps projects within the San Diego air basin.
> …
> Because San Diego County is a nonattainment area for ozone, a conformity applicability analysis was required for proposed ozone precursor emissions of VOCs and NOx associated with project construction and operation. The most stringent de minimis threshold for the county, based on the current serious ozone nonattainment classification, is 50 tons per year of VOCs or NOx. It is reasonably foreseeable that the USEPA will approve the 2020 Ozone Plan within the 18-month period required by the Clean Air Act (CAA) (review period began January 8, 2021). Therefore, the project conformity applicability analyses (and NEPA analyses) relied on the conformity de minimis threshold that pertains to a severe ozone nonattainment classification of 25 tons per year of VOCs or NOx.

In other words, to determine the project’s conformity to SDAPCD requirements (and Coastal Act Section 30253(c) and Clean Air Act requirements), the Navy must evaluate if project related air emissions would exceed 25 tons per year of VOCs or NOx. Because San Diego County is currently in attainment for the other criteria pollutants (CO, SO2, PM10 and PM2.5), the threshold for those pollutants is 250 tons per year.

Calculation of Air Emissions

In order to calculate and analyze the anticipated air quality impacts from the project, the Navy used the California Emissions Estimator Model (CalEEMod) to quantify criteria pollutant emissions and GHG emissions from proposed construction and operation

activities for the project for years 2026, 2030, 2035, and 2050. As described by the Navy in the draft EIS, “CalEEMod is a statewide program designed to calculate both construction and operational emissions, as well as indirect emissions like energy use, from land use development projects throughout California. CalEEMod uses widely accepted emission calculation factors combined with default data”. For this project and for analysis of air quality impacts, the Navy proposes a conceptual building envelope of 109 buildings, including 2 standalone parking structures and 2 hotels, with 1,694,268 square feet of development for NAVWAR and 17,895,000 square feet of new private mixed-use residential, commercial, office and retail development for a total of 19,589,268 square feet of development.

The Navy’s analysis also modeled operation of the No Action Alternative for the same analysis years as the project to serve as the NEPA baseline for the evaluation of impacts. This approach is described by the Navy in the draft EIS as follows:

> …the net changes in annual emissions that would result from the replacement of the No Action Alternative with the project (i.e., the proposed project minus the No Action Alternative) were compared to the emission thresholds identified above to determine the significance of the project under NEPA. If the proposed emissions would exceed one of the significance thresholds, further analysis was conducted to determine whether impacts would be significant. In such cases, if proposed emissions (1) would not contribute to an exceedance of an ambient air quality standard or (2) would conform to the approved SIP, then impacts would be less than significant. By convention, total construction GHG emissions were amortized over a 30-year period (i.e., divided by 30 years) and added to the annual operational GHG emissions for each analysis year.

After analyzing the project against the No Action Alternative, the Navy concluded that the project would emit approximately 47 tons per year of VOC and 48 tons per year of NOx by the year 2050, exceeding the SDAPCD threshold of 25 tons per year for both pollutants. Based on the Navy’s analysis, the project is not expected to exceed the significance threshold of any other criteria pollutants.

Analysis of Air Emissions

The project would have emissions that exceed the significance threshold of 25 tons per year for both pollutants and, although the emissions of other criteria pollutants are not expected to exceed the significance thresholds of 250 tons per year, the project would still result in approximately 80 tons per year of CO, 0.3 tons per year of SOx, 24 tons per year of PM10 and 7 tons per year of PM2.5.

Because the project is anticipated to exceed the significance thresholds for VOC and NOx, the Navy Draft EIS includes mitigation measure AQ MIT-1 which requires the Navy to report to the San Diego Association of Governments (SANDAG) regularly throughout construction (through 2050) regarding population and employment projections for the OTC project and to also report project emissions to SDAPCD upon request. This measure is intended to demonstrate that construction and operation of the

OTC project would not exceed the Navy emissions projections that are anticipated in the Ozone Plan.

Insufficient Information

While the Ozone Plan in the current SIP is intended to help bring the San Diego air basin into attainment for VOC and NOx emissions, and the emissions for the proposed project are within the projected emissions for the Navy in the Ozone Plan, it remains unclear if relying on the proposed mitigation measure AQ MIT-1 would be an effective means of minimizing the significant VOC and NOx emissions that would result from the project. Mitigation measure AQ MIT-1 does not specify how population and employment projections would be made or emissions would be monitored. Further, the mitigation measure also does not specify the steps that would be taken if the projections or emissions monitoring reveal greater emissions than currently estimated or if these steps would be required to be implemented. As such, reliance on this mitigation measure does not provide the Commission with enough information to thoroughly analyze the effectiveness of the mitigation measure to ensure that adverse effects resulting from VOC and NOx emissions would be avoided.

In addition to AQ MIT-1, the project also proposes 31 management practices aimed at reducing emissions of all criteria pollutants. However, those 31 management practices similarly do not provide enough certainty for the Commission staff to analyze how they would function. Questions raised by the proposed mitigation measures are provided below:

- Regarding AQ MIT-1, are there any corrective actions or additional mitigation measures available in the event that Navy emissions do exceed the projections specified in the Ozone Plan? Has the Navy committed to implement these actions and measures?
- How would emissions from the OTC project be addressed in the event that the current Ozone Plan is modified, replaced, or discontinued in the future?.
- Which dust control BMPs are proposed during demolition and how would they be implemented?
- When would the use of alternative fuels and electrical construction equipment be required?
- When would the use of low VOC emission building materials be required?
- How would the measures intended to reduce external exposure to criteria pollutants, including building spacing and orientation, be implemented when there is not a detailed or specific project description?

This uncertainty could mean that air emissions would not be completely accounted for and addressed, resulting in significant adverse impacts. In order for the Commission to thoroughly analyze potential adverse impacts from air pollutants and ensure that they are properly mitigated, Commission staff requested an Air Pollution Reduction Plan identifying and quantifying the types and amounts of air emissions associated with the project, identifying and quantifying specific air emission reduction measures consistent with the requirements of other agencies, and also identifying corrective actions or

mitigation in the event that the project is not consistent with the requirements of those agencies. As of the date of this staff report, the Navy has not provided an Air Pollution Reduction Plan and Commission staff has not been able to evaluate the extent of project related emissions or the likelihood and magnitude of benefits that would be provided through implementation of mitigation measures.

Conclusion
Section 30253(c) of the Coastal Act requires new development to be consistent with the requirements of CARB or the local air pollution district, and the provisions of the Clean Air Act are also incorporated into the CCMP.

In this case, the Commission must evaluate the project's consistency withthe SDAPCD's 2020 Ozone Plan. While there is considerable uncertainty regarding the final design, configuration and composition of the proposed project, estimates based on its conceptual design show that the project is expected to result in significant emissions of VOC and NOx. However, the accuracy of these estimates is uncertain and the efficacy of the proposed mitigation measure is unknown. Reporting of population and employment projections to SANDAG and SDAPCD would not, in itself, reduce emissions or ensure the accuracy of estimates made based on the project's current conceptual design. Further, the Navy has not specified any corrective actions that would be taken in the event that project emissions exceed the allowances under the Ozone Plan, or if the Ozone Plan is modified, replaced or discontinued. Finally, the project also includes 31 management practices aimed at reducing the adverse effects of other criteria pollutants, but Commission staff are unable to analyze how they would be implemented and whether adverse effects would be avoided through their implementation.

In conclusion, the Commission finds that the Navy has not provided sufficient information on the proposed development and its potential effects on air quality to allow for an evaluation of its consistency with the relevant policies of the CCMP. In order to determine the project's consistency with Section 30253 and Clean Air Act requirements, the following information previously identified in Section II.B above is necessary, specifically **Items One and Five**.

Item One requests a detailed project description and project plans specifying the intensity of development for the proposed project including information on siting, uses and densities for all development, utilities demand, Low Impact Design (LID) features and which development would be Leadership in Energy and Environmental Design (LEED) certified. **Item One** also requests information on construction timelines for the project. This information would allow Commission staff to better understand what the final project would be and what options may be available to mitigate or lessen the project's emissions.

Item Five requests an Air Pollution Reduction Plan quantifies air emissions and helps ensure adverse effects of air emissions are mitigated. This would better capture and convey the project's actual emissions of criteria pollutants and would also assist

Commission staff in analyzing how the project relates to the requirements of the SDAPCD and other agencies and also whether implementation measures would be effective in mitigating project emissions.

Without this information, the Commission is unable to determine whether the proposed project is consistent with the air quality policies of the CCMP (Coastal Act Section 30253). The Commission therefore objects to the Navy's consistency determination, based on a lack of adequate information to determine the project's consistency with the air quality policy of the CCMP.

E. Climate Change

Constructing and operating major urban development, water, energy, telecommunication, and transportation projects can use a significant amount of energy, thereby significantly increasing emissions of greenhouse gases (GHGs).[5] These emissions exacerbate climate change caused by global warming, which, in turn can cause significant adverse impacts to coastal resources of California. The Coastal Act has a number of provisions that provide authority to take steps to reduce causes and effects of climate change and to adapt to the effects of global warming. These include the Coastal Act's public access and recreation policies (Sections 30220 and 30211), marine resource and water quality policies (Sections 30230 and 30231), the environmentally sensitive habitat area protection policy (Section 30240), and the coastal hazards policy (Section 30253(1) and (2)). Further, Section 30253 requires, in part, that development be consistent with the state's air pollution control requirements and that it minimize energy consumption.

Although large-scale urban development and redevelopment projects have the potential to result in significant emissions of GHGs, they also represent a major opportunity to plan for, and incorporate, measures to reduce the overall emissions of GHGs. For example the location of the proposed project at the nexus of a major transportation network could allow a significant number of residents and workers to more efficiently move throughout the greater San Diego region. This more efficient movement could have the effect of reducing time and miles driven in automobiles, thus reducing GHG emissions across the region. Additionally, construction of a multi-modal transportation center at this nexus could have an even greater impact on transportation efficiency and emission of GHGs in the region.

Greenhouse Gases

Climate change covers a broad range of impacts that can occur due to GHG emissions, such as increased sea level rise, changes in the frequency, intensity or occurrence of

[5] Greenhouse gases are any gas, both natural and anthropogenic, that absorbs infrared radiation in the atmosphere and include water vapor, carbon dioxide (CO2), methane (CH4), and nitrous oxide (N2O). These greenhouse gases lead to the trapping and buildup of heat in the atmosphere near the earth's surface. Carbon dioxide is the major anthropogenic greenhouse gas. All greenhouse gases are quantified collectively by the carbon dioxide equivalent ("CO2e"), or the amount of CO2 that would have the same global warming potential, when measured over a specific time period.

heavy precipitation and droughts, changes in the frequency and intensity of extreme temperature events, and changes in ocean water chemistry. California's 2006 Climate Change Impacts Assessment, 2009 Climate Adaptation Strategy and 2013 Indicators of Climate Change in California reports, and reports by the Intergovernmental Panel on Climate Change (IPCC Reports in 1990, 1995, 2001, 2007 and 2013) and various climate research centers (such as the Pew Center on Global Climate Change and the Heinz Center), and the Commission's own Sea-Level Rise Policy Guidance recognize that within the coming century potentially severe impacts could occur in the areas of sea level, water resources, agriculture, forests and landscapes, and public health.

As noted above, many of these effects would adversely affect the coastal zone and resources specifically protected by the Coastal Act, including air quality, species distribution and diversity, agriculture, expansion of invasive species, increase in plant pathogens, alteration of sensitive habitat, wildfires, rising sea level, coastal flooding, and coastal erosion. In addition, absorption of carbon dioxide by the ocean leads to a reduction in ocean pH, which adversely impacts calcite-secreting marine organisms (including many phytoplankton, zooplankton, clams, snails, sea stars, sea urchins, crabs, shrimp, and many others). The most direct impacts of global warming focused on the coastal zone are sea level rise and its associated impacts, ocean warming, and ocean acidification.

Although the project would be located on federal land outside of the Coastal Zone, any emissions of GHGs that result from the project would migrate from the site into the atmosphere. Once in the atmosphere those GHGs would cumulatively contribute to the adverse effects discussed above and have spillover effects into the Coastal Zone and on coastal resources. Additionally, the proposed demolition and construction phases of the project – as well as the eventual use of the proposed buildings – would generate large numbers of vehicle trips that would pass from the project site into and through the coastal zone and therefore result in GHG emissions directly within it. Consistent with regulatory guidance, including that released by the federal Council on Environmental Quality, the Commission considers GHG emission estimates as a proxy for assessing potential project effects on climate change.

The City of San Diego's Climate Action Plan can provide a relevant context for evaluating the GHG emissions that would result from the project. The City's Climate Action Plan (CAP) was adopted by the City Council on December 15, 2015. The CAP quantifies existing GHG emissions as well as projected emissions for the years 2020, 2030, and 2035 and target emissions levels, below which the Citywide GHG impacts would be less than significant. The CAP includes a monitoring and reporting program to ensure its progress toward achieving the specified GHG emissions reductions, and identifies 17 actions that if implemented, would achieve the GHG emissions reductions targets. The CAP focuses on reducing city-wide GHG emissions below the 2010 baseline emissions of 12,984,993 Metric Tons of CO2 equivalent (MTCO2e) by 15 percent by 2020, 40 percent by 2030, and 50 percent by 2035, through policies and implementation measures aimed at energy and water efficiency, increased use of renewable energies, promoting multi-modal transportation, and reducing waste.

Calculation of GHG Emissions
Using the same method discussed previously in the section on calculation of ozone emissions and other criteria pollutants – CalEEMod and comparison to the No Project Alternative – the Navy also calculated the project's potential GHG emissions. This calculation estimated that the project would be expected to generate GHG emissions of 50,890 MTCO2e per year by 2050. However, this calculation was based on the conceptual development envelope described in the project description and was not based on specific or detailed information about project design, construction methods, configuration, timing and duration. Because the project has yet to be designed beyond a conceptual stage, the fidelity of these emissions estimates to actual emissions that would be generated through demolition, site preparation, construction and operation of the project is unknown.

Analysis of GHG Emissions
By comparison, CDP No. 6-09-15 was another large development project recently reviewed by the Commission for the San Diego Regional Airport Authority. This project was fully designed prior to Commission review and specific information regarding construction methods, construction equipment and construction duration were provided. The project included the proposed construction of a two-story, 468,389 sq. ft. expansion of an existing airport terminal, and was expected to emit 5,000 MTCO2e per year after finalizing construction and reaching full operation in 2020. For that project the resulting emissions were found to have the potential to affect climate change and the Commission required the Airport Authority to develop a plan for precisely calculating and reducing GHG emissions and also ensuring that GHG emissions were minimized to the extent feasible. The project proposed by the Navy would be significantly larger and the Navy's evaluation of the conceptual design indicates that it would be anticipated to emit greater than 10 times more GHGs annually than the airport expansion. However, because the project design is not available beyond a conceptual level, an accurate assessment of its GHG emissions cannot be made.

Although the specific volumes are unknown, considering the magnitude of the Navy project's GHG emissions, a more comparable project would likely be the Poseidon Water project that proposed construction of a seawater desalination facility in the City of Carlsbad (CDP No. E-06-013). The majority of GHG emissions analyzed for the Poseidon project were due to the purchasing of electricity to operate the facility and were anticipated to be approximately 90,000 MTCO2e per year. In that case, Poseidon included in its project various proposed measures that would reduce GHG emissions, but the efficacy of those measures was speculative. As a result, the Commission included a condition requiring Poseidon to submit a GHG reduction plan that included mitigation measures that would neutralize or offset GHG emissions and were also acceptable to the Commission and other agencies.

Regarding GHG emissions that would result from the proposed project, the Navy's findings in the draft EIS take the approach of considering them in a relative way compared to emissions form the State of California as a whole:

> …emissions increase would be approximately 0.01 percent as large as the 2018 statewide GHG emissions. Vehicle trips generated by each alternative would be the largest contributor to GHG emissions.
>
> While GHG emissions generated from construction activities and subsequent operations alone would not be enough to cause global warming, in combination with past and future emissions from all other sources they would contribute incrementally to the global warming that produces the adverse effects of climate change.
>
> Construction and operation of Alternative 4 [the proposed project] would also comply with applicable GHG emission reduction and climate change adaptation strategies promulgated by the State of California, SANDAG, and City of San Diego. For example, Alternative 4 would be consistent with the GHG emission reduction measures recommended in the City of San Diego Climate Action Plan.

Specifically, regarding the project's potential GHG emissions and conformity with the City of San Diego Climate Action plan, the Navy's draft EIS states that:

> Construction of energy- and water-efficient buildings is one of the goals outlined in the City of San Diego Climate Action Plan to reduce the quantity of GHG and stress on public infrastructure related to climate change. The Department of Defense also conducts research on potential impacts from climate change and develops measures for installations to adapt to these threats (DoD, 2019). These goals are congruent, and energy and water efficiency standards are part of project design. In addition, the Navy takes proactive measures to reduce their overall emissions of GHG by decreasing the use of fossil fuels and increasing the use of alternative energy sources in accordance with the goals set by Executive Orders (EOs), the Energy Policy Act of 2005, and Navy and Department of Defense policies (refer to Appendix B for more information). Use of clean and renewable energy is also a goal outlined in the City of San Diego Climate Action Plan.

As discussed previously, the CAP quantifies existing GHG emissions as well as projected emissions for the years 2020, 2030, and 2035. The CAP also identifies City target emissions levels below which the Citywide GHG impacts would be less than significant and includes a monitoring and reporting program to ensure its progress toward achieving the specified GHG emissions reductions. Finally, the CAP specifies 17 actions that, if implemented, would achieve the specified GHG emissions reductions target. Operational emissions can result in significant indirect emissions of GHGs and the implementation of energy and water efficient measures for new development in the proposed project would help to reduce operational emissions and would also be consistent with some of the implementation measures identified in the CAP.

Insufficient Information

However, similar to the issues identified with other implementation measures associated with the project, the actual implementation and efficacy of these measures is uncertain and raises a variety of questions. For example:

- Which buildings would ultimately be constructed?
- Which buildings would include energy and water efficient measures?
- Which specific measures would be required?
- What effect would the measures have on emissions from individual buildings and the overall project emissions?
- Who would be responsible for tracking and maintaining records of implementation measures performance?
- What adjustments or corrective actions would be taken if implementation measures did not perform as intended or were inconsistent with the CAP?
- Would future changes to the CAP (lowering of target thresholds, addition of reduction measures, etc.) be integrated into the project or would the 2015 CAP be used for the entire project regardless of when construction of specific project elements begins?

Considering the lack of specific project details and questions about efficacy of the implementation measures, the Commission cannot thoroughly analyze the magnitude of GHG emissions the project is expected to cause, nor can it analyze whether those emissions would be appropriately mitigated. As discussed earlier, GHG emissions are associated with climate change and adverse effects on habitats, species, and public health. Without a complete and accurate accounting of project-related GHG emissions, it is possible that GHG emissions from the project could go unmitigated and result in a significant cumulative contribution to climate change.

After reviewing the draft EIS and recognizing these concerns, Commission staff submitted a comment letter to the Navy in response to its the draft EIS for the project **(**included as **Exhibit 6)**. This letter requested a GHG Reduction Plan that (1) describes in detail which parts of the project would be constructed; (2) identifies and quantifies the types and amounts of GHG emissions that would be associated with the project; (3) identifies and quantifies specific GHG emission reduction measures consistent with the requirements of other agencies; (4) describes how monitoring would be carried out during project implementation to confirm or correct emission estimates and also (5) identifies corrective actions or mitigation that would be taken in the event that the project is not consistent with the requirements of those agencies. As of the date of this staff report the Navy has not provided the requested GHG Reduction Plan.

Conclusion

Section 30253(d) requires new development to minimize energy consumption. The consumption of energy, whether directly through construction equipment and vehicle use or indirectly via utility demand, is directly related to the emission of GHGs. In addition, several other Coastal Act policies provide the Commission with authority to take steps to reduce causes and effects of climate change and to adapt to the effects of global warming, including the public access and recreation policies (Sections 30220 and

30211), marine resource and water quality policies (Sections 30230 and 30231), the environmentally sensitive habitat area protection policy (Section 30240), and the coastal hazards policy (Section 30253(1) and (2)). The Navy's modeling of the project's conceptual design estimates that the project could emit upwards of 50,000 MTCO2e per year by the year 2050. The project includes various management practices to reduce emissions, including GHGs; however, a majority of the proposed management practices do not include any certainty as to whether they would be required, how they would be implemented, and when they would be implemented. As such, there is no clear assessment of the project's consumption of energy and resulting GHG emissions, and how the project would reduce energy consumption and resulting GHG emissions.

In conclusion, the Commission finds that the Navy has not provided sufficient information on the proposed development and its potential effects on GHGs and climate change to allow for an evaluation of its consistency with the relevant policies of the CCMP. In order to determine the project's consistency with Sections 30220, 30211, 30230, 30231, 30240 and 30253, the following information previously identified in Section II.B above is necessary, specifically **Items One and Four**.

Item One requests a detailed project description and project plans specifying the intensity of development for the proposed project including information on siting, uses and densities for all development, utilities demand, Low Impact Design (LID) features and which development would be Leadership in Energy and Environmental Design (LEED) certified. **Item One** also requires information on construction timelines for the project. This information would allow Commission staff to better understand what the final project would be and what options may be available to mitigate or lessen the project's emissions.

Item Four requests a GHG Reduction Plan to identify and quantify the types and amounts of GHG emissions, GHG reduction measures, and correction actions or mitigation in the event that GHG emissions are inconsistent with federal or state regulations. This would better capture and convey the project's actual emissions of GHGs and would also assist Commission staff in analyzing how the project relates to the requirements of other agencies and also whether implementation measures would be effective in mitigating project emissions.

Without this information, the Commission is unable to determine whether the proposed project is consistent with the policies of the CCMP related to climate change (Coastal Act Sections 30220, 30211, 30230, 30231, 30240 and 30253). The Commission therefore objects to the Navy's consistency determination, based on a lack of adequate information to determine the project's consistency with the climate change policy of the CCMP.

F. Hazardous Materials

Section 30232 of the Coastal Act 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.

Various types of hazardous wastes have been generated and/or stored at the OTC sites since the 1940s. These wastes may be present in building materials, soils, and other areas and could be released and spread outside of the sites and into the coastal zone during project related demolition, site preparation (grading and excavation) and construction activities. Movement or spillage of such materials into the Coastal Zone through dust, particulates and stormwater could conflict with Coastal Act Section 30232 and result in adverse impacts to coastal resources including water quality, marine biological productivity and marine species and habitats. As such, a thorough understanding of the types and locations of hazardous materials present and likely to be present on the project sites, the potential pathways for their spillage or release, and the expected efficacy of prevention measures is necessary for the Commission to determine the project's consistency with the CCMP.

Hazardous Materials at the Sites

Both OTC sites have an extensive history of industrial and military uses dating back to their initial construction in World War II. In the draft EIS the Navy provided a thorough history of hazardous materials at the sites as well as information on military investigations into how pervasive hazardous materials are throughout the sites:

> Special hazards, such as lead-based paint, asbestos-containing materials, and PCBs, are also present or have the potential to be present, in many of the OTC buildings. The Navy conducted lead-based paint surveys at OTC in 1994, prior to the transfer of the property, and these surveys confirmed the presence of lead-based paint within OTC buildings. The Navy partially removed or encased the lead-based paint at OTC buildings during several renovations (Navy, 2012b).
>
> Pipes or other insulation, ceiling tiles, exterior siding, roof shingles, tile mastic, and sprayed-on soundproofing are some of the materials found in buildings constructed prior to 1989, including those at OTC, that may contain asbestos. Limited surveys performed at OTC have confirmed the presence of asbestos in many of the buildings. Asbestos remediation (e.g., removal) was partially performed in facility areas that underwent renovation. Most of the office spaces inside the buildings have been remediated and all asbestos has been removed from Building 4 (Navy, 2012b).
>
> Buildings constructed between 1950 and 1979, including those at OTC, potentially have materials and/or equipment such as caulk, paint, light ballasts, or transformers that contain polychlorinated biphenyls (PCB). All PCB containing transformers that were present historically at OTC have been removed, and no remaining PCB sources have been identified. However, there may be residual

> PCBs present in older building materials such as caulk, paint, and spray-on fireproofing.
>
> Prior to the NAVWAR's occupation of the OTC property, the site was used for various other industrial activities, including aircraft manufacturing operations during World War II…Wastes generated as a result of these manufacturing, processing, and subassembly activities may have included waste oil; paint sludge; plating materials; spent chromic, hydrochloric, and nitric acids; and degreasing solvents. Past disposal practices and inadvertent releases of these wastes resulted in onsite environmental contamination.
> …
> In 1994, the Navy conducted an environmental baseline survey as part of a property transfer from the Air Force. The baseline survey identified 11 potential new sites for inclusion in the IR Program due to potential contamination in soil and groundwater. All 11 sites were at OTC Site 1; no sites were identified at OTC Site 2. Nine of these sites later became IR Sites 1, 2, 3, 4, 5, 7, 9, 10, and 11. Two sites (6 and 8) identified in a 1986 baseline survey were later eliminated as it was confirmed that no contaminant releases had occurred. Two other sites (12 and 13) were added in 2020. Boundaries have not been established for IR Sites 12 and 13 as they are still in initial phases of investigation. Under the Defense Environmental Restoration Program, sites are managed to two outcomes: site closure or response complete (which means long-term management is required).

Based on these investigations and historic uses, prior industrial and military uses at the OTC sites have resulted in significant contamination, including 11 locations requiring enrollment in the Department of Defense's IR Program. Two of the 11 locations were only identified last year and their scope the extent of contamination within them is not currently known.

As discussed by the Navy in the draft EIS, in addition to hazardous materials associated with historic activities and uses of the sites, three U.S. Environmental Protection Agency (USEPA) hazardous waste generator identification (ID) numbers are currently associated with the OTC sites:

- OTC Site 1: CA0000066373 for the Naval Information Warfare Center Pacific OTC Site 1 and for Commander Navy Region Southwest Naval Facilities Engineering Command operations associated with Air Force Plant 19, Large Quantity Generator.

- OTC Site 2: CAR000283085 for the Navy Regional Plant Equipment Office, Small Quantity Generator.

- OTC Site 2: CAR000195479 for the Naval Information Warfare Center Pacific San Diego Sports Arena Boulevard Facility, Small Quantity Generator.

According to information on the California Department of Toxic Substances Control's website, the USEPA uses hazardous waste ID numbers to demarcate and track hazardous waste from when it is first generated until it is finally disposed. The hazardous waste ID numbers are specific to the site where the waste was generated and each facility where hazardous waste is generated requires a separate ID number. USEPA ID numbers are necessary if the site generates more than 100 kilograms of hazardous waste per month or 1 kilogram of acutely hazardous waste per month. Acutely hazardous waste is fatal to humans or animals at low doses.[6].

These hazardous wastes are part of the current OTC site uses and typically consist of waste paint, coating waste materials, waste thinners, waste solvents, waste and mixed oil, waste adhesives, paint sludge, soiled wipes, solder debris, low-pH liquids, and metals (including lead). Wastes from these sites are stored in either a 90-day hazardous waste accumulation area located at OTC Site 1 or a small 90-day hazardous waste accumulation yard located at OTC Site 2.

Development of Contaminated Sites
Future development efforts at the OTC sites would include remedial and site assessment activities for the identified IR sites and for potentially contaminated sites not yet identified or fully investigated and characterized. In its draft EIS the Navy determined that based on the results of these activities, proposed future development could be limited to OTC areas where no contaminant releases have been identified, where IR sites have received site closure status, or where there is no complete risk exposure pathway. Development could also occur in areas where there are still contaminant concerns if land use controls (LUC) are applied.

LUCs include restrictions on residential use and restrictions on soil disturbance activities to avoid the further spread and release of hazardous materials. In its draft EIS the Navy states that all of the analysis and application of restrictions such as LUCs would be considered in the development planning phase of each individual project at the project sites as it is prepared. The Navy also determined that it would accomplish all development planning in coordination with future developers, regulatory agencies, and with the public through the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process.

<u>Insufficient Information</u>
However, because these future processes remain undefined, the Commission cannot analyze how the site would be developed, what hazardous materials may be encountered or disturbed, and what LUCs or coordination would be implemented to control the release of hazardous materials.

The first test of Section 30232 requires evidence of hazardous materials prevention technologies, programs, and procedures to protect against accidental release. The second test of Section 30232 requires the proposed project to provide sufficient response capability to provide effective containment and cleanup facilities and

[6] https://dtsc.ca.gov/hazardous-waste-id-numbers/

procedures in case a release occurs. Although the proposed project sites are outside the coastal zone, these requirements are necessary to prevent spillover effects to coastal resources. This is because development activities including excavation, storage or placement of soil, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal habitats or communities via rain or wind could result in adverse impacts to humans and natural environment. Migration of hazardous materials outside the OTC site and into the coastal zone could reduce the water quality and biological productivity of coastal waters, trigger closures of beaches and ocean waters, or affect the health of residents and visitors.

The proposed project sites have an extensive history of hazardous materials use and storage, plus documented cases of hazardous materials contamination of underground soil and water which are currently under various phases of remediation. Considering the significant intensity of development proposed, construction of the various project components would require extensive excavation and site preparation, which could potentially result in the accidental release of various hazardous materials from multiple locations within the project sites. The project sites are located immediately north of the Coastal Zone boundary; however, depending on conditions at the time of excavation and site preparation, any hazardous materials that do escape the project site could migrate to the nearby coastal community and coastal environments like San Diego Bay and the Pacific Ocean via wind or runoff from rain.

Mitigation Measures
In response to the known and potential hazardous materials contamination on the project sites, the Navy is proposing two management practices and one monitoring measure. These steps would require that hazardous materials be identified and remediated in compliance with all applicable regulations, that IR sites continue to be managed by the IR program in compliance with applicable regulations, and that the Navy monitor contractors during work to ensure they are complying with applicable regulations.

Insufficient Information
However, because the specific project design and configuration, extent of proposed earthwork and excavation, and construction timing and duration is unknown at this time, it is not possible to evaluate the ability of these steps to effectively serve as hazardous materials prevention technologies, programs, and procedures to protect against accidental releases. This is compounded by the lack of available information about the type and severity of site contamination. Thus, consistency with the first test of 30232 cannot be evaluated.

Similarly, sufficient information is also not provided in the Navy's consistency determination or draft EIS to allow the Commission to assess Section 30232's second test, whether the project would provide sufficient response capability to effectively contain and clean-up hazardous materials in case a release occurs. While an understanding of the site's recent and historic uses can allow for informed speculation about what types of hazardous materials may be present and where they are most likely

to be found, the actual substances, locations, and concentrations are unknown. Thus, the type, quantity and location of containment and clean-up resources cannot be assessed.

Conclusion
For the Commission to fully analyze the potential adverse impacts to coastal resources within the Coastal Zone from hazardous materials, and the project's consistency with the two tests of Coastal Act Section 30232, a detailed project description and site plans clearly depicting the final proposed development and hazardous materials at the site is necessary. This information would allow the Commission to analyze the development and associated site preparation activities (excavation and grading) in relation to hazardous materials and to understand potential spill risks. Additionally, more complete project designs and plans would also help identify what hazardous materials may be necessary for the construction and operation of the proposed development. This request for a more detailed project description is encapsulated in **Item One** of the information requests under Section II.B.

Having specific information about the design and configuration of the proposed development and the specific Best Management Practices (BMPs) aimed at controlling the release of hazardous materials is also necessary for the Commission staff to effectively evaluate the projects consistency with the CCMP. Commission staff specifically raised these questions and critical information requests regarding hazardous materials at the site in a phone call with the Navy on August 12, 2021, and also included this issue in its comment letter on the draft EIS (**Exhibit 6**). To date, the requested information has not been provided. As such, Commission staff included this request for additional information on the proposed mitigation measures as **Item 7.**

In conclusion, the Commission finds that the Navy has not provided sufficient information on the proposed development and potential spill risks associated with hazardous materials.

Without this information, the Commission is unable to determine whether the proposed project is consistent with the hazardous materials policies of the CCMP (Coastal Act Section 30232). The Commission therefore objects to the Navy's consistency determination, based on a lack of adequate information to determine the project's consistency with the hazardous materials policy of the CCMP.

G. Water Quality and Biological Resources

Section 30230 of the Coastal Act 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 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 30240 of the Coastal Act 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.

Terrestrial habitats at OTC consist of 70.5 acres of highly developed land (primarily buildings and pavement) that provide little to no habitat or resources for wildlife species. There are no naturally occurring plant species or vegetation communities in the project area, and no critical habitat, as defined by the Endangered Species Act, has been designated in the project area.

Wildlife occurrences within the project area are largely transitory, such as bird or bat overflights or small mammals and reptiles transiting the project area. Species that could occur in or pass through the project area include urbanized mammal and reptile species common to city landscapes like feral cats, black rat, house mouse, western fence lizard, and southern alligator lizard, as well as common urban bird species such as rock dove, European starling, brewer’s blackbird, western gull, and American crow.

Existing and Proposed Site Conditions

The conceptual project envelope proposed by the Navy would include construction of a maximum of 109 buildings with a maximum height of 390 feet, including 2 standalone parking structures and 2 hotels, with 1,694,268 square feet of development for NAVWAR and 17,895,000 square feet of new private mixed-use residential, commercial, office and retail development for a total of 19,589,268 square feet of development. Existing development on site consists of warehouses and appurtenant buildings with a maximum height of 55 feet and development area of 1,066,000 square

feet. In summary, the project could potentially result in an increase of 18,523,268 square feet of development and increase building heights from 55 feet to 350 feet.

In the draft EIS, the Navy described the OTC sites as consisting primarily of warehouses and appurtenant buildings. The warehouse buildings have had the skylights painted and the window system blacked-out for security reasons. Parking and its associated lighting on the east side of the three warehouse buildings is minimal. The west side of OTC Site 1 has extensive surface parking with limited lighting. The pedestrian bridge and adjacent PCH have regularly spaced light poles, but lighting levels are generally low for an urban area. OTC Site 2 includes extensive parking lots and few structures. The parking lots have tall light poles spaced widely apart. The existing lighting does not spill outside of the property due to the elevated nature of the freeway that blocks a fair amount of lighting towards the north of the site, with less blockage to the south. Similar to Site 1, lighting levels are generally low at Site 2 as well, especially relative to many urban settings. Outside of the project sites, existing development is comprised of primarily low density and low-rise buildings.

The proposed project would represent a significant change in the character of the site and surrounding areas. Specifically, it would increase the footprint of development on the site by a factor of 18 (1,066,000 square feet to 19,589,268 square feet) and would increase heights by a factor of six (55 feet to 350 feet). Such substantial increases in heights and intensity raises concerns regarding potential interference with birds that may be moving through the project sites, including as a result of project lighting.

Migratory Birds

The project sites are within the footprint of the Pacific Flyway, and therefore potentially within the pathway of many of the more than 60 species of waterfowl, raptors, shorebirds, and songbirds known to be present within the Coastal Zone and regularly migrate through San Diego County. Those species typically travel at night and stop for a time by inland and coastal creeks, wetlands, woods, and neighborhoods on their northward spring and southward fall migrations. Spring migration occurs during the months of late March through May and fall migration occurs during September, October, and the first part of November. Birds migrating along this route are heading to the Canadian Arctic, Canadian plains, and Canadian boreal forest in the spring, and Mexico, South America, and the Pacific Islands in the fall. It is important to note that “Pacific Flyway” is a descriptor for a phenomenon that encompasses the entire state of California and beyond and that not all areas of the state are as important as others. However, depending on the types of migrating birds, certain pathways (e.g. bordering the ocean, along valleys, etc.) would be more frequented, and certain habitats (such as woodlands, riparian areas, and wetlands) would be more important stopovers than others. In the project area, Mission Bay Park and surrounding areas may be used by migratory birds as a stopover site because the habitat would be attractive to migrating birds that need to rest.

A potential concern with increased lighting at the site and avian species is its location and the potential for night migrating birds to become confused and attracted to the lights

during inclement/foggy weather. Most migratory movement occurs early in the evening so any impacts to migrating birds due to the night lighting are likely to occur during the first two to three hours after sunset. Birds that migrate at night use the moon and stars for navigation. During clear weather they appear to be able to distinguish artificial lighting from light emanating from planets and stars. However, during inclement weather, birds can become confused and drawn to artificial lights. This phenomenon has been observed on numerous occasions at lighted buildings, oil platforms, and athletic fields. Once drawn into an artificial light source a number of negative outcomes including mortality can occur; birds may crash into something, circle the light source and become exhausted, or become confused and drawn off course. New buildings also have the potential to impact birds through bird strikes. Bird mortality due to collision with glass windows, especially the windows of tall structures, is a significant and well documented problem.

The conceptual development envelope as proposed by the Navy would be a significant change from current conditions at the OTC sites. Development of this scale could create a major obstacle for migratory birds and depending on what lighting is proposed, could also be a significant distraction. Further compounding the potential adverse effects of the project is the uncertainty regarding the project design and configuration on the sites, including the amount, type and location of landscaping. Different siting, heights and densities of buildings would have different potential adverse impacts on resident and migratory bird species. Multiple buildings constructed at 350 feet presents a vastly different obstacle to birds as opposed to 55 foot tall buildings. Similarly, different lighting designs for 350 foot tall buildings are much more likely to be visible by various avian species, and potentially result in significant impacts, as opposed to the existing lighting for the maximum 55 foot tall buildings on site. Because there is not a clear and detailed project description, including the siting, heights and lighting of the proposed buildings, Commission staff are unable to analyze the potential adverse effects that the development could have on migrating birds.

While many of these adverse impacts could likely be adequately addressed through the use of bird-safe building design principles – such as limiting the use of reflective glass near vegetation, shielding lighting and limiting the use of broad-spectrum light sources at high elevations – the Navy's consistency determination does not provide adequate information to ensure that such principles would be included in the project.

Water Quality

As discussed in the project's draft EIS, no surface water features, such as creeks or streams, exist within either of the OTC sites; however, surface waters associated with the San Diego River are approximately 0.5 miles north of the sites and a channel that is an extension of San Diego Bay terminates approximately 0.75 miles south of the sites. Runoff from the sites is directed offsite to the storm drain system and conveyed through that system to outfalls that discharge the stormwater without treatment to the San Diego River (OTC Site 1) or the northern end of the Naval Training Center Boat Channel portion of San Diego Bay (OTC Site 2).

The proposed project has the potential to adversely affect coastal water quality through the addition of impervious surfaces which can increase runoff, erosion, and sedimentation, as well as the introduction of pollutants such as chemicals, petroleum, cleaning products, pesticides, and other contaminants. The project proposes over 19 million square feet of development, including a significant amount of impervious surfaces, which in turn limits the infiltrative function and capacity of any permeable land on site and raises concerns about the volume and velocity of stormwater runoff that can be expected to leave the site.

Further, pollutants commonly found in runoff associated with the proposed uses include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals; dirt and vegetation; litter; fertilizers, herbicides, and pesticides. The discharge of these pollutants to coastal waters can cause cumulative impacts such as eutrophication and anoxic conditions resulting in fish kills and diseases and adverse changes to species composition and size. Also, the discharge of pollutants can introduce excess nutrients into coastal waters causing algae blooms and increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation that provides food and cover for marine species. Pollutants can disrupt the reproductive cycle of aquatic species and result in acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These effects would reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms.

Central to these concerns regarding the project's potential to adversely affect biological resources and water quality is the lack of certainty regarding what the final project would be and the resulting inability of Commission staff to more thoroughly analyze it. Although the site is currently predominately impervious surfaces, the project could result in significantly more impervious surfaces and new uses – including significantly more vehicles and landscaping elements which could impact water quality through the introduction of more pollutants, fertilizers, herbicides, pesticides and contaminants. However, without more information about the proposed design, configuration, and composition of development on the project sites and type and duration of demolition and construction activities, Commission staff are unable to analyze the adverse effects the project could have on coastal water quality.

In addition, other project elements can also adversely impact water quality. For example, landscaping (including the specific plant species, fertilizers, herbicides, pesticides and watering methods) can ultimately lead to runoff possibly carrying invasive plant material plus pesticides and fertilizers to nearby water bodies. To address these issues, projects can incorporate design elements to capture, retain and treat runoff before it makes its way to nearby waterbodies, but in the case of the subject project, the Navy's consistency determination does not provide sufficient information about runoff and stormwater management to allow the Commission to determine if such design elements and measures would be implemented.

Mitigation Measures
The proposed mitigation measures intended to minimize adverse impacts to biological resources and water quality are also uncertain. In the project's draft EIS, the Navy refers to design measures such as light shielding and minimization of glare, pre-construction surveys for sensitive species, and incorporation of BMPs and Low Impact Design (LID) features to capture and treat stormwater before it leaves the site. However, the Navy does not commit to implementing specific proposed mitigation measures, nor is there discussion about the timing and efficacy of these measures. . As such there is not enough information for the Commission to analyze the effectiveness of the mitigation measures. A variety of key questions remain to be addressed, for example:

- Where and what intensity of outdoor nighttime lighting is proposed?
- Which specific bird-friendly lighting design features would be implemented?
- Which specific bird-friendly design features would be implemented to avoid adverse effects from bird collisions with buildings?
- What landscaping is proposed for the project?
- Which LID features would be implemented?

Conclusion
Coastal Act Sections 30230, 30231, and 30240 require development to protect, and where feasible enhance, the marine environment, coastal waters and sensitive habitats. For the Commission to appropriately analyze the project and its potential impacts, a more detailed and specific project description is necessary. This project description should include information such as development agreements between the Navy and its private development partners and the siting, uses, densities, lighting, and landscaping of the project sites. Without a more detailed and specific project description and design, there is no certainty about the design, configuration and composition of the project, the construction and demolition methods, what its adverse impacts would be within the Coastal Zone, and if those impacts would be avoided or minimized. In order to adequately analyze the project, the Commission also requires more concrete information on what mitigation measures would be specifically required as part of the project, when they would be implemented and how they would be implemented. Commission staff previously raised these issues with the Navy in phone calls and in the comment letter it submitted on the draft EIS. However, because the Navy does not know at this stage in project development what the final project design and configuration would be, it has been unable to provide this information.

In conclusion, the Commission finds that the Navy has not provided sufficient information on the proposed development and impacts regarding biological resources and water quality. In order to determine the project's consistency with Sections 30230, 30231, and 30240, the following information previously identified in Section II.B above is necessary, specifically **Items One and Seven.**

Item One identified in Section II.B. requests a detailed project description and project plans specifying the intensity of development for the proposed project including

information on siting, lighting plans, landscaping, and whether LID features would be incorporated. This information would allow the Commission to analyze the number and height of structures at the site and whether the structures and lighting could confuse or disorient birds, leading to potential adverse effects on bird species. Additionally, the information would help the Commission analyze stormwater runoff at the site and whether it would be captured and treated by project design features before entering nearby coastal waterbodies. **Item Seven** is also necessary and in it the Commission requests that the Navy clarify which of the proposed mitigation measures and/or plans would be included and required for the project. It is difficult to understand how the management plans specific to birds and water quality, as proposed, are intended to function, and by clarifying which would be required and which would not, the Commission can analyze if potential adverse effects from lighting and runoff would be avoided or if additional mitigation would be necessary.

Without this information, the Commission is unable to determine if the proposed project is consistent with the water quality and biological resource policies of the CCMP (Coastal Act Sections 30230, 30231, and 30240). The Commission therefore objects to the Navy's consistency determination, based on a lack of adequate information to determine the project's consistency with the water quality and biological resource policies of the CCMP.

H. Environmental Justice

Section 30107.3 of the Coastal Act States:

> (a) "Environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, and incomes and national origins with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
>
> (b) "Environmental justice" includes, but is not limited to, all of the following:
>
> (1) The availability of a healthy environment for all people.
>
> (2) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.
>
> (3) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.

> (4) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

Section 30210 of the Coastal Act 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 30250 of the Coastal Act states (in part):

> (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30252 of the Coastal Act States (in part):

> 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 nonautomobile 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…

Section 30253 of the Coastal Act states (in part):

> New development shall do all of the following:…
>
> (d) Minimize energy consumption and vehicle miles traveled…

At its March 2019 meeting, the Commission adopted its Environmental Justice Policy (EJ Policy), the goal of which is to integrate the principles of environmental justice, equality, and social equity into all aspects of the Commission's coastal resource planning and regulatory program. Taking an environmental justice approach to coastal policy requires a fundamental re-thinking of who is connected to the coast, and how. Environmental justice stakeholders across the country who have been working in this policy arena for decades have also noted that wherever low-income communities and communities of color are concentrated in coastal regions, they are frequently

disconnected from the coast by both social and physical barriers. Historic inequalities, as well as California's growing population, changing demographics, socioeconomic forces, judicial decisions, and policy choices continue to shape development patterns and population shifts that can serve to widen disparities in coastal resource protection and benefits. Not only is equitable access to and use of the coast for all Californians essential, so is protecting coastal resources more broadly for future generations.

The Coastal Act's environmental justice authorities and the Commission's EJ Policy offer an important lens and framework upon which to make Coastal Act decisions, to ensure that such decisions do not unduly burden a particular underserved community with adverse coastal resource outcomes. The Commission recognizes the importance of providing for equitable coastal access and recreation consistent with coastal resource protection requirements regardless of an individual's race, ethnicity, sexual orientation, gender identity, income, or place of residence.

The consistency determination submitted by the Navy did not reference the Commission's EJ Policy nor did it include any discussion about the project with respect to environmental justice and the coastal zone. However, the draft EIS prepared by the Navy does address environmental justice review of projects under the National Environmental Policy Act (NEPA).

According to the Navy the USEPA defines environmental justice as:

> … "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies" (USEPA, 2020c). It goes on to clarify that "no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies." The USEPA guidance states that "each federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the U.S. and its territories." A USEPA (1996) memorandum on evaluating health risks to children states: "In these cases where there may be an impact on children you should specifically address the question (of whether there are potential disproportionate effects on children) even if it turns out that effects (on children) are not significant. However, if it is reasonably clear from the nature of the Proposed Action Alternatives that there will be no disproportionate impact, there is no reason to require any discussion.

For the proposed project, the region of impact (ROI) established by the Navy for analyzing adverse impacts to environmental justice was determined by first identifying the census tracts that include the OTC sites and also the surrounding area. Next the environmental justice analysis reviewed demographic data for low-income and minority populations relative to locations that would be adversely affected by the project.

A more detailed description of the Navy's method for establishing the EJ ROI is provided below:

> The U.S. Census Bureau's 2014-2018 American Community Survey provides 5-year estimates of the percentage of the population in each census block group in the ROI that is considered either minority or low-income. The percentages were compared to thresholds or local averages (whichever criteria is more stringent) to determine whether respective census block groups should be considered environmental justice minority or low-income areas.
>
> The U.S. Census Bureau defines low-income area thresholds as "census tracts or block numbering areas where at least 20 percent of residents were below the poverty level;" however, this analysis compares census block groups in the ROI to the City of San Diego average of 13.8 percent (a more stringent criteria than the 20 percent threshold). Furthermore, results of the geographic analysis of low-income areas were compared to results from the California Office of Environmental Health Hazard Assessment's (2020) CalEnviroScreen 3.0 Poverty Map. Results from the analyses had similar results, with the same general areas identified as low-income areas. The primary difference was that the analysis presented in this section was conducted at the relatively more detailed census block group level as compared to the census tract level.
>
> Minority population thresholds are "identified where either: (a) the minority population of the affected area exceeds 50% or (b) the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis" (CEQ, 1997a). Minority populations include populations that report their ethnicity as something other than exclusively non-Hispanic White, and may include Native Hawaiian or other Pacific Islander, Asian, Black or African American, Hispanic or Latin, American Indian, or Alaska Native (U.S. Census Bureau, 2011).
>
> Children are defined as those individuals under the age of 18 years old. Areas with a high concentration of children are identified where children tend to gather, or spend substantial amounts of time, such as schools and parks. Because EO 13045 is more specific in concerning environmental risks to health or safety that are attributable to products or substances that the child is likely to come in contact with or ingest, assessment of impacts to children relates to fewer resource areas than the environmental justice assessment. As such, consistent with the USEPA (1996) memorandum, the assessment of protection of children is conducted with focus on air quality, hazardous materials and waste, public health and safety, noise, and water resources only. For clarity, the assessment of protection of children is presented in a separate subsection, at the end of each of the Proposed Action Alternatives section.

…

> Census Bureau (2018) data indicate that the ROI as a whole, in 2018, had higher per capita and median household incomes and lower percentages of incomes below the poverty line than the City of San Diego, San Diego County, or the State of California.

Based on the Navy's EJ screening methods, the ROI for analyzing potential adverse impacts to EJ extends approximately one to two miles from the project site in all directions. After establishing the ROI, the Navy then summarized potential effects for each of the resource areas as a result of the project, referencing findings from other issue areas (Air Quality, Transportation, etc.) through their applied EJ perspective. This analysis considered whether the impacts identified in those other issue areas would also impact the EJ communities within the ROI. If the project would affect EJ communities, the analysis also considered whether the mitigation previously proposed to address adverse impacts to resources would also address any impacts to the EJ communities. For example, if the project would adversely affect air quality, would it also adversely affect EJ communities? And if so, would the mitigation measures already proposed to address air quality also address air quality impacts to EJ communities?

As discussed previously, because the OTC site is on federal property owned by the Navy, the Commission's analysis of impacts is limited to spillover effects to resources within the Coastal Zone. Based on the Navy's findings, there would be no spillover effects to EJ communities within the Coastal Zone for all of the issue areas except two, transportation and water utilities:

> Transportation: Section 3.2, Transportation, indicates that, under Alternative 4, there would be significant impacts at numerous intersections in the immediate vicinity of OTC. These impacts would tend to increase traffic in that vicinity and adversely affect travel times. Residents of the areas in the immediate vicinity of OTC would be most strongly affected as most travel tends to be close to home. The areas in the immediate vicinity of OTC are either low-income or minority areas, and therefore low-income and minority populations would tend to experience adverse effects disproportionately. Therefore, this would represent a significant impact on environmental justice.
>
> Infrastructure:…there would be no change to off-site infrastructure during construction, and therefore no potential adverse effects on populations. As described in Section 3.11, Infrastructure, Alternative 4 would result in potentially significant impacts to water utilities. This potential impact would be related to the effects of additional residential population drawing from remaining water capacity. However, no interrupted water service is anticipated, indicating that there would not be adverse impacts related to utilities outages. Also, while it is possible that water utility rates would rise over time due to overall draw from capacity, increasing rates would not be due to Alternative 4 itself and would more be associated with baseline trends and general population growth in the region.

> Because no utilities outages are anticipated and utility rates would not be expected to rise due to Alternative 4, there would be no impacts to environmental justice related to infrastructure.

The Navy's analysis concludes that the management practices and potential mitigation measures that were previously identified would also apply to EJ impacts and that no additional management practices, potential monitoring measures, or potential mitigation would be warranted.

As mentioned above, the Navy's consistency determination did not include an analysis of consistency with Chapter 3 policies through the lens of environmental justice and the Commission's EJ Policy, even though this project has potential to adversely or disproportionately affect a historically disadvantaged group's ability to reach and enjoy the coast, and have access to water utilities, as detailed below. As such, that analysis is still needed for the Commission to determine the project's consistency with the CCMP, including CCMP enforceable policies where the project may have EJ effects.

Expanded ROI for EJ Communities and Meaningful Engagement

CalEnviroSceen 3.0 identifies several communities south of the project site along the I-5 corridor that are among the most pollution burdened in the state (80% or above) including areas in the Barrio Logan community of San Diego, and the cities of National City and Chula Vista. These communities are adjacent to South San Diego Bay which is characterized by a waterside maritime industry and military use. As such, most of the waterfront in these areas is not available to public access and, of those areas that are open, there are not many opportunities to "touch" the water. The nearest beaches to these communities are the Imperial Beach shoreline (which was closed more than 40% of days in 2020 because of cross-border sewage contamination according to Surfrider: San Diego County Chapter - Surfrider Foundation[7]), Coronado shoreline (also suffers from contaminated water issues and parking fees are required to access Silver Strand State Beach), the Ocean and Mission Beaches, and northern San Diego Bay and Mission Bay. These latter areas are accessed by the segments of I-5, I-8, and Pacific Highway that would be most significantly affected by the anticipated increase in traffic and loss of Level of Service due to the proposed project.

Meaningful engagement is a central tenant of both federal and state EJ policies. The draft EIS identifies the EJ communities that would be most significantly affected by the project, but neither it nor the Navy's consistency determination provides information on how meaningful engagement of EJ communities was pursued in addition to general public outreach conducted for the draft EIS. Additionally, the draft EIS does not provide any specific information about how targeted engagement in affected EJ communities would be conducted in future development project proposals at the site. Additional information, such as minimum requirements for public engagement in EJ communities, is needed[8] for the Commission to understand whether all of the potentially adversely impacted EJ communities are aware of the project, and future development proposals,

[7] https://sandiego.surfrider.org/cbwn/

[8] https://www.epa.gov/environmentaljustice/ej-iwg-promising-practices-ej-methodologies-nepa-reviews

and also have the opportunity to participate. The public engagement requirements should detail how EJ communities both within the ROI as well as those outside the ROI who would be affected by traffic impacts while in transit to the coastal zone, whether for recreation or work, are made aware of the project and provided an opportunity to participate.

Transportation and Coastal Access
As indicated in the section of this report on traffic and coastal access, in order for the Commission to evaluate the project's consistency with the traffic and coastal access policies of the CCMP through an EJ lens, a coastal access impact analysis is needed that includes weekend data to better understand how coastal access (particularly on I-8, I-5, and PCH) would be affected. In addition, the Commission also needs a more expansive EJ discussion that analyzes shoreline access traffic impacts to other EJ communities, including those south bay communities traveling to Ocean and Mission Beaches, Northern San Diego Bay, or Mission Bay on I-8, I-5, and PCH. Finally, the draft EIS determined that the proposed project would result in significant adverse impacts to EJ communities in the region of influence (ROI) due to increased traffic. However, in order to adequately analyze the project, the Commission needs to understand whether the ROI incorporates all of the affected EJ communities and if not, how it needs to be expanded to include all of the necessary EJ communities.

Water Utilities
Regarding water utilities, the draft EIS determined that the project would result in an increase of over 2 million gallons of water per day over current use, largely as a result of the proposed 10,000 residential units. The San Diego Public Utilities Department (Utilities Department) maintains an Urban Water Management Plan to account for the City's water demands, and under the current plan the project's demand would account for 1.2 percent of current supply and 0.9 percent of future water supply. Under projected supplies through the year 2040, the project represents approximately 9.6 percent of current capacity or 2.4 percent of the remaining capacity.

The Navy states in its draft EIS that the project would not require modification or development of new public infrastructure for water utilities nor would it result in the use of a substantial portion of remaining capacity. Although it appears there is sufficient water supply capacity to serve the project, the Utilities Department would require a water supply assessment for future buildings at the site as they are developed to determine the extent to which the project would increase water demand and convey available water supplies from existing water resources. Based on this supply assessment, rates may be increased if demand would stress or exceed existing water resources.

One of the primary concerns of the project and water availability is the disproportionate burden that low income ratepayers in the service area would experience as a result of increasing water rates due to the construction and operation of the proposed project. Affordable water is critical for people on limited incomes and is a critical component in the state's Human Right to Water strategy that identifies access to safe, clean, and

affordable drinking water as a public health imperative. Although rates could increase for all ratepayers in the service area, higher rates resulting from the project would disproportionately affect low-income ratepayers. These effects can be offset via discounts or other incentives for lower income residents, but the Navy has not described or committed to require such a program as part of the project.

In addition, the Navy's analysis also does not elaborate on how current and future water supply and utility rates would affect EJ communities. In its draft EIS the Navy instead defers making that finding to an unknown date and vests the responsibility of ensuring that with the City's Utilities Department. In the event that the Utilities Departments determines that the project would exceed the amounts anticipated under the Urban Water Management Plan, the Navy has not identified a source of additional water or the effects that would that have on water rates and water availability in the region. In the event that water rates do increase or water becomes less available, the project includes no discussion about what options are available to avoid or lessen adverse impacts to EJ communities.

Affordable Housing

Additionally, although the Coastal Act does not authorize the Commission to regulate or require affordable housing, Section 30604(f) directs the Commission to encourage low- and moderate-income housing opportunities. The Commission's EJ Policy recognizes that affordable housing is an environmental justice issue and a priority that is to be encouraged in the coastal zone:

> The Commission recognizes the myriad laws and regulations that regulate housing, including those that dictate the kinds and amounts of housing that local governments must provide in their communities. Implementation of these housing laws must be undertaken in a manner fully consistent with the Coastal Act. The Commission will work with local governments to adopt local coastal program policies that allow for a broad range of housing types including affordable housing, ADUs, transitional/supportive housing, homeless shelters, residential density bonuses, farmworker housing, and workforce/employee housing, in a manner that protects coastal resources consistent with Chapter 3 of the Coastal Act. (Emphasis added.)

Housing affordability is a direct result of supply and demand. Within the supply and demand analysis it is also important to consider the number of units available to rent versus the number of units available to buy. EJ communities are typically comprised of individuals with lower household income and, as such, are not in a position to purchase a home and are more likely to rent. The construction of 10,000 residential units as part of this project, and whether they are intended for purchase or for rent, would have spillover effects on the supply and demand for residential units within the adjacent Coastal Zone. In its draft EIS, the Navy states that the number of affordable housing units in San Diego would increase relative to a condition without the project because future public-private developers of the site would likely take advantage of State of California incentives to develop affordable units as a percentage of total units being

developed. The Navy also states that without the project, NAVWAR operations would continue unchanged from existing conditions on the OTC sites, and no affordable units would be built on the sites. The Navy concluded that because housing at the OTC sites would not lead to increased rents in the region, adverse impacts to housing affordability would be less than significant.

The Navy also summarized future housing development in the area with respect to pending or approved projects. In total, there are seven other housing developments which are anticipated to provide over 28,000 housing units. However, the Navy's analysis does not specify whether these housing units are for rent or purchase. Additionally, of the 28,000 units forecasted for the area, to date only 400 have been identified as affordable. This equates to approximately 1.4% of the developed units being designated as affordable.

Since there is uncertainty regarding what the final development would be, whether residential units would be for rent or for purchase, and the project does not definitively include an affordable housing component, it is uncertain what effect the proposed project would have on affordable housing in the area. Considering a worst-case scenario in which none of the units developed at OTC are affordable, in conjunction with the other development planned for the area, in total 38,004 future housing units would be constructed in the San Diego area and only 400 would be affordable, approximately 1.1%. A detailed project description clearly identifying the proposed development, including the number of residential units and the number of affordable residential units is necessary for the Commission to determine what effect the project would have on housing availability and EJ communities in the area.

Conclusion
In conclusion the Commission finds that because the Navy has not provided sufficient information on the proposed development and Environmental Justice impacts related to public access, transportation, and public services, the information requests of **Item One** and **Item Six** previously identified in Section II.B are necessary.

Item One would provide the Commission with a detailed project description and project plans for all of the proposed development. In addition to uses and densities for development, the project description would also include information on utilities demand and the proportion of affordable and market rate housing included in the project. As discussed above available water utilities and the amount of affordable housing are key concerns for EJ communities and having this information would allow the Commission to better analyze the project for consistency with the Commission's EJ policies.

Item Six requests a more comprehensive EJ analysis. This includes EJ screening and consultation consistent with the Commission's accepted methodologies, to include a broader ROI and to also ensure those communities are properly notified of the project and included in the process. As such, with this expanded EJ analysis the Commission can work with the Navy and with affected EJ communities to ensure that the project effectively considers all affected EJ communities and avoids impacts.

Without this information, the Commission is unable to determine whether the proposed project is consistent with the Chapter 3 policies through the lens of environmental justice and the Commission's EJ Policy. The Commission therefore objects to the Navy's consistency determination, based on a lack of adequate information to determine the project's consistency with the Chapter 3 policies through the lens of environmental justice and the Commission's EJ Policy.

I. Visual Resources

Section 30251 of the Coastal Act 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.

The project site is located outside and landward of the Coastal Zone Boundary. While views of the coast and ocean from sites located landward of the project site would be adversely affected, the Commission's analysis of visual resources with respect to Section 30251 is limited to the coast and ocean as seen from within the Coastal Zone. As discussed in the Navy's draft EIS, the Area of Visual Effect (AVE) for the project was determined to be a three mile radius within the viewsheds emanating from the OTC sites. Viewsheds are defined as a composite of individual views that delineate the limits of visibility of a particular point in the environment, or the view of an area from a particular vantage point. A viewshed is dependent upon the landform conditions of an area and the built environment that is placed upon those landforms. These viewsheds were determined by performing a computer-based viewshed analysis using spatial analytical software and applying visual analysis models to the anticipated tallest buildings (350 feet) at the site. To analyze potential visual impacts in more detail, areas within the AVE were analyzed and grouped into smaller sub-areas identified as Landscape Assessment Units (LAUs), which were further grouped into important public right-of-way observation points that could potentially be affected by the project.

In total, 30 observation points were identified as candidates for further evaluation in the draft EIS and eventually narrowed down to 10 specific Key Observation Points (KOPs), identified with red dots in **Exhibit 7**. Of the 10 KOPs identified for visual impact analysis under NEPA, PC-2 is the only KOP within the Coastal Zone, while SP-2 is immediately adjacent to the Coastal Zone Boundary.

The Navy's visual impact analysis was conducted by constructing a building massing model considered to be representative of what the eventual development could look like after completion of construction. It should be noted, however, that because the specific design and configuration of development on the two OTC sites has yet to be established, the project's visual profile and massing is only conceptually presented and could change significantly. Nevertheless, for the draft EIS, the views for each KOP were analyzed with the addition of the hypothetical massing model and compared to existing conditions. Individual factors considered in evaluating the effects of an alternative regarding visual resources with respect to the identified KOPs included:

- The extent to which the views from the 10 KOPs would change for their respective viewer groups.
- The degree to which the 10 sub-regionally important viewing scenes would be obstructed by the project.
- The degree to which view blockage as a result of the project impacts overall view quality.
- The degree to which the visual quality of the area would be affected by the project.
- The amount or relative proportion of existing features or elements that substantially contribute to the valued visual character or image of a neighborhood, community, or localized area, which would be removed, altered, or demolished.
- The amount of natural open space to be graded or developed.
- The degree to which proposed structures in natural open space areas would be effectively integrated into the aesthetics of the site, through appropriate design, etc.
- The degree of contrast between proposed features and existing features that represent the area's valued aesthetic image.
- The degree to which a proposed zone change would result in buildings that would detract from the existing style or image of the area due to density, height, bulk, setbacks, signage, or other physical elements.
- The degree to which the project would contribute to the area's aesthetic value.
- Applicable guidelines and regulations.
- The nature and quality of recognized or valued views (such as natural topography, settings, man-made or natural features of visual interest, and resources such as mountains or the ocean).
- Whether the project affects views from a designated scenic highway, corridor, or parkway.
- The extent of obstruction (e.g., total blockage, partial interruption, or minor diminishment).
- The extent to which the project affects recognized views available from a length of a public roadway, bike path or trail, as opposed to a single, fixed vantage point.
- The extent to impacts from shade and shadow and light and glare are also analyzed.

After analyzing the massing model for visual impacts, the Navy determined that the project would result in significant view blockage, significant impacts to view quality, significantly contrast with existing features, significantly detract from the existing surroundings, obstruct viewing scenes, and result in significant light and glare. In order to address potential issues with visual impacts, the Navy proposes 19 management practices including proposals on building massing and layout, concealing parking garages and shielding or minimizing light and glare. However, none of the measures are specifically required as part of the project, and there is no information about how and when they would be implemented.

Analysis of Coastal Views

The Commission's review of activities on federal lands is focused solely on analysis of spillover effects on coastal resources into and within the Coastal Zone. This can include effects that activities on federal land would have on coastal resources found elsewhere in the Coastal Zone. The effects mentioned above and lack of concrete minimization or mitigation to address them raise concerns over visual resource impacts generally. However, for this project, the Commission is limited to considering visual impacts with respect to their potential spillover effects on visual resources within the Coastal Zone.

The proposed project is located immediately northeast of the Coastal Zone Boundary, **Exhibit 2**. Coastal Act Section 30251 requires new development to protect visual qualities along the ocean and scenic coastal areas, to be visually compatible with the character of surrounding areas, and where feasible, enhance visual quality in visually degraded areas.

Pursuant to Section 30251, protections for public views along the ocean and scenic coastal areas are strictly limited to the area within the Coastal Zone Boundary. While there may in fact be public viewing areas with views of the coast located outside of the Coastal Zone Boundary (for instance Presidio Park located within the City of San Diego), such areas are outside the purview of Section 30251 and the Commission's consideration of spillover effects for federal projects. As such, the Commission's consideration of spillover effects from the project must consider possible impacts to views of the ocean and coastal areas as seen from within the Coastal Zone Boundary. Because of the project's location immediately inland with respect to the Coastal Zone Boundary, there is virtually no potential for proposed development at these sites to affect views of the ocean and coastal areas as seen from within the Coastal Zone. Considering that limitation, there are no potential spillover effects to visual resources within the coastal zone regarding the first and third requirements of Section 30251 (that development protect visual qualities of the coast and ocean and that development enhance visual quality in degraded areas).

Regarding the second requirement of Section 30251 that development be visually compatible with the character of surrounding areas, the Coastal Zone Boundary in this part of San Diego follows PCH upcoast until the intersection with Rosecrans Street, where it continues upcoast along Rosecrans until reaching Talbot Street and continuing

north. See **Exhibit 2**. Development within the Coastal Zone in the immediate area of the project generally consists of the Marine Corps Recruit Depot (MCRD) and Liberty Station, both of which consist of large campuses with two to three story buildings and open spaces and promenades. The proposed project, including over 19 million square feet of development with buildings constructed at heights reaching 350 feet, would be a significant contrast to the smaller-scale development in the adjacent coastal area. Although adjacent development within the coastal zone includes a variety of commercial and public structures, as well as residences, development is less dense and not nearly as tall as proposed by this project. As such, the height and scale of the proposed development would contrast significantly with the current development in the surrounding area and may not be visually compatible with the character of the adjacent coastal areas. However, the lack of available information on the final project development means that the Commission cannot analyze the extent of potential adverse effects the development could have regarding visual compatibility. For example, up to nine mid-rise buildings, 33 mid-high-rise buildings, 18 high-rise buildings, one mid-high-rise hotel, one high-rise hotel, and a transit center would be constructed on OTC Site 1 and one mid-rise building, 18 mid-high-rise buildings, and nine high-rise buildings would be constructed on OTC Site 2. Any building proposed to be mid-rise or above (90 in total) would be taller than 89 feet which is significantly taller than adjacent development. However, without a clear project description there is no way to analyze where and how this development would be constructed and how this development would relate to adjacent coastal areas. Questions about the proposed development and visual compatibility with adjacent areas include:

- Where within the site would the development be sited in relation to the adjacent coastal areas?
- What would be the heights of the proposed buildings?
- What would be the exterior design of the buildings?
- What direction would the buildings face?

As evidenced by these questions, the Commission cannot clearly analyze how the proposed development would relate to the existing development and whether it would be compatible. Without this information, the final project could be constructed in such a way that it creates a stark contrast to the adjacent coastal areas. This could adversely detract from the aesthetic of the area, create more glare or shadows that could affect adjacent areas, or affect the experience of the public using or recreating at these coastal areas. Commission staff identified these concerns and the need for specific project information with Navy staff in the phone calls and comment letter discussed previously. To date the Navy has not provided the requested information.

Mitigation Measures

To avoid and mitigate unavoidable adverse impacts regarding visual resources, the project proposes nineteen mitigation measures. These mitigation measures include height limitations, stepping down building heights, adding view corridors and plazas to break up building mass, and exterior treatments. A central issue with all of the proposed

mitigation measures is that they do not include any specific implementation measures and it is unclear how or if they would be incorporated into the project. For instance:

- Which buildings would include height limitations?
- Which buildings would be designed with horizontal banding and fenestration in order to reduce appearance of height?
- Where within the project site would buildings be sited so as to “step down” and reduce the vertical mass?
- Where would view corridors be sited?
- Where would plazas be sited and how would they be designed?

As such, it is unclear how the mitigation would be implemented as part of the project and how it would avoid or minimize adverse effects regarding compatibility. Because of this the Commission cannot analyze the effectiveness of the mitigation which could result in adverse effects going unmitigated and the ultimate development being visually incompatible with the character of adjacent coastal areas. Commission staff identified this need for more detailed information on the proposed mitigation measures with Navy staff in the phone calls and comment letter discussed previously. To date the Navy has not provided the requested information.

Conclusion
Coastal Act Section 30251 requires new development to protect public views along the ocean and scenic coastal areas from within the Coastal Zone Boundary. Section 30251 also requires development to be compatible with surrounding areas. Due to the location of the project and inability of the project to obstruct views along the coast and scenic coastal areas as seen from within the Coastal Zone, the first part of Section 30251 does not apply. However, because the project proposes a significant development that could contrast with the smaller-scale, open promenade style of adjacent coastal areas, it may be inconsistent with the second part of Section 30251 regarding compatibility with adjacent areas.

However, the lack of specific information provided by the Navy makes it infeasible for the Commission to understand and analyze what the final development would be and how it relates to adjacent areas. Similarly, due to the uncertainty of the proposed mitigation, the Commission cannot analyze the effectiveness of the mitigation. As such, because of the lack of information provided to Commission staff about the project the Commission cannot analyze the project’s consistency with Section 30251 or find it to be consistent with this policy.

In conclusion, the Commission finds that the Navy has not provided sufficient information on the proposed development and its potential adverse impacts to visual resources. In order for the Commission to determine the project’s consistency with Section 30251, the information previously identified in Section II.B above is necessary, specifically **Items One and Seven**.

Item One requests a detailed project description, development agreement and project plans specifying the intensity of development for the proposed project including information on siting, heights, and architectural design. This information would provide more clarity on what the final project would be and whether it would be compatible with the adjacent coastal areas.

Item Seven asks the Navy to clarify which mitigation measures would be specifically required as part of the proposed project and to include timelines for implementation and analysis describing how impacts would be avoided and/or minimized through implementation of the measures. If there would be compatibility issues, this information would help the Commission better understand what options are available to lessen adverse impacts and help with compatibility.

Without this information, the Commission is unable to determine whether the proposed project is consistent with the visual resource policy of the CCMP (Coastal Act Sections 30251). The Commission therefore objects to the Navy's consistency determination, based on a lack of adequate information to determine the project's consistency with the visual resource policy of the CCMP.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. Navy Consistent Determination CD-0007-21

2. Draft Environmental Impact Statement Navy Old Town Campus Revitalization, Naval Base Point Loma, San Diego, California, Department of the Navy, May 2021

3. 2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County, Air Pollution Control District County of San Diego, October 2020

4. City of San Diego Climate Action Plan, City of San Diego, December 2015

5. Coastal Development Permit Application No. 6-09-015-A1

6. Coastal Development Permit Application No. E-06-013

7. Coastal Development Permit Application No. A-3-MRA-19-0034