

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-24-0751

Applicants: City of Newport Beach, Public Works Department

Agent: City of Newport Beach (Attn: Daniel Kopshever)

Project Location: Sandy beach located parallel with the northern jetty at The Wedge, Newport Beach, Orange County

Project Description: Construction of a new, 1,505 sq. ft. wheelchair-accessible concrete pathway and viewing pad on the sandy beach adjacent to the northern jetty and the Wedge in Newport Beach

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval, as conditioned, for the City of Newport Beach Public Works Department to construct a new ADA-accessible concrete public access pathway on the sandy beach adjacent to the Wedge, near the eastern end of Balboa Peninsula in Orange County. The proposed project would involve construction of an approximately 1,505 sq. ft., 200 feet long, wheelchair-accessible concrete pathway and 10-foot-wide round viewing pad. There is an existing concrete walkway at the end of Channel Road adjacent to Jetty View Park, and this new walkway would be an extension, continuing the walkway out onto the beach. The City has stated that the pathway is necessary to improve equitable access to the beach for individuals with mobility impairments and to respond to community requests for an accessible route at a popular and heavily used beach. The proposed pathway is intended to provide a safe ADA-compliant surface that enable users of wheelchairs, walkers, and strollers to traverse the sandy beach to view the ocean and participate in shoreline recreation. The City further indicates that the project supports its broader goals of enhancing coastal access for all members of the public and addressing longstanding accessibility barriers at "The Wedge," a world famous surf location.

The project site is located within a heavily visited beach area that also contains remnant dune features and supports strand vegetation. While the Commission has historically been cautious in approving permanent paving on sandy beaches due to concerns related to habitat impacts and sea-level rise vulnerability, in this case the proposed ADA pathway represents a necessary and site-specific public access improvement.

The proposed project includes the construction of an approximately 1,505 sq. ft., 200 feet long, wheelchair-accessible concrete pathway and 10-foot-wide round viewing pad. The new pathway will transition from 9 feet wide at the beginning down to 6 feet wide closer to the ocean and the pathway will end with a round concrete viewing area. There are two myoporum trees onsite. One is in poor health and is proposed to be removed. The other is a protected historical myoporum tree on site will be retained at the City's request; however, all additional myoporum sprouts will be removed to prevent further spread. The project proposes to retain an existing light pole on the project site that would be retained adjacent to the new pathway and the existing bike racks on the project site. The project requires approximately 810 cubic feet of cut sand which will be collected and re-distributed elsewhere on the sandy beach. Construction staging and storage will be located in a nearby public parking lot and construction is expected to start in January 2026.

The City's certified LUP identifies the area surrounding the proposed ADA-accessible pathway as dune habitat. The proposed project will not significantly disturb this habitat.. The project has been designed to avoid impacts to dune features, and no grading or construction is proposed within vegetated dune habitat. Therefore, as proposed and conditioned, the project may be found consistent with applicable public access and resource protection policies of the Coastal Act.

Staff recommends the Commission approve the project subject to four special conditions that address the need to avoid or minimize impacts to public access, mitigate for impacts to ESHA, and water quality. **Special Condition 1** requires submittal of revised construction and site plans for the ADA pathway, including staging, storage of mechanized equipment, and access routes. **Special Condition 2** requires the applicant to assume the risk of building in a hazardous coastal zone and waive future liability claims. **Special Condition 3** requires implementation of Best Management Practices (BMPs) to protect water quality during and after construction. **Special Condition 4** prohibits future shoreline protective devices and establishes criteria for removal of development in the event of coastal hazards.

As conditioned, staff recommends that the Commission find the project consistent with Chapter 3 of the Coastal Act and approve Coastal Development Permit No. 5-24-0751. The motion and resolution are found on page 5.

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EXHIBITS

Exhibit 1 – Vicinity Map and Project Location
Exhibit 2 – Site Photos
Exhibit 3 – ADA Pathway Rendering
Exhibit 4 – Adjacent Least Tern Roosting Area

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit No. 5-24-0751 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

This permit is granted subject to the following standard conditions:

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

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

This permit is granted subject to the following special conditions:

1. Revised Final Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two full sized complete set of plans (site plans, staging plan, construction plans, grading plans, etc.), in substantial conformance with plans by Public Works Department dated 7/25/25 except these plans shall be revised as follows:

- A. The final alignment of the ADA-compliant concrete pathway, including necessary curb cuts to provide a continuous, safe, and accessible route will be reflected in all relevant plans.
- B. Revisions to the construction staging plans identifying all staging and equipment access areas. The plan shall identify proposed mechanized equipment, including a ready-mix concrete truck (staged offsite at Channel Road), concrete pump, and Bobcat skid steer, and include any safety fencing or signage. Construction fencing is required around the project site.
- C. The site plan must outline the areas of the beach that will receive deposits of sand from the grading activities. Deposited sand cannot be placed in areas with existing sand dune habitat or in known snowy plover roosting and nesting locations.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

2. Assumption of Risk, Waiver of Liability and Indemnity.

- A. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims,

demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

3. Best Management Practices. By acceptance of this Permit, the applicant agrees, on behalf itself and all successors and assigns, that all construction activities shall adhere to the Best Management Practices (BMPs) described below:

- A. Concrete pouring shall be scheduled during a dry-weather period to the maximum extent feasible, to minimize the potential for stormwater runoff and pollutant discharge during initial curing.
- B. No concrete washout shall occur in or near storm drains, gutters, streets, or waterways. Clearly marked, contained washout areas shall be established, inspected daily for leaks, and maintained in working condition. Wash water shall be contained on-site and either evaporated or disposed of at an appropriate off-site facility. Hardened concrete shall be recycled or properly disposed of.
- C. For a minimum of thirty (30) days following the concrete pour, temporary berms, gravel bags, or other diversion measures shall be installed to direct potential runoff away from storm drains and habitat areas . A temporary infiltration basin shall be used where feasible to capture and treat any runoff within the project footprint.
- D. Erosion and sediment control devices—such as plastic-free straw wattles, silt fencing, or sandbags—shall be installed around the perimeter of the concrete path area to prevent pollutant discharge into adjacent sensitive habitat or storm drain systems.
- E. The applicant shall inspect the site and all BMPs on a regular basis during the 30-day curing period to ensure they remain effective. Any failed or damaged BMPs shall be repaired or replaced immediately. All protective measures shall remain in place until the path is fully cured and no longer poses a water quality risk.
- F. Construction vehicles and activity shall not be conducted below the mean high tide line outside of the authorized work area, and only as required for the specific maintenance event.
- G. Wildlife shall be allowed to escape the work area/s.
- H. When transiting on the beach, all construction vehicles shall remain as high on the upper beach as possible, and shall avoid contact with sand dunes, sand hummocks, and ocean waters and intertidal areas.
- I. All work shall take place during daylight hours, and lighting of the beach and ocean area is prohibited.

- J. All construction equipment and materials placed on the beach shall be stored beyond the reach of tidal waters within construction area boundary fencing, where such controls and/or fencing are placed as close to the street or to the base of the coastal bluff as possible, and are minimized in their extent.
- K. No equipment or materials shall be stored, staged, or fueled in waters of the state, including wetlands or in any area where waters of the state might be adversely affected by the equipment or materials. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall be conducted in designated upland areas outside of waters of the state and shall not result in a discharge or a threatened discharge to waters of the state.
- L. No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to wave erosion and dispersion;
- M. Tarps or other devices shall be used to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills to protect the quality of coastal waters.
- N. All erosion and sediment controls shall be in place prior to the commencement of construction, as well as at the end of each workday. At a minimum this shall include spill kits onsite and drip pans under stationary equipment. All heavy equipment arriving to the site must be properly cleaned first, with no oil or sediment build ups that could pollute the beach and/or contaminate the beach with invasive species. Assure any sand tracking outside of the sandy beach is a minimum and does not affect safety of pedestrians, bikers, skaters, and all other trail users, and other public areas.
- O. All debris resulting from construction activities shall be removed from the beach immediately at the end of the work day.
- P. Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.

4. Waiver of Right to Future Shoreline Protective Device.

- A. By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-24-0751 including, but not limited to, construction of a new, 1,505 sq. ft. wheelchair-accessible concrete pathway and viewing pad on the sandy beach including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, bluff retreat, landslides, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this Permit, the applicant

hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.

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

IV. FINDINGS AND DECLARATIONS:

A. Project Location and Description

Location and Site History

The project is located at the southern end of Channel Road in Newport Beach, adjacent to the West Jetty View Park and just north of the West Jetty at the entrance to Newport Harbor ([Exhibit 1](#)). The project area occupies a sandy public beach known as The Wedge, one of the more iconic and heavily visited surf zones in Southern California. Created by the

unique wave refraction of the stone jetty, extended to its current length in 1936, The Wedge is famous for producing powerful, shore-breaking waves that can reach up to 20 feet during large south swells. The distinctive surf break draws bodysurfers, bodyboarders, surfers, and thousands of spectators annually, making it both a recreational and cultural landmark.

In addition to its international surf reputation, the beach is also used extensively by the general public for passive recreation such as sunbathing, beach walking, and family outings. The wide, sandy expanse offers panoramic views of the ocean, jetty, and the open beach area is popular year-round for its scenery and coastal experience, even when the surf conditions are not favorable. Although the site lacks built amenities such as restrooms or showers, its relative seclusion and natural setting make it a favored spot for locals and visitors alike.

Access to the site is provided via Channel Road, which ends at a small parking lot adjacent to the West Jetty View Park. In response to repeated public requests for improved accessible beach access at this location, the City of Newport Beach initiated this project to construct an ADA-compliant concrete pathway that would provide a safe and functional route for individuals with mobility disabilities to reach the beach on the existing sandy beach. The proposed path will extend from the public parking lot at West Jetty View Park to the edge of the sandy beach, generally following the alignment of an existing informal route commonly used by beachgoers.

North of the proposed ADA-accessible pathway ([Exhibit 3](#)), along the same stretch of beach, lies a seasonally protected Western Snowy Plover roosting area, highlighting the ecological sensitivity of the site. The project has been carefully designed to avoid any disturbance to this habitat while enhancing equitable public access to one of Newport Beach's most scenic and well-loved beaches.

Project Description

The proposed project consists of the installation of a new Americans with Disabilities Act (ADA)- compliant concrete pathway to improve accessible public access to the beach at The Wedge in Newport Beach. The pathway will extend 6-9 feet in width and approximately 200 feet in length, for a total of 1,505 square feet, and will be constructed on the sandy beach just north of the West Jetty at the entrance to Newport Harbor. The path is oriented parallel to the jetty and has been sited to follow an existing informal access corridor used by the public, minimizing additional disturbance to undisturbed sand and habitat.

Construction activities will be limited to the necessary area to reduce impacts to coastal resources. Staging will occur offsite at the Balboa Pier Parking lot 1, where up to 12 public parking spaces will be temporarily occupied for equipment, such as a skid-steer or mini-excavator, for minor grading and placement of concrete forms. Concrete will be delivered to the site by truck and poured in place during dry-weather conditions to minimize risk of runoff or water quality impacts.

All construction work will be confined to the approved footprint of the new concrete pathway, with no additional ground disturbance proposed outside of this alignment. Equipment access will be limited to the designated pathway area, and all construction activities will occur within this footprint. No use of the adjacent green lawn area is proposed for equipment staging or access. This approach ensures that construction remains compact and minimizes disturbance to surrounding beach areas.

Construction will be completed over approximately one month during the off-peak season to minimize conflicts with recreational users as well as avoiding nesting bird season, starting in January 2026. Best management practices (BMPs) will be implemented throughout the construction process to prevent discharge or sediment or pollutants to marine environment and surrounding sand, consistent with the Project's BMPs.

B. Standard of Review

The project site lies entirely within an area of retained Coastal Commission permit jurisdiction due to its location on tidelands, submerged lands, or lands subject to the public trust doctrine. As such, the standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Newport Beach Local Coastal Program (LCP) was effectively certified on January 13, 2017 and may serve as guidance.

C. Public Access and Recreation

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 30213 of the Coastal Act states, in part:

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

Section 30220 of the Coastal Act states:

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

Section 30221 of the Coastal Act states:

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

Section 30013 of the Coastal Act, Environmental Justice, states:

The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division. As required by Section 11135 of the Government Code, no person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination, under any program or activity that is conducted, operated, or administered pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

Section 30107.3 of the Coastal Act defines Environmental Justice accordingly:

“Environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

The Newport Beach certified Land Use Plan also has the following policies that address public access (Section 3.1.1), recreational opportunities (Section 3.2.1). The following policies are relevant to the proposed development:

Policy 3.1.1-1 of the LUP. Protect, and where feasible, expand and enhance public access to and along the shoreline and to beaches, coastal waters, tidelands, coastal parks, and trails.

Policy 3.1.1-27 of the LUP. Implement public access policies in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- Topographic and geologic site characteristics;
- Capacity of the site to sustain use and at what level of intensity;
- Fragility of natural resource areas;
- Proximity to residential uses;
- Public safety services, including lifeguards, fire, and police access;
- Support facilities, including parking and restrooms;

- Management and maintenance of the access;
- The need to balance constitutional rights of individual property owners and the public's constitutional rights of access.

Policy 3.2.1-1 of the LUP states:

Protect, and where feasible, expand and enhance recreational opportunities in the coastal zone.

The provision of public access to the coast is one of the main tenets of the Coastal Act. Further, the environmental justice policies of the Coastal Act require fair treatment of people of all races, cultures, and incomes with respect to implementation and enforcement of environmental regulations.

The Wedge is one of Newport Beach's most popular and iconic coastal destinations, attracting thousands of visitors each year for its unique surf conditions, open sandy beach and expansive ocean views ([Exhibit 2](#)). While the area is well known for recreational activities like surfing and bodyboarding, it is also used by families, seniors, and individuals with mobility challenges seeking beach access for passive recreation, such as sunbathing, wildlife viewing, and shoreline enjoyment. Currently, access to the sandy beach is difficult for those with mobility disabilities due to lack of a firm and stable surface across the sand. In response to public requests, the City of Newport Beach is proposing the installation of a permanent ADA-compliant concrete pathway to improve equitable access to the beach for all users.

The applicant evaluated multiple alternatives for surface material, including geotextile mats, modular pavers, recycled rubber products, wood, and soil stabilizers. Key evaluation criteria included firmness, stability, durability in a beach environment, long-term maintenance, aesthetics, and user safety. Although roll-out mats are commonly used for temporary beach access, they often require ongoing repositioning, do not perform well in high-use areas, and may shift with wind and sand accumulation. Other alternatives such as rubber, pavers, wood presented similar challenges in terms of accessibility and maintenance. Concrete was ultimately selected as the preferred material because it offers a reliable, long-lasting, and consistently firm surface that meets ADA guidelines and public expectations for accessible infrastructure.

While permanent development such as concrete paving is generally discouraged on sandy beaches due to potential impacts and long-term vulnerability to sea-level rise, this project represents a limited and site-sensitive exception. The proposed pathway is modest in scale, approximately 200 feet long by 6-9 feet wide, and is sited to follow an existing informal access route that is already disturbed by frequent foot traffic. The path is located landward of sensitive habitat and does not extend to the mean high tide line. It has also been aligned to avoid mapped dune vegetation and will incorporate mitigation for any impacts to native habitat.

The Commission has historically expressed concerns about permanent structures on beaches, particularly where sea level rise is expected to narrow sandy beach areas over time. However, in this case, the pathway has been designed to avoid displacing lateral public access or recreational space and is located as far landward as feasible without compromising its functionality. The pathway is not intended to restrict public access but rather to expand access for individuals who otherwise cannot reach the beach without assistance.

The proposed project has also been designed to limit other temporary impacts to public access during construction. Specifically, construction staging would occur within approximately 12 public spaces at Balboa Pier Parking Lot 1, which may reduce parking availability for beachgoers for a one-month construction period. However, this impact will occur outside of peak visitor season and is expected to be temporary and limited in duration.

Additionally, temporary construction fencing would be installed around the project area during construction to protect sensitive habitat and delineate work areas. The fencing will not limit pedestrian circulation on the beach in the immediate vicinity because pedestrians can easily move around the fenced areas and the project has been designed to avoid obstructing major access routes to the beach or the shoreline. Upon completion of construction, all temporary restrictions will be removed, and the new accessible pathway will enhance inclusive public use of the beach area.

As conditioned, the ADA-compliant pathway would enhance public access consistent with the policies of Chapter 3 of the Coastal Act, including Sections 30210, 30213, 30220, and 30221, as well as the public access and recreation policies of the certified Newport Beach LCP. The proposed path follows an existing informal access route already used by beachgoers and does not displace or interfere with recreational opportunities on the sandy beach, thereby preserving the area's use for swimming and other coastal recreational activities consistent with the protection of oceanfront recreational resources.

D. Marine Resources and Water Quality

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 water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed ADA-compliant pathway will be constructed on a sandy beach adjacent to the Newport Harbor entrance, an area that supports nearshore marine habitats, intertidal biological communities. Because the project occurs within a dynamic coastal environment and in proximity to marine and sensitive wildlife resources, it must be designed and implemented in a way that maintains the biological productivity and long-term sustainability of these systems.

All construction activities will be confined to a clearly defined footprint, and temporary fencing will be installed as necessary to delineate work limits and prevent disturbance to nearby habitat. Mechanized equipment use will be limited to small machinery suitable for confined sandy areas, further minimizing disruption. As discussed above, the City evaluated several alternative materials, however concrete is best suited for ADA requirements and the project will enhance and maximize public access to the shoreline and, as conditioned, will avoid impacts to the marine environment.

To protect coastal water quality during and after construction, the City will implement a comprehensive pollution prevention plan, including best management practices (BMPs) designed to prevent the discharge of sediment, concrete, or construction-related pollutants to the surrounding beach and marine environment. Concrete will be poured in wet-weather conditions, and a designated washout area with full containment will be established and monitored to prevent runoff. Temporary filtration controls- such as silt fencing, straw wattles, or sandbags- will be installed around the work area to intercept any potential contaminants before they reach the sand or water. These measures will be maintained throughout the duration of construction and removed once the site is stabilized.

These combined efforts, including **Special Condition 3**, will help ensure that marine organisms are sustained, biological productivity is preserved, and the quality of coastal waters is not compromised. **Special condition 3** includes specific best management practices such as scheduling concrete work during dry-weather conditions, establishing designation washout areas, diverting runoff away from sensitive habitats, and installing perimeter filtration devices. As conditioned, the project includes sufficient protective measures to be found consistent with the Coastal Act's requirements to sustain marine resources, preserve the biological integrity of coastal ecosystems, and maintain high water quality and is consistent with Sections 30230 and 30231 of the Coastal Act.

E. Environmentally Sensitive Habitat Area

Section 30240 of the Coastal Act states that:

- (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.

Section 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

In addition, the following City of Newport Beach Local Coastal Plan policies provide guidance regarding the protection of environmentally sensitive habitats:

3.1.1-5. Allow public access improvements in environmentally sensitive habitat areas (ESHA) when sited, designed, and maintained in a manner to avoid or minimize impacts to the ESHA.

4.1.1-1. Define any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments as an environmentally sensitive habitat area (ESHA). Using a site-specific survey and analysis by a qualified biologist, evaluate the following attributes when determining whether a habitat area meets the definition of an ESHA:

- A. The presence of natural communities that have been identified as rare by the California Department of Fish and Game.
- B. The recorded or potential presence of plant or animal species designated as rare, threatened, or endangered under State or Federal law.
- C. The presence or potential presence of plant or animal species that are not listed under State or Federal law, but for which there is other compelling evidence of rarity, such as designation as a 1B or 2 species by the California Native Plant Society.
- D. The presence of coastal streams.
- E. The degree of habitat integrity and connectivity to other

natural areas.

Attributes to be evaluated when determining a habitat's integrity/connectivity include the habitat's patch size and connectivity, dominance by invasive/non-native species, the level of disturbance, the proximity to development, and the level of fragmentation and isolation.

4.1.1-2. Require a site-specific survey and analysis prepared by a qualified biologist as a filing requirement for coastal development permit applications where development would occur within or adjacent to areas identified as a potential ESHA. Identify ESHA as habitats or natural communities listed in Section 4.1.1 that possess any of the attributes listed in Policy 4.1.1-1. The ESA's depicted on Map 4-1 shall represent a preliminary mapping of areas containing potential ESHA.

4.1.1-4. Protect ESHAs against any significant disruption of habitat values.

4.1.1-7. Limit uses within ESHAs to only those uses that are dependent on such resources.

4.1.1-8. Limited public access improvements and minor educational, interpretative and research activities and development may be considered resource dependent uses. Measures, including, but not limited to, trail creation, signage, placement of boardwalks, and fencing, shall be implemented as necessary to protect ESHA.

4.1.1-12. Require the use of native vegetation and prohibit invasive plant species within ESHAs and ESHA buffer areas.

4.1.1-16. For allowable impacts to ESHA and other sensitive resources, require monitoring of mitigation measures for a period of sufficient time to determine if mitigation objectives and performance standards are being met. Mid-course corrections shall be implemented if necessary to meet the objectives or performance standards. Require the submittal of monitoring reports during the monitoring period that document the success or failure of the mitigation. To help insure that the mitigation project is self-sustaining, final monitoring for all mitigation projects shall take place after at least three years with no remediation or maintenance activities other than weeding. If performance standards are not met by the end of the prescribed monitoring period, the monitoring period shall be extended or the applicant shall submit an amendment application proposing alternative mitigation measures and implement the approved changes. Unless it is determined by the City that a

differing mitigation monitoring schedule is appropriate, it is generally anticipated that monitoring shall occur for a period of not less than five years.

4.6-5. Where development is proposed within or adjacent to ESHA, wetlands or other sensitive resources, require the City staff member(s) and/or contracted employee(s) to consider the individual and cumulative impacts of the development, define the least environmentally damaging alternative, and recommend modifications or mitigation measures to avoid or minimize impacts. The City may impose a fee on applicants to recover the cost of review of a proposed project when required by this policy.

4.6-6. Where development is proposed within or adjacent to ESHA, wetlands or other sensitive resources, require the City staff member(s) and/or contracted employee(s) to include the following in any recommendations of approval: an identification of the preferred project alternative, required modifications, or mitigation measures necessary to ensure conformance with the Coastal Land Use Plan. The decision making body (Planning Director, Planning Commission, or City Council) shall make findings relative to the project's conformance to the recommendations of the City staff member(s) and/or contracted employee(s).

In addition to the policies above, the LUP describes the Dune habitat in the City:

In Newport Beach, southern coastal foredune habitat extends southwest along the ocean side of the Balboa Peninsula from 10th Street to the tip of the peninsula. The vegetation in this community is generally sparse with overall cover ranging from 20 to 70 percent in some areas, while other areas are completely devoid of vegetation. Areas of open sand fragment this habitat. Dominant plant species include non-native species such as purple sand-verbena (*Abronia umbellata*), sea rocket (*Cakile maritima*), beach evening primrose (*Camissonia cheiranthifolia*), sea-fig (*Carpobrotus chiliensis*), hottentot fig (*Carpobrotus edulis*), beach morning glory (*Calystegia soldanella*), and beach bur (*Ambrosia chamissonis*). Ornamental and non-native species, likely introduced from the adjacent residences, dominate much of the southern coastal foredune habitat. Numerous Southern coastal foredune habitat on the Balboa Peninsula residences use the beach area as an extension of their backyards. Some residents have planted and irrigated the ornamental species, which have replaced native species in these areas. Increased human activity and uncontrolled public access also adversely impact these dune habitats, as evidenced by the numerous trails bisecting the dunes. Many areas are almost completely covered by sea-fig and hottentot fig. If dune habitat losses cannot be avoided, then mitigation programs to restore dune habitat within Newport Beach should be implemented.

Per the Coastal Act and the LCP, environmentally sensitive habitats must be protected against significant disruption of habitat values and only uses that are dependent on those habitat resources may be allowed within them. In addition, development adjacent to ESHA must be sited and designed to prevent degradation and be compatible with the continued functioning of the habitat.

Consistent with the requirements of the LCP, the applicant provided an evaluation of the surrounding habitat. The biological report (the Chambers Group dated June 25, 2025) acknowledges that there are existing dunes within the vicinity of the project that would rise to the level of Environmentally Sensitive Habitat Area (ESHA). In addition, through past Commission actions, the Commission staff is aware of existing nesting and roosting areas for the Western Snowy Plover located along this subject beach ([Exhibit 4](#)), which would also rise to the level of ESHA.

Because the project is sited near known habitat areas that would rise to the level of ESHA, the project has been designed to avoid impacting any sensitive resources and therefore is consistent with Section 30240(b). The project itself is not located within areas known as ESHA and avoids all direct impacts. Policy 4.6-5 of the LCP requires consideration of the least environmentally damaging alternative when development located adjacent to ESHA.

The proposed ADA-accessible pathway is consistent with the applicable policies of the City of Newport Beach's certified Local Coastal Program (LCP), which recognize that public access improvements are appropriate, particularly trails and boardwalks, within and adjacent to ESHA when carefully designed to avoid or minimize adverse impacts (Policy 3.1.1-and Policy 4.1.1). The pathway has been sited to follow an existing informal route through a heavily used portion of the sandy beach near The Wedge, is located on dry sand, and thus avoids disturbance to intact dune habitat.

During project review, Commission staff and the City of Newport Beach evaluated alternative potential alignments for the proposed ADA-accessible beach pathway in order to minimize impacts to any surrounding sensitive dune habitat. The City revised the proposed alignment to incorporate a 5-foot buffer from the edge of the existing dune mats and reduced the area of the viewing pad in order to avoid all impacts to dune habitat. This adjustment reflects the least environmentally damaging feasible alternative identified through coordination between Commission staff and City representatives.

To avoid additional impacts during construction, **Special Condition 3** will be required to delineate construction limits and protect adjacent dune features and roosting habitat. No work will occur north of the pathway alignment where the Western Snowy Plover roosting area has been identified.

As conditioned, the project minimizes and avoids adverse effects to sensitive habitat. Therefore, the proposed project, as conditioned, is consistent with Section 30240(b) of the Coastal Act and the City's certified Local Coastal Program.

F. Hazards

Section 30253 of the Coastal Act states, in pertinent part:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed ADA-accessible beach pathway will be constructed on a sandy beach adjacent to the West Jetty in Newport Beach, a dynamic coastal area subject to hazards such as wave uprush, flooding, erosion, and sea level rise. Development located directly on sandy beach areas is inherently vulnerable to these coastal processes, and such risks are expected to intensify over time as sea levels rise and storm events become more frequent and severe.

The sandy shoreline at the project site is exposed to wave energy reflected off the West Jetty, as well as seasonal sand movement driven by wave and wind conditions. Although the proposed pathway is modest in scale and located as far landward as feasible, it remains susceptible to potential undermining or burial by sand, particularly during extreme weather events or high tides. Over time, the usable width of sandy beach in this location may diminish due to chronic erosion or episodic storm impacts.

In recognition of these risks, and to ensure that the Coastal Commission is not held liable for any damage that may result from these hazards, the project has been conditioned to include **Special Condition 2**, an assumption of risk and waiver of liability by the applicant. The condition requires the applicant to acknowledge and accept the risk of developing in a hazardous coastal zone and to indemnify the Commission against future claims related to damage or injury resulting from coastal hazards.

In addition, **Special Condition 4** requires the applicant to waive the right to construct future shoreline protective devices to protect the development. This is necessary to ensure that the proposed pathway does not become a justification for armoring the shoreline in the future, which could interfere with natural sand movement, public access, and coastal resource protection. Should future hazards render the development unsafe or unusable, the permittee would be required to remove the pathway and restore the area to its natural condition.

The project is sited and designed to minimize risks associated with geologic hazards and will not result in the need for shoreline protection that could adversely impact coastal processes or public access. The project as conditioned is consistent with Section 30253 of the Coastal Act.

G. Local Coastal Program (LCP)

On January 13, 2017, the City of Newport Beach LCP was effectively certified. Development is located on the sandy beach within located within the Commission's jurisdiction and consequently, the standard of review is Chapter 3 of the Coastal Act, and the certified LCP serves as guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act.

H. California Environmental Quality Act (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

In this case, the City of Newport Beach is the lead agency and the Commission is the responsible agency for the purposes of CEQA. The City of Newport Beach determined on March 2, 2023, that the proposed project is categorically exempt from CEQA pursuant to CEQA Guidelines Class 2 (Section 15302), Replacement and Reconstruction.

The proposed project is located on the sandy beach adjacent to the northern jetty and the Wedge in Newport Beach. The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. As conditioned, the proposed project has been found consistent with the hazards, marine resources, water quality, public access and recreation and visual resource policies of the Coastal Act.

Therefore, as conditioned, the Commission finds that there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. The Commission finds that the proposed project, as conditioned, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act and CEQA.

The findings above are incorporated herein by reference. The Commission also analyzed various alternative locations for the project but determined that they were either infeasible or would have greater environmental impacts. The development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. **Special Conditions** imposed will mitigate adverse impacts to coastal resources and public access. The **Special Conditions** address the following issues: **1)** Revised Final Plans; **2)** an assumption of risk agreement to acknowledge inherent coastal hazards adjacent to the project; **3)** best management practices and **4)** waiver of right to future shoreline protective device. Therefore, the Commission finds that there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect of the proposed project and finds that the project is consistent with CEQA and the policies of the Coastal Act.

Appendix A - Substantive File Documents

- Coastal Development Permit Application No. 5-16-0632
- Coastal Development Permit Application No. 5-06-0343-W: Temporary Western Snowy Plover Enclosure