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STAFF REPORT: REGULAR CALENDAR

Application No.: **5-26-0359**

Applicant: **Harbor Island Community Association**

Agents: CAA Planning, Attention: Shawna Schaffner

Location: Harbor Island Bridge, Newport Beach, Orange County

Project Description: Redevelopment of the existing 5-span Harbor Island Bridge currently consisting of 4 bents and 8 16-in. x 14-in. diameter rectangular piles. The proposed work consists of installing new bent caps encasing the existing bent caps, removal of 8 16-in. x 14-in. diameter rectangular piles 5-ft. below the mudline, and installing 2 new 36-in. diameter piles at each of the new bent caps for a total of 8 new piles. The project also includes the applicant's request for after-the-fact approval for the construction on Harbor Island of a prefabricated 64 sq. ft. guard shack.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The project site is the Harbor Island Bridge, a bridge that was constructed in 1963 to replace a single-lane wooden bridge constructed in 1943, that connects the gated, 30-home private residential Harbor Island Community to the mainland, in the City of Newport Beach, Orange County. The project is the redevelopment of the existing 5-

span bridge, currently consisting of 4 bents and 8 16-in. x 14-in. diameter rectangular concrete piles. The proposed work consists of installing new bent caps encasing the existing bent caps and installing 2 new 36-in. diameter piles at each of the new bent caps for a total of 8 new piles. Construction will be conducted via floating barge (temporary working platforms) which will be held in place by spuds, an anchoring system that uses piles, during the entire duration of construction. The barge will be located at the project location for up to eight months during the project with it being located on the north side of the bridge for four months and the south side for four months while work on each side of the bridge is complete. The first construction activity will be the construction of the Cast-In Drilled Hole (CIDH) piles on each side of the bridge. Then the existing bent caps, which will remain in place, will be encased by the new concrete bent caps. After the new bent caps are completed, the existing 8-16-in. x 14-in. rectangular piles will be removed to a depth approximately 5-ft. below the mud line of the channel. The project also includes the applicant's request for after-the-fact approval for the installation of a prefabricated guard shack within a paved area immediately adjacent to the Harbor Island-side of the bridge entrance measuring a total area of 64 sq. ft.

The bridge is located over public tidelands and submerged lands that were granted to the City of Newport Beach in 1919 for management. The proposed project is located bayward of the mean high tide line and is thus within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City of Newport Beach LCP was effectively certified on January 13, 2017. The City's certified LCP is advisory in nature and may provide guidance.

Eelgrass is located within the project site and will be impacted by the proposed project. The proposed project has been determined to be the least environmentally damaging alternative of the alternatives analyzed. While still being the least environmentally damaging alternative, mitigation for the impacts to eelgrass need to be provided. As such, the applicant has submitted an eelgrass mitigation plan that states the proposed project would impact 3,150 sq. ft. of eelgrass and proposes to mitigate for that impact at a ratio of 1.38 to 1 on site, which means 4,350 sq. ft of eelgrass will be transplanted. However, the submitted eelgrass mitigation plan is based upon an eelgrass survey that was not conducted during the correct timeframe, and the mitigation plan does not map the existing eelgrass compliant with the California Eelgrass Mitigation Plan (CEMP). Due to the uncertain amount of eelgrass area impacted as a result of the project in its entirety, Commission staff recommends the Commission impose **Special Condition 1**, which requires a new eelgrass survey, and **Special Condition 2**, which requires the applicant to submit a Final Revised Eelgrass Mitigation Plan addressing the issues raised above and based on eelgrass conditions identified at the time of construction, consistent with the CEMP. The plan shall be prepared in consultation with the CDFW (California Department of Wildlife) and NMFS (National Marine Fisheries Service),

which may require a ratio in excess of 1.38:1 to account for the uncertainty of the successful implementation of the plan.

The proposed project results in an additional 87 sq. ft. of fill to soft bottom habitat due to the increased diameter of the 36-in. piles to support the augmented size of the bridge. The applicant has identified that the proposed project has been designed to meet current Caltrans Bridge Design Specifications and Seismic Design Criteria, as well as addressing the deficiencies of the Preliminary Foundation Report. If the project instead was for a new bridge that met current standards, the same number of piles would be needed but the amount of increased water shading would be significant: 825 sq. ft. for a new bridge and 250 sq. ft. for the proposed project. As such, the proposed project was found to be the least environmentally damaging alternative. Thus, the proposed piles have been identified as the least environmentally damaging alternative associated also with the least environmentally damaging project alternative (Alternative 1 No Build, Alternative 2 Proposed Project, and Alternative 3 (Full Replacement)).

Section 30233(a) of the Coastal Act limits the allowable fill of open coastal waters to certain uses only, including “incidental public service purposes” and requires minimization of fill to the greatest extent feasible to minimize adverse environmental impacts. Staff communication with past applicants in Newport Bay over the years has indicated that there is a lack of available sites (and any ongoing programs) for in-kind mitigation for loss of soft-bottom habitat. In order to mitigate the proposed fill impacts, the applicant has proposed a conceptual fill mitigation plan that proposes to create seafloor/shoreline near Lower Castaways, located to the north of the project site in Newport Bay. Specifically, the Harbor Island Community Association (HICA) is proposing to remove rock, boulders and debris within a .0013 acre-polygon (566 sq. ft.). The proposed fill is consistent with Section 30233(a)(4) of the Coastal Act, as it is for an incidental public use, and the proposed piles are the minimum necessary to support the bridge and meet current seismic standards; and the applicant has provided a conceptual mitigation plan to remove rock, boulders and debris within a .0013 acre-polygon (566 sq. ft.) to mitigate the fill impacts. However, **Special Condition 7**, requires the applicant to address some missing items in the mitigation plan including: 1) confirmation that the rock, boulders and debris will be removed within 1 year of project commencement, and 2) requirement that photos at low tide before the rock is removed and accompanying dates and a short narrative explaining the mitigation actions. As conditioned, the applicant has demonstrated that the proposed piles are the least environmentally damaging alternative and that the proposed mitigation measures will minimize the adverse impacts of the proposed project.

The proposed project is a bridge retrofit project, which the applicant has characterized as a repair and maintenance project. However, Commission staff has determined that the project amounts to a “replacement structure” under Section 13252(b) of the Commission’s regulations. By extending all the bent elements and replacing all of the piles, the Commission Staff has determined that more than 50% of the foundation elements are being repaired or replaced, and essentially creating a new foundation for the entire structure. Section 13252(b) of the Commission’s regulations states that

unless destroyed by natural disaster, the replacement of 50 percent or more of any other structure is not repair and maintenance under section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit. As such, pursuant to Section 30250 of the Coastal Act, new development shall be located where it will not have significant adverse effects either individually or cumulatively on coastal resources, which does include public access.

While public access to the water is available near the project site, public access should be made available with the proposed project, especially as the bridge is located in and over public tidelands and submerged lands in Newport Bay that are administered by the City of Newport Beach. In lieu of providing public access with the proposed project, the applicant has proposed a financial contribution of $10,000 to the FiiN (Fostering Interest in Nature) program in Newport Beach, a program that provides coastal public access opportunities nearby for fifth graders to explore the coastal areas of Newport Beach and develop an appreciation for ecology and nature-based recreation. This contribution would support an established program that provides public access opportunities. Thus, the Commission recommends **Special Condition 9**, which requires the applicant to submit proof of payment to the FiiN program in support of providing increased public access to the coast prior to issuance of the CDP.

Besides the special conditions listed previously, several other typical special conditions are proposed regarding: **Special Condition 1** Eelgrass Surveys; **Special Condition 3** Pre-construction Caulerpa Sp. Surveys; **Special Condition 4** Construction responsibilities and debris removal; **Special Condition 5** Breeding and Nesting Bird Surveys During Construction; **Special Condition 6** Resource Agencies; and **Special Condition 8** Construction Access Plan.

If approved with conditions to preserve marine resources, water quality, public access, and recreation, the proposed project will conform with the Chapter 3 policies of the Coastal Act.

Thus, Commission staff recommends that the Commission **APPROVE** CDP Application No. 5-26-0359 with **Nine** special conditions. The motion to carry out the staff recommendation is on **Page Six**. The special conditions begin on **Page Seven.**

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EXHIBITS

Exhibit No. 1 – Location Map

Exhibit No. 2 – Project Plans

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-26-0359 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. 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 Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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. 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

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 applicant 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 that the 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 applicant to bind

all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Eelgrass Survey(s)

A. Pre-Construction Eelgrass Survey. A valid pre-construction eelgrass (Zostera marina) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "California Eelgrass Mitigation Policy" dated October 2014 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

B. Post-Construction Eelgrass Survey. If any eelgrass is identified in the project area or the 10-meter buffer area by the pre-construction survey required by Subsection A of this condition, within 30 days of completion of construction, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth period, the applicant shall survey the project site and the 10 meter buffer area to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the CEMP adopted by the NMFS (except as modified by this special condition), and in consultation with the CDFW. If side-scan sonar methods are to be used, evidence of a valid permit from CSLC must also be provided prior to the commencement of each survey period. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been adversely impacted, the applicant shall replace the impacted eelgrass at an initial planting ratio of 1.38:1 on-site (mitigation: impact), or at another location, for a realized minimum 1.2:1 ratio at the end of the monitoring period, in accordance with the CEMP. Any exceptions to the required 1.2:1 realized minimum mitigation ratio found within the CEMP shall not apply. Based on past performance of eelgrass mitigation efforts, in order to achieve this minimum, the appropriate regional initial planting ratio provided in the CEMP should be used. Implementation of mitigation to ensure success in achieving the minimum final mitigation ratio (1.38:1) shall require an

amendment to this permit or a new coastal development permit unless the Executive Director provides a written determination that no amendment or new permit is required.

2. **Final Revised Eelgrass Mitigation Plan. Prior to issuance of the Coastal Development Permit**, the applicant shall submit, for the review and written approval of the Executive Director, a Final Revised Eelgrass Mitigation Plan for transplanting and replacement of eelgrass adversely impacted by the project that shall be in substantial conformance with the Eelgrass Mitigation Plan prepared by Ecomarine dated May 9, 2026, except as required to be modified as described below, if the required eelgrass survey pursuant to **Special Condition 1** determines eelgrass is present and would be adversely impacted by the proposed project. The plan shall be prepared in consultation with the (California Department of Fish and Wildlife (CDFW) and National Marine Fisheries Service (NMFS). The plan shall be prepared consistent with the requirements identified below and the requirements of the California Eelgrass Mitigation Policy (CEMP), including but not limited to the requirements outlined relative to mapping, and mitigation site, size, techniques, monitoring and success criteria, but excepting the allowed exclusions and timing requirements that conflict with the requirements identified below.

   A. The plan shall provide that:

   1. All direct eelgrass impacts, including as a result of fill, and shading impacts to eelgrass shall be mitigated at a minimum planting ratio of 1.38:1 (mitigation to impact) ratio with a final ratio of 1.2:1. A greater ratio may be applied based on the performance of the mitigation site based on the success criteria and guidance from the other resource agencies;

   2. Adverse impacts to eelgrass shall be mitigated on-site to the maximum extent feasible and, for the portion that cannot feasibly be mitigated on site, off-site mitigation will take place. The final location of all on-site and off-site mitigation shall be specifically identified;

   3. The mitigation site(s) shall be covered with eelgrass at pre-project densities of the impacted site within five years of the initial planting;

   4. Prior to commencement of construction of the portions of the approved project that would have direct impacts upon eelgrass beds, the eelgrass that would be directly impacted shall be transplanted, along with any supplementary planting in accordance with subsection (a) above, to the mitigation site(s).

   5. A report that describes densities, and recommended maintenance and replanting measures shall be submitted annually to the Executive Director;

   6. A comprehensive report describing the results of the plan shall be submitted at the end of the proposed five-year period;

7. A follow-up program shall be implemented if the original program is wholly or partially unsuccessful;

8. A final inventory and map showing the location of existing eel grass beds within the approved construction area and showing the areas of potential eel grass disturbance compliant with the California Eelgrass Mitigation Plan (CEMP);

9. An inventory and map showing the location of existing eel grass beds, if any, within the mitigation site(s); and

10. Performance standards that will assure achievement of the mitigation goal (i.e., attainment of pre-project densities at the mitigation site(s) within five years).

11. The mitigation plan shall anticipate taking into account the need to mitigate for impacts related to the temporary work platforms (barges) shading eelgrass.

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

3. Pre-construction Caulerpa Sp. Surveys

A. Not more than 90 days nor less than 30 days prior to commencement or recommencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of any species in the genus of the invasive alga, *Caulerpa*. The survey shall include a visual examination of the substrate. If any portion of the project commences in a previously undisturbed area after the last valid Caulerpa survey expires, a new survey is required prior to commencement of work in that area.

B. The survey protocol shall follow the most recent Caulerpa Control Protocol prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the National Marine Fisheries Service (see https://www.fisheries.noaa.gov/west-coast/habitat-conservation/caulerpa-species-west-coast).

C. Within fifteen (15) business days of completion of the survey, the applicant shall submit the survey:

(1) for the review and approval of the Executive Director; and

(2) California Department of Fish & Wildlife Marine Region (Caulerpa@wildlife.ca.gov) and National Marine Fisheries Service (NOAA Fisheries) (nmfs.wcr.caulerpa@noaa.gov).

D. If Caulerpa is identified at the project site or designated buffer area during a survey or at any other time prior, during, or after completion of authorized activities, the Executive Director, NOAA Fisheries, and CDFW Contacts described in Part C shall be contacted within 24 hours of first noting the occurrence.

E. If Caulerpa species is found within the project or buffer areas, the applicant shall not proceed with the project until:

(1) The applicant provides evidence to the Executive Director, subject to concurrence by the Executive Director, that all Caulerpa species discovered within the project and buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or

(2) The applicant has revised the project to avoid any contact with Caulerpa species. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Construction Responsibilities and Debris Removal. The permittee shall comply with the following construction-related requirements:

a. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;

b. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;

c. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;

d. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;

e. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;

f. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;

g. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;

h. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;

i. The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;

j. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;

k. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;

l. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;

m. The discharge of any hazardous materials into any receiving waters shall be prohibited;

n. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;

o. Best Management Practices (BMPs) and Good Housekeeping Practices designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and

p. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

5. **Breeding and Nesting Bird Surveys During Construction.** For any construction activities, between January 15th and September 1st, the permittee shall retain the services of a qualified biologist with experience in conducting bird behavior, nesting bird, and noise surveys (hereinafter, "biologist") to conduct said surveys in order to assess bird behavior, the presence of nesting birds including, but not limited to, black-crowned night herons, great blue herons, great egrets, and snowy egrets, and to document ambient and project noise levels. All project construction and operations shall be carried out consistent with the following:

   A. The permittee shall ensure that a qualified biologist shall conduct the surveys 15 calendar days prior to the construction activities to detect any active bird breeding behavior or active bird nests in all trees within 500 ft. of the project and to document ambient and project noise levels. A follow-up survey must be conducted three (3) calendar days prior to the initiation of project activities and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first. All bird breeding behavior, nesting bird, and noise surveys shall be submitted to the Executive Director within two (2) days of completion.

   B. If an active nest(s) of any bird or is found within 300 ft. of the project or bird nesting or courtship behavior is observed within the project site, the applicant's biologist shall monitor bird behavior and construction noise levels. The nest(s) and nesting bird(s) shall not be removed or disturbed. The biologist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The biologist shall monitor birds and noise every day at the beginning of the project and continuing throughout all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below the demonstrated ambient noise levels or a peak of 65 dB at the nest site(s). If construction noise exceeds the ambient noise levels or a peak level of 65 dB at the nest site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction shall cease and shall not recommence until either new sound mitigation can be employed or the birds have fledged.

   C. If an active nest of a federally or state-listed threatened or endangered species, bird species of special concern, or designated migratory bird under the federal Migratory Bird Treaty Act, is found within 300 ft. of the project, or an active nest for any species of raptor is found within 500 ft. of the project, the permittee shall notify the appropriate state and/or federal wildlife agencies within 24 hours, and

appropriate action specific to each incident will be developed. The permittee shall notify the California Coastal Commission by e-mail within 24 hours and consult with the Commission regarding determinations of state and federal wildlife agencies.

D. The permittee must cease work if informed by the biologist that proceeding with any development authorized by this permit would adversely affect breeding or nesting birds, and shall consult with the appropriate federal and/or state wildlife agencies as well as the Commission Executive Director on appropriate steps to protect breeding or nesting birds. The permittee shall immediately notify the Commission Executive Director if activities outside of the scope of the subject Commission-approved project occur. If the Commission Executive Director determines that significant impacts or damage to sensitive habitats or to wildlife species has occurred, the permittee shall submit an application to the Commission to amend this permit to include appropriate mitigation and/or restoration measures.

E. If the relevant state or federal wildlife agencies require modifications to the project to protect nesting or breeding birds, the permittee shall obtain an amendment to this permit unless the Commission Executive Director determines that amending the permit is not legally required.

6. Resource Agencies

The permittee shall comply with all requirements, requests and mitigation measures from the Regional Water Quality Control Board (RWQCB); the U.S. Army Corps of Engineers (USACE), the California Department of Fish and Wildlife (CDFW), and the U.S. Fish and Wildlife Service (USFWS) with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

7. Final Revised Fill Mitigation Plan. Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and written approval of the Executive Director, a Final Revised Fill Mitigation Plan that shall be in substantial conformance with the Fill Mitigation Plan prepared by Michael Baker International dated July 10, 2023, except as required to be modified as described below.

A. The plan shall provide that:

1) The area of rock indicated in the mitigation area shall be identified;

2) To ensure removal is occurring in soft-bottom habitat, the mean high tide line needs to be identified on maps of the mitigation area;

3) The proposed method(s) of removal and disposal needs to be identified. The applicant shall provide BMPs and will adhere to them;

4) Clarification that the mitigation area is a City-owned parcel and evidence of approval from the City for use of the mitigation area;

5) Confirmation that the rock, boulders and debris are removed within 1 year of project commencement; and

6) Photos at low tide before and after the rock, boulders, and debris are removed and a short narrative explaining the mitigation actions.

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

8. Construction Access Plan.

A. **Prior to issuance of the Coastal Development Permit**, the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of a Construction Access Plan, which indicates the affected areas and how that public access under the bridge on the water/tidelands during construction will be detoured. In addition to the specifications above, at a minimum the construction access plan shall include:

(1) Signage shall indicate, with graphics and text, the presence of, and location of, other public accessway opportunities on the water near the bridge that are available while the waterway under the bridge is closed during construction;

(2) Floating or posted signage shall be clearly visible to travelers on the water near the bridge;

(3) The project plans shall include, at a minimum, the following components: dimensions and content (graphics and text) of each sign and/or stencil and a site plan depicting the location of each sign and/or stencil; and

(4) Language on the signs shall be multiple languages, including English and Spanish.

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

9. **Financial Contribution to the FiiN (Fostering Interest in Nature) Program. Prior to issuance of the Coastal Development Permit**, the Applicant for CDP No. 5-26-0359 shall provide evidence, in a form acceptable to the Executive Director, that a payment of $10,0000 contribution, has been made to the FiiN (Fostering Interest in Nature) Program, or an appropriate non-profit organization, or a similar entity approved by the Executive Director.

IV. FINDINGS AND DECLARATIONS

A. Project Location, Description, and Standard of Review

Project Location

The project site is the Harbor Island Bridge, a bridge that was constructed in 1963 to replace a single-lane wooden bridge constructed in 1943, that connects the gated, 30-home private residential Harbor Island Community to the mainland, in the City of Newport Beach, Orange County (**Exhibit 1**). The bridge is owned by the Harbor Island Community Association and provides the only means of vehicle and pedestrian access between the two sides.

The bridge is located over public tidelands and submerged lands that were granted to the City of Newport Beach in 1919 for management. The City was the approval authority at the time the bridge was originally constructed in the 1940s. The City Council approved another reconstruction on November 13, 1962, which resulted in the current configuration. The HICA has a lease with the City for the Harbor Island Bridge, which is over tidelands and submerged lands managed by the City, that was recently renewed on November 18, 2025.

Project Description

The bridge is approximately 158 ft. long and 15 ft. wide and accommodates a single 11-ft. wide travel lane, curbs, railings, and a narrow sidewalk on the south side. Structurally, the 5-span bridge is supported by concrete deck panels, steel girders, concrete pier caps, and concrete pile foundations.

The bridge has been determined to be load-restricted and structurally deficient according to current seismic codes and needs to be retrofitted or replaced to maintain public utilities, emergency access and to prevent structural failure into Newport Harbor. Specifically, existing piles are corroded, inadequately reinforced, and are not at the required depth to resist seismic loads. In addition, the concrete pier caps supporting the superstructure are insufficiently reinforced.

To reinforce the structural integrity of the bridge, the applicant proposes to redevelop the bridge to strengthen the existing pile caps and provide new Cast-In-Drilled Hole piles along the outboard edges of the existing bridge deck. More specifically, the redevelopment of the existing 5-span Harbor Island Bridge that currently consists of 4 bents and 8-16-in. x 14-in. rectangular piles would consist of installing new bent caps encasing the existing bent caps, removal of 8 16-in. x 14-in. diameter rectangular piles 5-ft. below the mudline, and installing 2 new 36-in. diameter piles (Cast-in-Drilled-Hole (CIDH)) at each of the new bent caps for a total of 8 new piles (**Exhibit 2**).

Traffic over the bridge will be maintained with minor temporary closures as required for certain work activities. For safety, the area beneath the bridge and where the temporary work platforms (barges) are set up will be closed to the public. Turbidity curtain barriers will be used to section off the work on the water area where public access is restricted.

The work involves heavy equipment for drilling the new piles in the waterway and forming new concrete bent caps. Temporary work platforms (barges) that will be held in place by spuds[1] will be used to the north and the south of the bridge during the entire duration of construction. The first construction activity will be the construction of the CIDH piles on each side of the bridge. Then the existing bent caps, which will remain in place, and will be encased by the new concrete bent caps. After the new bent caps are completed, the existing 16-in. x 14-in. diameter rectangular piles will be removed to a depth approximately 5-ft. below the mud line of the channel.

The project also includes the applicant's request for after-the-fact approval for the construction of a prefabricated guard shack on Harbor Island measuring 8 ft, 3-in x 8 ft., 3-in, for a total area of 64 sq. ft.

Standard of Review

The proposed project is located bayward of the mean high tide line and is thus within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City of Newport Beach LCP was effectively certified on January 13, 2017, and is advisory in nature and may provide guidance.

B. Marine Resources/Water Quality

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

> Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or

[1] Spuds are steel shafts that are lowered through sleeves on the barge and settle a short distance into the bottom under their own weight. They aren't driven like piles, but are necessary to maintain barge stability against wind, current, and crane movement.

> economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act, Biological productivity, water quality, 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 30233 of the Coastal Act, Diking, filling or dredging; continued movement of sediment and nutrients, states:

> (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
>
> …
>
> (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
>
> …

Coastal Land Use Plan, Wetlands and Deepwater Areas, Southern California Wetlands, Policy 4.1.1-2 states,

> Protect, maintain and, where feasible, restore the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes.

Coastal Land Use Plan, Marine Resources, Water Quality, Policy 4.1.2-1 states,

> Maintain, enhance, and, where feasible, restore marine resources.

Coastal Land Use Plan, Marine Resources, Water Quality, Policy 4.1.2-2 states,

> Provide special protection to marine resource areas and species of special biological or economic significance.

Coastal Land Use Plan, Dredging, Diking, and Filling, Policy 4.2.3-11 states [in part,]

Require the following minimum mitigation measures if a project involves diking or filling of a wetland:

> C. However, if no appropriate sites under options (A) or (B) are available, the applicant shall pay an in-lieu fee of sufficient value to an appropriate public agency for the purchase and restoration of an area of equivalent productive value, or

Marine Resources/Biological Productivity

Sections 30230 and 30231 of the Coastal Act require the biological productivity of coastal waters to be maintained and, where feasible, restored. Section 30233 requires that fill of open coastal waters for the purposes of new boating facilities shall only be permitted where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. Section 30250 of the Coastal Act requires new development to not have significant adverse effects, individually or cumulatively, on coastal resources. These requirements are echoed by relevant policies 4.1 through 4.2 of the certified Newport Beach Land Use Plan (LUP), as listed above, and Section 21.30C.050 of the City's certified Implementation Plan (IP).

Eelgrass (Zostera Marina) and Shading Impacts to it

Eelgrass (Zostera Marina) is a marine flowering plant that grows in soft sediments within coastal bays and estuaries. Eelgrass canopies consist of shoots and leaves approximately 1 to 3 ft. long that typically attract marine invertebrates and fish species. Under normal circumstances, a diverse community of benthic organisms (e.g., clams, crabs, and worms) live within the soft sediments that cover eelgrass root and rhizome mass systems. Eelgrass beds also function as a nursery for many juvenile fishes – including species of commercial and/or sporting value such as California halibut and corbina. Eelgrass beds are also important foraging areas for piscivorous seabirds that seek baitfish attracted to eelgrass cover. Eelgrass is also an important ecological contributor to the detrital (decaying organic material) food web of bays and estuaries as the decaying plant material is consumed by many benthic invertebrates and converted to primary nutrients by bacteria. Eelgrass can be adversely affected by increased water coverage.

The applicant submitted eelgrass surveys for the project site conducted October 1, 2021, and more recently on April 25, 2026, which determined that eelgrass is located at the project site within the project area and components of the project including the larger piles and construction barges as proposed will result in direct and indirect impacts to eelgrass. As such, an alternatives analysis was requested in order to investigate other alternatives that would avoid such adverse impacts to eelgrass and also to determine the least environmentally damaging alternative. In response, a project alternatives memorandum was prepared by Michael Baker International dated March 11, 2024, that analyzes the impacts and consequences of a no project alternative

(Alternative 1 – No Build), the proposed project (Alternative 2 – Retrofit), and a full replacement of the bridge (Alternative 3 – Bridge Replacement).

A “no build” alternative (Alternative 1) would mean that the bridge is left in its current condition and would be left in a hazardous state posing a significant safety hazard from a seismic or unforeseen event to users of the bridge on it and below it in the water. Also being left in its current state would mean that utility lines that are currently being carried across under the bridge would remain in jeopardy and that emergency egress from the island via the bridge would be at risk, which would be an adverse impact to incidental public use of the bridge.

The proposed project (Alternative 2) would bring the bridge into conformance with seismic standards by installing new pile foundations, strengthening bent caps, and supports, and removing the existing deteriorated piles. This alternative would also avoid 1,400 sq. ft. onshore impacts. The applicant’s engineer contends that this is the least environmentally damaging alternative, with significantly less shading to benthic habitat, no shoreline grading, minimal eelgrass disturbance, shorter construction duration and smaller construction footprint.

The 3rd alternative is the full replacement of the bridge with a new bridge north of the existing alignment. This analysis states that this would require a 33% larger footprint than existing, approximately 825 sq. ft. of new shading, 565 sq. ft. of shading directly over eelgrass, 1,800 sq ft. of new shoreline disturbance, and extensive roadway realignment and vegetation loss.

Alternative 1, the no-build alternative, would not address the seismic concerns of the existing bridge and would leave the bridge in a deteriorated, load-restricted, and seismically vulnerable state. As such, the deteriorated state of the bridge would pose a significant risk to residents, boaters, and emergency responders, which is an incidental public use, and would compromise multiple essential public utilities.

While alternatives 2 and 3 would address the deteriorated state of the bridge, the analysis indicates that the entire replacement of the bridge (Alternative 3) would result in higher permanent environmental impacts than the proposed project (Alternative 2). The comparison between the impacts from Alternatives 2 and 3 are below:

Impact Category	Retrofit	Replacement
Added ocean floor shading	250 sq ft	825 sq ft
Shading over eelgrass	25 sq ft	565 sq ft
New pile area	44 sq ft	44 sq ft
Eelgrass impact from piles	4 sq ft	15 sq ft
Shoreline disturbance	0	1,800 sq ft

Based on the associated impacts of Alternatives 2 and 3, Alternative 2 is the least environmentally damaging feasible alternative, consistent with Section 30233 of the Coastal Act since it results in the lowest level of permanent shading and eliminates shoreline disturbance entirely.

In order to address the impacts to eelgrass, the applicant has submitted an Eelgrass Pre-Project Survey, Impact Assessment, and Mitigation Plan prepared by Ecomarine Consulting, Inc. dated May 9, 2026, based on a more recent eelgrass survey dated April 25, 2026, and as such the impacts to eelgrass differ from those identified in the alternatives analysis. The mitigation plan indicates that the proposed project results in direct impacts from the installation of one permanent CIDH pile (pile 7) and spuds securing the temporary barge (spuds 2, 3, 6, 11, and 15) and the total area of potential direct impact to eelgrass is 22.6 sq. ft. Of this potential direct impact, the applicant states that only 7.1 sq. ft. is a permanent impact resulting from the installation of the new CIDH pile. The applicant states that the remaining 15.5 sq. ft. of potential direct impact is a temporary condition, as this impact is from the spuds that will hold the barge in place while the project is being completed and will be removed when the barge is removed.

The proposed project also results in indirect impacts to eelgrass resulting from temporary shading resulting from the placement of the temporary work platforms (barges). The total area potentially that would be temporarily impacted by overwater shading from the barge is 4,285 sq. ft. The barge will be located at the project location for up to eight months during the project with it being located on the north side of the bridge for four months and the south side for four months while work on each side of the bridge is completed. Moving the barges further away from the bridge and thus reducing eelgrass impacts was evaluated by the applicant, the applicant ultimately determined that it is not practical since the barges provide a stable work platform for the equipment, materials and crews doing the work and they need to locate next to the bridge for safety reasons.

Ultimately, the mitigation plan indicates that the proposed project would impact 3,150 sq. ft. of eelgrass and that it would be mitigated at a ratio of 1.38 to 1 on site, which means 4,350 sq. ft. of eelgrass will be transplanted onsite. While the proposed eelgrass impacts are associated with the least environmentally damaging alternative, the submitted eelgrass mitigation plan must be revised based upon an eelgrass survey that is conducted at the correct time frame, and the mitigation plan must map the existing eelgrass complaint with the CEMP.

Mitigation will take place at a ratio of 1.38:1 for a final mitigation ratio at the end of the monitoring period to be 1.2:1. These ratios may increase if they do not mitigate for impacts within the same growing season. Therefore, while eelgrass will be adversely impacted by the proposed project, the entire amount of eelgrass adversely impacted by the proposed project is unclear.

While the proposed plan would still ultimately result in direct and indirect impacts to eelgrass, it has been minimized and would result in minimal eelgrass impacts and is the least environmentally damaging alternative. With adequate mitigation, the project would not contribute significantly to cumulative adverse impacts to eelgrass from direct and indirect impacts to eelgrass in Newport Harbor.

In order to ensure that the correct impacts to eelgrass are mitigated, the Commission imposes **Special Condition 1**, which requires a new eelgrass survey and identifies the procedures necessary to be completed prior to beginning construction. The identified eelgrass survey took place on April 25, 2026, which determined that eelgrass was located at the project site. Eelgrass surveys completed between August through October are valid until the resumption of active growth (i.e., March 1). This eelgrass survey was not conducted during this time frame and thus, the subject eelgrass survey is no longer valid for project construction. Because the anticipated eelgrass impacts are based on an eelgrass survey which has expired, the total eelgrass impacts which must be mitigated is uncertain.

Due to the uncertain amount of eelgrass area impacted by shading, the Commission imposes **Special Condition 2**, which requires the applicant to submit a Final Revised Eelgrass Mitigation Plan based on eelgrass conditions identified at the time of construction, consistent with the California Eelgrass Mitigation Policy (CEMP). The plan shall be prepared in consultation with the CDFW (California Department oof Wildlife) and NMFS (National Marine Fisheries Service), which may require a ratio in excess of 1.38:1 to account for the uncertainty of the successful implementation of the plan.

The proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act as marine resources shall be maintained, enhanced and where feasible restored as water coverage has been reduced, which otherwise would have impacted biological productivity, and any impacts to eelgrass, from shading and fill, are being mitigated.

Caulerpa Sp.

In 1999, a non-native and invasive aquatic plant species, Caulerpa, was discovered in parts of Huntington Harbor. Caulerpa is a type of seaweed which has been identified as a threat to California's coastal marine environment because it has the ability to displace native aquatic plant species and habitats, including eelgrass. Caulerpa is known to grow on rock, sand, or mud substrates in both shallow and deep-water areas. Information available from NMFS indicates that Caulerpa can grow in large monotypic stands within which no native aquatic plant species can co-exist. Native seaweeds, seagrasses, and kelp forests can be displaced, which can adversely impact marine biodiversity, causing attendant impacts upon fishing, recreational diving, and tourism.

In April 2021, a specimen of a potentially invasive seaweed (*Caulerpa prolifera*) was collected from within Newport Bay. The genus Caulerpa consists of approximately 75 different species of single-celled aquatic organisms that can grow rapidly and have the potential to adversely impact native marine habitat along the West Coast.

A Caulerpa survey was completed on October 10, 2022, and the survey did not find evidence of *Caulerpa sp.* onsite; however, *Caulerpa sp.* surveys only remain valid for 90 days. Given the potential for the non-native, invasive Caulerpa species to take over eelgrass and other marine habitat in the project vicinity, and because Caulerpa has been observed elsewhere in Southern California (e.g., Newport Bay) within the past year, the Commission requires up-to-date *Caulerpa sp.* surveys consistent with the National Marine Fisheries Service and California Department of Fish and Wildlife protocols to be conducted prior to commencement of the project, as addressed by **Special Condition 3**. If any *Caulerpa sp.* is found on the project site, **Special Condition 3** identifies the procedures necessary to be completed prior to beginning any construction.

Construction and Post-Construction Impacts

The proposed development is located above and in bay waters. Construction phase demolition and construction activities have the potential to adversely affect marine resources, water quality and the biological productivity of coastal waters. Construction of any kind adjacent to or in coastal waters has the potential to impact marine resources. The bay provides an opportunity for water oriented recreational activities and also serves as marine habitat such as the eelgrass meadows in the bay waters immediately in the vicinity of the proposed development discussed above. Because of the coastal recreational activities and the sensitivity of the harbor habitat, potential water quality issues must be examined as part of the review of this project. In order to avoid adverse construction-related impacts upon marine resources, **Special Condition 4** outlines construction-related requirements to provide for appropriate construction methods as well as the safe storage of construction materials and the safe disposal of construction debris. As conditioned, the project will minimize the construction-phase effects of the proposed development on water quality and the bay habitat.

Nesting /Roosting Birds

The proposed project site is a developed site within an urbanized area. While it is an urbanized area, many bird species have adapted to use urban landscaping, including stands of palm trees, in areas near wetlands, coastal waters, and other open spaces. IN order to analyze any biological resources that may be impacted by the proposed project, the applicant has submitted a Resource Assessment prepared by Michael Baker dated January 10, 2021. The report identified eleven bird species during the field survey, including great blue heron (*Ardea herodia*s), rock pigeon (*Columba livia*), American crow (*Corvus brachyrhyncho*s), barn swallow (*Hirundo rustica*), Caspian tern (Hydroprogne caspia), western gull (*Larus occidentalis*), scaly-breasted munia (*Lonchura punctulate*), black phoebe (*Sayornis nigricans*), Allen's hummingbird (*Selasphorus sasin*), California towhee *(Melozone crissalis*), and Swinhoe's white-eye (*Zosterops simplex*). It was also determined that the proposed project would have a moderate potential to support osprey (*Pandion haliaetus*) and California least tern *(Sternula antillarum browni*) and low potential to support Cooper's hawk (*Accipiter cooperi*) during foraging activities. The assessment also stated that adjacent ornamental

vegetation associated with the residences on both ends of Harbor Island Bridge would have the potential to provide limited nesting opportunities for the Cooper's hawk. Therefore, the Commission imposes **Special Condition 5**, which requires breeding and nesting bird surveys during construction.

Resource Agencies

To ensure that the proposed project adheres to the requirements from other resource agencies, such as the Regional Water Quality Control Board (RWQCB) and US Army Corps of Engineers (USACE), and to account for changes to other resource agency permits that may be necessary given the design alternative required by the Commission, **Special Condition 6** requires the applicant to comply with all requirements, requests and mitigation measures from the CDFW, the RWQCB, the USACE, and the USFWS with respect to preservation and protection of water quality and marine environment consistent with Section 30230, 30231 and 30233 of the Coastal Act.

Fill of Coastal Waters

Coastal Act Section 30233 limits the allowable fill of open coastal waters, wetlands, and estuaries to certain uses only, including “incidental public service purposes” and requires minimization of fill to the greatest extent feasible to minimize adverse environmental impacts. In this instance it is for incidental public service as the bridge supports essential public utilities such as water, sewer, electricity, gas, and communication as these lines traverse the underbelly of the bridge. These utilities represent incidental public services purposes. Additionally, the bridge provides the only emergency access route for fire, medical, and law enforcement services, which are incidental public services. However, fill for incidental public service is only allowed “…where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.”

Currently, there are eight existing 16-in x 14-in rectangular piles (total area of 12.8 sq. ft.) that will be removed and eight new 36-in diameter piles (total area of 72 sq. ft.) that will be installed resulting in additional fill. The increase in fill area (soft bottom habitat) will cover approximately 59.2 sq. ft. (72 sq. ft. - 12.8 sq. ft. = 43.2 sq. ft.) similar to what was indicated in the alternatives analysis. However, the applicant identified that the impact area would be higher at 87 sq. ft. (0.002 acre).

The applicant has identified that the proposed eight new 36-in CIDH piles at Bents 2 through 5 (two per bent), have been designed to meet current Caltrans Bridge Design Specifications and Seismic Design Criteria. The new pile design directly addresses the shear, flexure, and embedment deficiencies identified in the 2002 seismic evaluation and provides adequate resistance to the liquefaction hazard identified in the Preliminary Foundation Report. If the project instead was for a complete replacement of the bridge, the same number of piles would be needed but the amount of increased water shading

would be significant 825 sq. ft. (new bridge) to 250 sq. ft. (proposed project). As such, the proposed project is the least environmentally damaging alternative.

Staff communication with past applicants in Newport Bay over the years has indicated that there is a lack of available sites (and any ongoing programs) for mitigation for loss of soft-bottom habitat. In order to mitigate the proposed fill impacts, a Fill Mitigation Plan prepared by Michael Baker International dated July 10, 2023, proposes to mitigate and create seafloor/shoreline near Lower Castaways (City of Newport Beach owned property), located to the north of the project site in Newport Bay. Specifically, the HICA will remove rock, boulders and debris within a .0013 acre-polygon 566 sq. ft.) located below the mean high tide. The materials will be removed by hand and light equipment during low tide and loaded directly into trucks or bins, with no stockpiling on the beach and hauled to a City yard of licensed landfill. This area would exceed the amount of fill area Commission staff identified at approximately 59.2 sq. ft; while the applicant identified that the impact area would be higher at 87 sq. ft. (0.002 acre). As such, a larger amount of proposed “opened up” area is proposed compared to the proposed fill.

The mitigation work effort shall consist of accessing the site through the existing paved parking area, and collection and removal of the rock and debris. Removed material shall be disposed of in an approved landfill. Pre- and Post-photographs of mitigation implementation and permit condition compliance will be provided.

Upon coordination with the City of Newport Beach, the mitigation area was defined due to mitigation success potential, access and ownership. The City has reviewed the plan and approves of the mitigation plan in concept. Once finally approved, the HICA will carry out all condition compliance

However, the submitted Fill Mitigation Plan has some missing information, such as: 1) confirmation that the rock, boulders and debris will be removed within 1 year of project commencement; and 2) a requirement that date-stamped photos are taken at low tide before and after the rock is removed, and that a short narrative explaining the mitigation actions taken is provided. **Special Condition 7** requires the applicant to include this information in the Final Fill Mitigation Plan. Thus, the proposed fill is consistent with Section 30233(a)(4) of the Coastal Act, as it is for an incidental public use, and the proposed piles are the minimum necessary. As conditioned with **Special Condition 7**, which requires the applicant to submit a Final Revised Fill Mitigation Plan that includes the original proposal to mitigate and create seafloor/shoreline near Lower Castaways that includes : 1) confirmation that the rock, boulders and debris will be removed within 1 year of project commencement, and 2) photographic evidence of before and after demonstrating rock was removed and when as further discussed in Special Condition 7. As conditioned, the applicant has demonstrated that the proposed piles are the least environmentally damaging alternative.

After-The Fact Guard Shack

The project also includes the applicant's request for after-the-fact approval for the installation of a guard shack within a paved area immediately adjacent to the Harbor Island-side of the bridge entrance measuring 8 ft, 3-in x 8 ft., 3-in, for a total area of 64 sq. ft. The guard shack will not impact marine resources nor water quality.

Conclusion

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231, and 30233 of the Coastal Act and with the portions of the City's certified LCP used as guidance that generally require maintaining, protecting, and enhancing the biological productivity and the water quality of coastal waters.

C. Public Access and Recreation

Article X, Section 4 of the California Constitution provides:

> No individual, partnership, or corporation claiming or possessing the frontage or tidal lands of a harbor, bay inlet, estuary, or other navigable water in this state shall be permitted to exclude the right of way to such water whenever it is required for any public purpose… and the Legislature shall enact such law as will give the most liberal construction to this provision so that access to the navigable waters of this state shall always be attainable for the people thereof.

Section 30210 of the Coastal Act, Access; recreational opportunities; 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 30610 of the Coastal Act provides, in relevant part:

> Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: . . .
>
> (d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

Section 30250 of the Coastal Act, Location, existing developed areas, states:

> (a)New residential…development…shall be located…where it will not have significant adverse effects, either individually or cumulatively, on coastal resources….

Section 13252 of the Commission regulations provides, in relevant part:

> (a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:
>
> …
>
> (3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:
>
> > (A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;
> >
> > (B) The presence, whether temporary or permanent, of mechanized equipment or construction materials. All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code Section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean.
>
> …
>
> (b) Unless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.

Coastal Land Use Plan, Public Access and Recreation, Shoreline and Bluff Top Access, Shoreline Access, Policy 3.1.1-1 states,

> Protect, and where feasible, expand and enhance public access to and along the shoreline and to beaches, coastal waters, tidelands, coastal parks, and trails.

Coastal Land Use Plan, Public Access and Recreation, Shoreline and Bluff Top Access, Shoreline Access, Policy 3.1.1-9 states,

> Protect, expand, and enhance a system of public coastal access that achieves the following:
>
> > Maximizes public access to and along the shoreline;

Coastal Land Use Plan, Public Access and Recreation, Shoreline and Bluff Top Access, Shoreline Access, Policy 3.1.1-11 states,

> Require new development to minimize impacts to public access to and along the shoreline.

Coastal Land Use Plan, Recreational and Support Facilities, Recreational Opportunities, Policy 3.2.1-1 of the LUP states:

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

Coastal Act Section 30210 requires that maximum public access and recreational opportunities be provided, and that development not interfere with the public's right to access the coast. Section 13252(b) of the Commission's regulations states that unless destroyed by natural disaster, the replacement of 50 percent or more of a single-family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit. Additionally, pursuant to Coastal Act Section 30160(d), a coastal development permit is required for extraordinary methods of repair and maintenance as enumerated in the Commission's regulations, and Section 13252(a) of the Commission's regulations defines that to include most work within coastal waters. Coastal Act Section 30250 states that new development will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Public Access

Section 13252(b) of the Commission's regulations states that unless destroyed by natural disaster, the replacement of 50 percent or more of any other structure is not repair and maintenance under section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit. As such, pursuant to Section 30250 of the Coastal Act, the entire structure that is the subject of the project constitutes new

development that must be located where it will not have significant adverse effects either individually or cumulatively on coastal resources, which include public access. Therefore, public access should be made available with the proposed project, especially as the bridge is located in and over public tidelands and submerged lands in Newport Bay that are administered by the City of Newport Beach.

The project site is located near the Beacon Bay Community where development along the Beacon Bay Community water frontage is mainly comprised of single-family residences. Within this community, vertical public access is available to the beach near the project site from street-ends with the nearest located approximately 200 ft southeast from the bridge. From these access points, members of the public may access bay waters and, for example, launch a kayak or SUP (standup paddle board). The public can also access the beach/public tidelands area along the Beacon Bay Community from the bay.

While public access to the water is available near the project site, the proposed project, which is a replacement structure, and accordingly analyzed as new development, and as such public access should be made available with the project. The Harbor Island Bridge does not provide public access as it is only used for private vehicle and pedestrian access to the private gated community. The applicant has indicated that the proposed project is a repair and maintenance project that does not rise to the level of a replacement structure and provided an analysis stating that the area of change (the new bent caps and new piles) amounts to 8.9% of the total bridge structure and thus does not result in more than 50% demolition and replacement of the existing entire bridge. The applicant contends that the repairs should be evaluated as part of the entire footprint and not just as individual components of the structure and by doing so the amount of change is less than 50% demolition of the existing entire bridge.

The Commission staff engineer analyzed the proposed work and determined that the proposed project is a replacement structure and not a mere repair and maintenance project. By extending all the bent elements and replacing all of the piles, the Commission Staff Engineer determined that this is a case of redeveloping more than 50% of the foundation elements and essentially creating an entirely new foundation for the bridge. Although the applicants are not proposing to technically demolish all of the existing bent caps, encasing them as proposed results in the creation of essentially brand-new pile bent caps that are significantly larger than the existing ones, which increases the capacity of the caps. The new larger piles will also be located in a new position. The proposed project will occupy more submerged lands than the existing bridge and the public access impacts of that expansion and further encroachment must be mitigated. In lieu of providing public access with the proposed project, the applicant has proposed a financial contribution of $10,000 to the FiiN (Fostering Interest in Nature) program in Newport Beach. In partnership with the Newport Bay Conservancy, the City of Newport Beach and the Newport Dunes Resort, the FiiN program provides for fifth graders a free, overnight nature camp that includes 3 days and 2 nights at the Newport Dunes and provides students with an opportunity to explore the coastal areas

of Newport Beach and develop an appreciation for ecology and nature-based recreation. As such, this contribution would support a program that provides a public access opportunity nearby via an established program. Thus, the Commission recommends **Special Condition 9**, which requires the applicant to submit proof of payment to the FiiN program in support of providing increased public access to the coast prior to issuance of the CDP.

Construction Staging and Construction Access

Temporary work platforms (barges) and a construction staging area (Staging Area 1) will be constructed on the north side of the bridge to allow for construction of the new northern CIDH piles. Once construction of these piles are completed, the northern temporary work platforms and construction staging area will be removed. Then, temporary work platforms and a construction staging area (Staging Area 2) will be constructed on the south side of the bridge to allow for construction of the southern CIDH piles.

During construction, the waterway beneath the bridge will be closed off by turbidity curtains to boats and the closures will be for approximately 10 months. As such, there will be public access impacts for waterborne travel under the bridge and access to the submerged lands in that area. A detour plan must be developed with signage, posted or floating, that will alert the public traveling on the water that there is detour for access under the bridge during construction. Thus, the Commission imposes **Special Condition 8**, which requires the applicant to submit a Construction Access Plan.

Conclusion

As conditioned, the Commission finds that the proposed project is consistent with Sections 30210, 30610, and 30250, of the Coastal Act and Section 13252(b) of the Commission's regulations and the City's certified LCP used as guidance regarding the public's right of access to the sea.

D. Unpermitted Development

Violations of the Coastal Act have occurred on the project sites, including but not limited to the construction of a prefabricated guard shack on Harbor Island measuring 8 ft, 3-in x 8 ft., 3-in, for a total area of 64 sq. ft. While this guard shack may currently be unpermitted, the proposed project would permit this development and thus eliminate the unpermitted development.

Consideration of these permit applications by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the

legality of the development undertaken on the subject site without a coastal permit, or of any other development.

E. Local Coastal Program (LCP)

The City of Newport Beach LCP was effectively certified on January 13, 2017. The proposed project is located bayward of the mean high tide line and is thus within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP is advisory in nature and may provide guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act.

F. 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 Planning Department determined on May 4, 2022, and April 16, 2026, that the proposed project is categorically exempt from CEQA pursuant to CEQA Guidelines Class 1 (Section 15301 - Existing Facilities. The City of Newport Beach Harbor Resources Division determined that the proposed development is ministerial or categorically exempt from CEQA on October 5, 2022.

The proposed project is located in an urban area. 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 marine resources, water quality, public access and recreation 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.