



## Legislation Details (With Text)

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**Title:** CONDUCT PUBLIC HEARING FOR NATIONAL CITY BAYFRONT PROJECT AND NATIONAL CITY BALANCED PLAN PORT MASTER PLAN AMENDMENT:  
A. ADOPT A RESOLUTION CERTIFYING THE "NATIONAL CITY BAYFRONT PROJECTS & PLAN AMENDMENTS" FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING THE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING FILING OF THE NOTICE OF DETERMINATION; AND  
B. ADOPT RESOLUTION APPROVING THE "NATIONAL CITY BALANCED PLAN" PORT MASTER PLAN AMENDMENT, AND DIRECTING THE FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION

**Sponsors:**

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**Attachments:** 1. 19. 2022-0278 Attachment A, 2. 19. 2022-0278 Attachment B, 3. 19. 2022-0278 Attachment C, 4. 19. 2022-0278 Attachment D, 5. 19. 2022-0278 Attachment E, 6. 19. 2022-0278A Draft Resolution, 7. 19. 2022-0278B Draft Resolution, 8. 19. ARMS - J. Bora National City Balanced Plan, 9. 19. ARMS - N. Burgess National City Balanced Plan

Date	Ver.	Action By	Action	Result
10/11/2022	1	Board of Port Commissioners	continued	

**DATE:** October 11, 2022

**SUBJECT:**

**CONDUCT PUBLIC HEARING FOR NATIONAL CITY BAYFRONT PROJECT AND NATIONAL CITY BALANCED PLAN PORT MASTER PLAN AMENDMENT:**

- A. ADOPT A RESOLUTION CERTIFYING THE "NATIONAL CITY BAYFRONT PROJECTS & PLAN AMENDMENTS" FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING THE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING FILING OF THE NOTICE OF DETERMINATION; AND
- B. ADOPT RESOLUTION APPROVING THE "NATIONAL CITY BALANCED PLAN" PORT MASTER PLAN AMENDMENT, AND DIRECTING THE FILING WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION

### EXECUTIVE SUMMARY:

On September 23, 2015, the Board of Port Commissioners (Board) directed staff to study land use changes in the National City Marina District (Marina District) that would optimize recreational, maritime and commercial uses. The land use plan that resulted from that public planning process is

commonly known as the “National City Marina District Balanced Land Use Plan” (Balanced Plan), which was presented to the Board on April 14, 2016. At that same Board meeting, the Board directed staff to commence preparation of an environmental impact report (EIR) under the California Environmental Quality Act (CEQA) and process a Port Master Plan Amendment (PMPA) for the following:

- Land use changes associated with the Balanced Plan;
- Pasha Automotive Services’ (Pasha) Tidelands Avenue Closure Project; and
- Permanent alignment of Bayshore Bikeway in National City.

On October 13, 2016, the Board directed staff to add three more components to the EIR, which are separate from the Balanced Plan:

- A recreational vehicle park and eventual hotel development proposed by GB Capital Holdings, LLC (GB Capital);
- A connector rail project proposed by Pasha; and
- A hotel and retail development on property owned by the City of National City (City), off of District tidelands (City Program).

The locations of these six components of the EIR, which are collectively referred to as the “project” or “proposed project,” are shown on Attachment A and are discussed in more detail in the “DISCUSSION” section below. The District, City, GB Capital, and Pasha, as co-applicants and project proponents, are each proposing components that constitute the project that was analyzed in the EIR.

The District, as the lead agency under the California Environmental Quality Act (CEQA), prepared an EIR for the proposed project, as well as a proposed PMPA. The Draft EIR was made available for public review for 50 days beginning on September 29, 2021, and ending on November 17, 2021. The District received 24 comment letters from several agencies, organizations, and individuals, including one late comment letter. Staff determined that the comment letters did not raise any new significant environmental issues not already analyzed in the Draft EIR and therefore, pursuant to Section 15088.5 of the CEQA Guidelines, recirculation of the Draft EIR was not required. The comment letters and responses to all written comments received on the Draft EIR are included in the Final EIR.

A public hearing on the draft PMPA is required, pursuant to the California Coastal Act (Coastal Act), prior to Board approval. Notices of the availability of the draft PMPA and proposed public hearing have been published and distributed consistent with applicable Coastal Act requirements. If approved by the Board, the draft PMPA is anticipated to be heard by the California Coastal Commission (Coastal Commission) for certification in mid to late 2023, and staff anticipates that the draft PMPA and related amendments to City planning documents will need to be processed concurrently with the Coastal Commission.

Staff recommends that the Board conduct a public hearing and adopt a resolution to certify the Final EIR, adopt the Findings of Fact and Statement of Overriding Considerations, and direct filing of the Notice of Determination with the County Clerk and State Clearinghouse. Staff further recommends that the Board conduct a public hearing, adopt a resolution to approve the PMPA, and direct filing of the PMPA with the Coastal Commission for certification. The draft presentation for this item is included as Attachment B.

## **RECOMMENDATION:**

Conduct public hearing for National City Bayfront Project and National City Balanced Plan Port Master Plan Amendment:

- A. Adopt resolution certifying the “National City Bayfront Projects & Plan Amendments” Final Environmental Impact Report, adopt Findings of Fact and Statement of Overriding Considerations, adopt the Mitigation Monitoring and Reporting Program, and direct filing of the Notice of Determination.
- B. Adopt resolution approving the “Revised Balanced Plan” PMPA and directing filing of the PMPA with the California Coastal Commission for certification.

## **FISCAL IMPACT:**

The proposed Board actions would not have a direct fiscal impact to the District.

## **COMPASS STRATEGIC GOALS:**

This agenda item supports the following Strategic Goals.

- A Port that the public understands and trusts.
- A thriving and modern maritime seaport.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port that is a safe place to visit, work and play.
- A financially sustainable Port that drives job creation and regional economic vitality.

## **DISCUSSION:**

The National City Marina District (Marina District) is District property located generally north and west of the Pier 32 Marina in National City. The Marina District includes a mix of park/plaza, marine terminal, marine related industrial, commercial recreation, recreational boat berthing, and street land use designations. The remainder of the National City Bayfront within District jurisdiction is designated with either a marine terminal, marine related industrial, or street land use designation. The City Program, located entirely within City jurisdiction, is designated with either Tourist Commercial or Medium Manufacturing land use designations. Attachment C shows the existing land uses of the project site.

## **Previous Board Direction**

On September 23, 2015, the Board directed staff to commence a study related to land use changes in the Marina District that would include the following:

- Add at least two acres of park space to the Marina District;
- Reconfigure the commercial recreation land use designations north of Pier 32 Marina;
- Adjust adjacent maritime land use designations; and
- Account for buffers from sensitive habitat in the wildlife refuge.

The resulting study, referred to as the National City Marina District Balanced Plan Use Plan, or “Balanced Plan” for short, was the product of public outreach held in late 2015 and early 2016. More specifically, the public outreach consisted of two stakeholder working sessions, which were held in December 2015 and January 2016, and two public design charrettes, which were both held in January 2016 at the Martin Luther King, Jr. Community Center in National City.

At the April 14, 2016 Board meeting, staff presented a summary of the public planning process for the Marina District and the resulting Balanced Plan. The Balanced Plan proposes to reconfigure the land uses to optimize recreational, maritime and commercial uses within the Marina District.

Also at the April 14, 2016 Board meeting, the Board directed staff to add the following project components to the EIR:

- Land use changes associated with the Balanced Plan;
- Pasha’s Tidelands Avenue Closure Project; and
- Permanent alignment of Bayshore Bikeway in National City.

At the October 13, 2016 Board meeting, the Board directed staff to incorporate the following additional project components into the EIR:

- GB Capital Project;
- Pasha Connector Rail Project; and
- City Commercial Project (off of District tidelands).

These project components are collectively the “project” or “proposed project” that was analyzed in the Draft EIR. The locations of these six project components are shown on Attachment A. A brief description of the project components is provided below.

The District, City, GB Capital, and Pasha, as co-applicants and project proponents, are each proposing components that constitute the project that was analyzed in the EIR.

### **Proposed Project**

The proposed project analyzed in the EIR included the following main components:

- Changes to land and water use designations in the District’s Port Master Plan (Balanced Plan Component);
- Construction and operation of a recreational vehicle (RV) park, modular cabins, dry boat storage, up to four hotels, and an expanded marina primarily within the District’s jurisdiction (GB Capital Component);
- Construction and operation of a rail connector track and storage track within the District’s jurisdiction (Pasha Rail Improvement Component);
- Closure of Tidelands Avenue between Bay Marina Drive and 32nd Street as well as West 28th Street between Tidelands Avenue and Quay Avenue within the District’s and City’s jurisdictions and redesignation of the area from Street to Marine-Related Industrial in the District’s Port Master Plan (Pasha Road Closures Component);

- Construction and operation of Segment 5 of the Bayshore Bikeway within the District's and City's jurisdictions (Bayshore Bikeway Component); and
- Construction and operation of hotel, restaurant, retail, and/or a combination of tourist-/visitor-serving commercial development north of Bay Marina Drive (City Program - Development Component).

The project also includes a PMPA to clarify jurisdictional land use authority, redesignate land uses, balance commercial and maritime uses, add projects to the appealable project list and add precise plan language; and amendments to City planning documents (e.g., Local Coastal Program, General Plan, Harbor District Specific Area Plan) that would include changes to jurisdictional boundaries, changes to subarea boundaries, and changes to land use, specific plan, and zone designations.

Through the public process, project proponents requested certain components be removed from the project description. Additionally, as result of public comments, certain project components have been revised. These changes consist of the elimination of certain components of the proposed project, which will result in a reduced or smaller version of the proposed project in the Final EIR. Chapter 2 of Volume 1 of the Final EIR describes the project components that have been eliminated or changed as a result of public comments or at a project proponent's request. None of these project revisions resulted in new or increased environmental impacts or new mitigation measures. Consequently, no new significant information was added to the Final EIR and recirculation is not necessary.

## **Environmental Impact Report**

The "National City Bayfront Projects & Plan Amendments" EIR (UPD #EIR-2018-232; SCH #2018121054) has been prepared in accordance with CEQA (Public Resources Code Section 2100 et seq.), the State CEQA Guidelines, and the District's CEQA Guidelines.

### ***Project Objectives<sup>1</sup>***

In accordance with Section 15124(b) of the CEQA Guidelines, the following objectives were identified for the proposed project:

1. Further activate the project site by modifying the land uses and their configurations to foster the development of high-quality commercial and recreational uses to maximize employment opportunities, maximize recreational opportunities for visitors, maximize economic development opportunities, and improve cargo and transportation efficiencies of maritime industrial uses associated with operations at NCMT.
2. Reconfigure maritime and commercial uses to balance the anticipated future market demands for those uses, while also increasing public access on the project site.
3. Implement cohesive commercial development that is designed to enhance enjoyment of the National City Marina District and surrounding city area, contribute to the area's economic vitality, and generate economic revenue for the City including through increased Transient Occupancy Tax.
4. Increase park space and recreational opportunities to enhance the waterfront experience for all visitors and maximize opportunities to attract tourism to the city.
5. Reduce unnecessary train movements and reduce the required effort associated with building daily trains by improving near-terminal rail storage capacity and creating a more direct connection between the BNSF Railway National City Yard and the NCMT.

6. Offset the loss of existing land used for maritime operations, as proposed in the Balanced Plan, by closing internal District streets (i.e., Tidelands Avenue and West 28th Street) adjacent to existing maritime operations to create contiguous space for maritime operations and configuring cargo operations at and adjacent to the NCMT to create cargo-handling efficiencies to reduce cargo movements.
7. Incorporate District properties into the Port Master Plan that are not currently regulated by the Port Master Plan to ensure consistency with the California Coastal Act, Public Trust Doctrine, and Port Act.
8. Be consistent with the City's environmental policies and the District's Climate Action Plan, Clean Air Program, and Jurisdictional Runoff Management Program to ensure that the proposed project does not adversely affect the District's or City's ability to attain their respective long-range environmental and sustainability goals.
10. Incorporate a land use pattern for the National City Marina District into the Port Master Plan that establishes habitat buffers and implements operational features to avoid land use and operational inconsistencies between commercial, recreational, open space, and maritime uses.
11. Integrate National City art, culture, and history into the development of the proposed project.
12. Increase the connectivity of the project area to the surrounding area and facilitate increased pedestrian activity and enjoyment of San Diego Bay for visitors.

#### *Notice of Preparation and Scoping Meeting*

On December 20, 2018, a Notice of Preparation (NOP) was published, which included an Initial Study determining that a Draft EIR would be needed to evaluate potentially significant impacts to: aesthetics; air quality; biological resources; cultural resources; greenhouse gas (GHG) emissions; hazards and hazardous materials; hydrology and water quality; land use and planning; noise; population/housing; public services; recreation; transportation and traffic; and utilities/service systems. On January 24, 2019, the District held a public Scoping Meeting to solicit comments on the scope and content of the EIR. In response to the NOP solicitation and scoping meeting, the District received 14 comment letters from the following agencies, organizations, and individuals: California Governor's Office of Planning and Research, State Clearinghouse and Planning Unit; California Native American Heritage Commission; Caltrans - District 11; California Department of Fish and Wildlife; California Public Utilities Commission; San Diego Association of Governments; San Diego County Archaeological Society, Environmental Committee; Sweetwater Authority; City of San Diego; Save Our Heritage Organisation; Environmental Health Coalition; Marcus Bush; Margaret Godshalk; and Ted Godshalk.

#### *Draft EIR*

The proposed project's Draft EIR was circulated for public review for 50 days, which began on September 29, 2021 and ended on November 17, 2021<sup>2</sup>. Twenty-four (24) comment letters were received on the Draft EIR from the following agencies, organizations, and individuals:

#### Agencies

United States Fish and Wildlife Service, California Department of Fish and Wildlife, California Public Utilities Commission, California Coastal Commission, California Department of Transportation (District 11), City of National City (2 letters), SANDAG, Los Angeles-San Diego-San Luis Obispo (LOSSAN) Rail Corridor Agency, Sweetwater Authority,

#### Organizations

Save Our Heritage Organisation, San Diego County Archaeological Society, Inc., Environmental

Health Coalition, GB Capital, Lozeau Drury, LLP (representing *Supporters Alliance for Environmental Responsibility* ("SAFER"))

#### Individuals

Silvia Calzada, Lorena Chavez, Margarita Garcia, Carmen Gaxiola, Adriana Medina, Karla Nava Medina, Margarita Moreno, Conchita Villanueva; and one comment letter received after the public review period from: Ted Godshalk and Margaret Avalos Godshalk.

The topics generally covered in the comment letters were related to air quality and health risks; biological resources; GHG emissions and climate change; hydrology and water quality; noise; sea level rise; transportation, circulation, and parking; and cumulative impacts. None of the comments received constituted or resulted in substantial revision or significant new information requiring recirculation under CEQA Guideline §15073.5. Information contained in the District's responses to comments clarifies and further substantiates the conclusions contained in the Draft EIR. The District's written responses to the comment letters are included in the Final EIR, as discussed below.

Below are some of the key determinations that were included in the Draft EIR analysis:

- a) *Impacts Considered Less than Significant*: The Initial Study determined that the EIR Project had the potential to result in significant impacts to a number of CEQA resource areas. However, upon further examination, the Draft EIR found that the project analyzed in the EIR would result in a "less than significant" impact with no mitigation required for Hydrology and Water Quality, Population and Employment, and Public Services and Recreation.
- b) *Impacts Considered Less than Significant with Mitigation Measures Incorporated*: The Draft EIR found that impacts to Aesthetics and Visual Resources; Air Quality and Health Risk (direct and cumulative); Biological Resources; Cultural Resources, Tribal Cultural Resources, and Paleontological Resources; GHG Emissions and Climate Change (with the exception of the significant and unavoidable direct and cumulative impacts identified below); Energy; Hazards and Hazardous Materials, Land Use and Planning; Noise and Vibration (with the exception of the significant and unavoidable impacts identified below); Transportation, Circulation, and Parking (with the exception of the significant and unavoidable impacts identified below); and Utilities and Service Systems, would be reduced to a "Less Than Significant Level" with mitigation measures incorporated. With the mitigation measures identified in the EIR, the EIR Project was found to be less than significant in these CEQA resource areas.

Due to the multiple project components and project proponents, all impacts identify the project component that is responsible for the impact and all mitigation measures identify the applicable project proponent responsible for the mitigation.

- c) *Impacts Considered Significant and Unavoidable*: The Draft EIR found that the EIR Project would have "Significant and Unavoidable" environmental impacts on the following areas:
  - a. Direct impacts related to: GHG Emissions and Climate Change (inconsistency of all project components with District and City Climate Action Plan Numerical Targets, as applicable); Noise and Vibration (short term construction exceedance of City of National City Municipal Code noise standards by the Balanced Plan Component, Bayshore Bikeway Component, City Program - Development Component, GB Capital Component, Pasha Road Closures Component; and potential exceedance of the City's

Municipal Code Noise Standards at Onsite Sensitive Receptors Due to Onsite Operations by the GB Capital Component and the Balanced Plan Component); and Transportation, Circulation, and Parking (vehicle miles traveled generation in exceedance of employment-based thresholds during project operations by the GB Capital Component and City Program - Development Component); and,

- b. Cumulative impacts related to GHG Emissions and Climate Change (inconsistency of all project components with District and City Climate Action Plan Numerical Targets, as applicable), and Transportation, Circulation, and Parking (vehicle miles traveled generation in exceedance of employment-based thresholds during project operations by the GB Capital Component and City Program - Development Component).

There are feasible mitigation measures with respect to the significant and unavoidable environmental impacts; however, the mitigation measures will not fully avoid these impacts and a "Statement of Overriding Considerations" would be needed in order to approve the EIR Project. A Statement of Overriding Considerations allows a lead agency to determine that specific economic, social, or other expected benefits of a project outweigh its potential unavoidable significant environmental risks. The Statement of Overriding Considerations is discussed more below.

- d) *Project Alternatives*: The State CEQA Guidelines require that an EIR present a range of reasonable alternatives that could meet a majority of the project's base objectives, but that would avoid or substantially lessen one or more significant environmental impacts. While several project alternatives were initially considered, three were selected for analysis in this EIR. The alternatives considered, but rejected, included an alternate location alternative, an alternative maintenance building and yard alternative, and a reconfigured recreational resources alternative. These alternatives were rejected because of the failure to meet project objectives, space constraints/land availability, or inability to avoid significant environmental impacts. Further, the Port Act envisions that District-owned parcels be incorporated into the Port Master Plan, as is proposed under the project for the area between Tideland Avenue and Marina Way, and the National Distribution Center and West 32<sup>nd</sup> Street.

The EIR analyzed the following four alternatives:

- *Alternative 1 - No Project/No Build Alternative*: This alternative analyzes impacts that would occur if the proposed project was not implemented and the project site would remain in its existing condition.
- *Alternative 2 - No Waterside Development in Sweetwater Channel Alternative*: This alternative analyzes all landside development contemplated in the proposed project, plus the waterside development within the existing Pier 32 marina basin. However, under this alternative, the marina would not be expanded into the Sweetwater Channel.
- *Alternative 3 - GB Capital Component Phase 1 Only Alternative*: This alternative would analyze the proposed project, except for Phase 2 of the GB Capital Component would be eliminated under this alternative. Hence, under this alternative, the GB Capital Component would not include construction and operation of up to four hotels.
- *Alternative 4 - Reduced Development Intensity Alternative*: Under this alternative, the overall development intensity within the GB Capital Component would be reduced by approximately 50% by reducing the number of proposed hotel rooms. This alternative

would also reduce the height and number of hotel rooms in the City Program - Development Component.

Alternative 4 is considered the environmentally superior alternative, and overall impacts on environmental resources would be reduced compared to the proposed project because it would reduce the height of the hotels and number of rooms proposed under the GB Capital Component and reduce the height of the five-story hotel and number of hotel rooms as part of the City Program - Development Component, which would reduce impacts related to aesthetics and visual resources; air quality and health risk; GHG emissions and climate change; noise and vibration; and transportation, circulation and parking. Alternative 4 would partially meet Objective #8 because the alternative would be consistent (after mitigation) with the City's environmental policies and the District's CAP, Clean Air Program, and Jurisdictional Runoff Management Program. Additionally, with the reduced number of hotel rooms, less economic development opportunities and less transient occupancy tax, hence, Alternative 4 would only partially meet Objectives #1 and #3, respectively. Finally, with less hotel rooms, there would be less visitor-serving opportunities and enjoyment of the Bay, resulting in Alternative 4 only partially meeting Objective #12. All other project objectives would be satisfied. Because Alternative 4 does not meet the basic project objectives, staff is not recommending it be adopted.

### *Final EIR*

The Final EIR consists of six volumes, which are organized as follows:

- Volume 1 contains of the Final EIR, dated September 2022, and is composed of the following:
  - Chapter 1 is an introduction to the Final EIR, including a description of the organization of the Final EIR;
  - Chapter 2 contains an overview of the revisions made to the Draft EIR, which were prepared in response to comments received during the public review period for the EIR;
  - Chapter 3 contains comments received on the Draft EIR and the District's responses to those comments;
  - Chapter 4 contains a list of references used in the Final EIR; and
  - Attachment 1 of the Final EIR is the Mitigation and Monitoring and Reporting Program (MMRP).
- Volume 2 is a revised version of the Draft EIR and includes the executive summary; the introduction; the project description; the project's environmental analysis, impacts and mitigation measures; and project alternatives. The text shown in "tracked changes" in this volume are changes to the text of the Draft EIR and other information added by the District in response to public comments received.
- Volumes 3 through 6 contain the Draft EIR Appendices. Appendix Da (Draft Port Master Plan Amendment associated with the Revised Balanced Plan) and Appendix Ia (Historic Property Survey Report) were added to the Final EIR. Appendix H (Marine Biological Resources Report), Appendix J (Noise and Vibration Data and Calculations), and Appendix K (Transportation Impact Analysis) have been revised since the Draft EIR.

These six volumes collectively constitute the Final EIR. The Final EIR can be accessed on the District's website at:

<https://www.portofsandiego.org/public-records/port-updates/notices-disclosures/ceqa-documents>. This link was also provided to the Board via Board memo on September 28, 2022 and the Final EIR was made available to the public and Board on September 30, 2022. In addition, on September 30, 2022, pursuant to Section 15088(b) of the California Environmental Quality Act Guidelines, the District provided an electronic copy of the District's proposed written responses to all commenters that commented on the Draft EIR.

#### *Mitigation Monitoring and Reporting Program*

As concluded by the Draft EIR and Final EIR, the project would result in significant and unavoidable direct impacts related to GHG emissions and climate change, noise and vibration, and transportation, circulation, and parking; and cumulative impacts related to GHG emissions and climate change, and transportation, circulation, and parking. All other project impacts and cumulative impacts can be mitigated to below a level of significance with the implementation of the mitigation measures outlined in the MMRP. The MMRP is included as Exhibit B to the draft Resolution "Certifying the "National City Bayfront Projects & Plans" Final Environmental Impact Report, Adopting the Findings of Fact and Statement of Overriding Considerations, Adopting the Mitigation Monitoring and Reporting Program, and Directing Filing of the Notice of Determination" attached to this Agenda Sheet.

All mitigation measures have been prepared in compliance with CEQA Guidelines Section 15097. The MMRP identifies the required mitigation measures, the party responsible for carrying them out, and a monitoring and reporting mechanism. Compliance with the MMRP contained in the Final EIR will be included as a condition of any future CDPs for the project components.

#### *Findings of Fact and Statement of Overriding Considerations*

CEQA requires the Board to adopt written findings of fact for all significant project impacts identified in the Final EIR (CEQA Guidelines Section 15091), including impacts that are considered less than significant after mitigation and impacts that are considered significant and unavoidable. Because the direct impacts on GHG emissions and climate change, noise and vibration, and transportation, circulation, and parking, as well as the cumulative impacts on GHG emissions and climate change, and transportation, circulation, and parking, were found to be significant even after the adoption of all feasible mitigation measures, the Board must adopt findings regarding the feasibility of any alternatives that could avoid or substantially reduce the significant and unmitigable impacts. The significant and unavoidable impacts also require the Board to adopt a Statement of Overriding Considerations (SOC) identifying that the District has balanced the specific environmental risks in determining whether to approve the project. Staff recommends the Board find that, pursuant to CEQA Guidelines Section 15093, the benefits of the project analyzed in the EIR, including but not limited to the specific economic, legal, social, technological, and other benefits outweighs its significant adverse environmental impacts and therefore, such impacts are considered acceptable. In particular, the benefits of the overriding benefits of the proposed project include temporary and permanent job creation; economic stimulation for the District, City of National City, and the overall region; and furthering the District's commitment to lower cost visitor and recreational facilities through an expansion of Pepper Park and the Bayshore Bikeway.

Copies of the Findings of Fact and Statement of Overriding Considerations are included as Exhibit A to the draft Resolution "Certifying the "National City Bayfront Projects & Plans" Final Environmental Impact Report, Adopting the Findings of Fact and Statement of Overriding Considerations, Adopting the Mitigation Monitoring and Reporting Program, and Directing Filing of the Notice of Determination" attached to this Agenda Sheet.

## **Port Master Plan Amendment**

The Port Master Plan provides the official planning policies, consistent with a general statewide purpose, for the physical development of the tidelands and submerged lands conveyed and granted in trust to the District. The project components that are under the District's existing planning jurisdiction are within the National City Bayfront, Planning District 5, of the existing Port Master Plan. This planning district is an established developed area with designated Marine-Related Industrial, Marine Terminal, Commercial Recreation, Recreational Boat Berthing, Park/Plaza, Promenade, Street, and other land and water uses. Implementation of the project would require an amendment to the District's existing Port Master Plan to redesignate land uses and clarify jurisdictional land use boundaries on the precise plan map, as well as update the corresponding acreage table and described planned projects in the planning district text and project list, as discussed further below.

### ***Land Use Changes***

The Port Master Plan maps, text, and tables are proposed to be revised to reflect the land and water use designations and planned projects identified in the revised Balanced Plan. These revisions to the Port Master Plan would accommodate a variety of proposed landside uses such as additional park space, habitat buffers, overnight accommodations (RV park, modular cabins, hotels), dry boat storage, connector and storage rail tracks, commercial recreation, and maritime operations; and in-water uses such as new moorings and floating docks, and the addition of a pier platform to place/remove dry boat storage boats in/from the water.

The land use changes would also convert the roadways associated with the Pasha Road Closures Component (i.e., Tidelands Avenue between Bay Marina Drive and 32<sup>nd</sup> Street, and 28<sup>th</sup> Street between Quay Avenue and Tidelands Avenue) from a "Street" land use designation to a "Marine Related Industrial" land use designation. The proposed streets for closure within District property, but are not principally for circulation for marine terminal and related operations and hence, are listed as appealable in the draft PMPA (Coastal Act Section 30715(a)(3)).

The existing Launching Ramp and Marina subareas are proposed to be combined and expanded into a new subarea called the "Marina District." This subarea is the area generally north and west of Pier 32 Marina, including Pepper Park, the boat launch ramp, and the Pier 32 Marina.

### ***Clarify Jurisdictional Boundaries***

The draft PMPA proposes to incorporate two Port District-owned uplands properties into the Port Master Plan (see Attachment D). These uplands properties, which total approximately 11.46 acres and are included in the proposed Balanced Plan, are part of the District's 1994 acquisition of approximately 22.6 acres of upland property in the City. The properties that were part of that acquisition are located north of the Sweetwater Channel and east of the historic mean high tide line (MHTL), and included the area of Pier 32 Marina that is located east of the MHTL.

In 1997, the City's Community Development Commission (CDC) and the District entered into a Memorandum of Understanding (MOU) that specified that the District would undertake a PMPA for the upland area of the future Pier 32 Marina, and the CDC would conduct a Master Plan of the area between Interstate 5 and the historic District tidelands, which included the Project's Uplands Properties.<sup>3</sup> Accordingly, in 1996 the marina site was incorporated into the Port Master Plan, and in 1998, the Uplands Properties were incorporated into the City's Harbor District Specific Area Plan (Harbor District Plan) that is part of the City's Local Coastal Program and were designated with a "Tourist Commercial" land use designation. The "Tourist Commercial" land use designation allows for

uses similar to the Port Master Plan's "Commercial Recreation" land use designation. The MOU, including its subsequent amendments, between the City's CDC and the District expired in 2005.

The draft PMPA would appropriately incorporate the District-owned uplands properties into the Port Master Plan and apply a Marine Related Industrial, Commercial Recreation, or Street land use designation to it, depending on the corresponding area of the Balanced Plan.

If the PMPA is adopted by the Board and certified by the Coastal Commission, the PMPA would allow the District to issue CDPs related to the proposed project. The Draft PMPA is included as Attachment E.

Related to the PMPA, the City is preparing amendments to City planning documents (e.g., Local Coastal Program, General Plan, Harbor District Specific Area Plan) to remove the District-owned uplands properties from those planning documents. District staff anticipates that the draft PMPA and the amendments to the City planning documents will need to be processed concurrently with the Coastal Commission.

### **Public Hearing**

A public hearing on the draft PMPA is required, pursuant to the Coastal Act, prior to Board approval. A Notice of Completion and Public Hearing for the PMPA was published Friday, September 9, 2022 in the *San Diego Daily Transcript*, in accordance with Section 30712 of the California Coastal Act. This provides the required minimum 30-day notice to agencies and the public that the District proposes to approve a PMPA. If approved by the Board, the draft PMPA would be submitted to the Coastal Commission for processing, with an anticipated certification hearing in mid-2023.

Staff recommends the Board conduct a public hearing and adopt a resolution approving the PMPA and direct staff to file the PMPA with the California Coastal Commission for certification.

### **General Counsel's Comments:**

The General Counsel's Office has reviewed the agenda sheet and attachments, as presented to it, and approves them as to form and legality.

### **Environmental Review:**

The proposed Board actions complete the CEQA process for the Project.

The proposed Board actions complies with Section 87 of the Port Act, which allows for the establishment and maintenance of those lands for open space, ecological preservation, and habitat restoration. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the Project is consistent with the Public Trust Doctrine.

### **Diversity, Equity, and Inclusion Program:**

Not applicable.

### **PREPARED BY:**

Anna Buzaitis  
Program Director, Planning Department

**Attachments:**

Attachment A: EIR Project Components  
Attachment B: Draft Presentation for Agenda File No. 2022-0278  
Attachment C: Existing Land Uses  
Attachment D: Upland Parcels Proposed to be Incorporated Into Port Master Plan  
Attachment E: Draft Port Master Plan Amendment

<sup>1</sup> Objective 9, expand aquaculture potential on District tidelands, was removed because GB Capital withdrew its request for aquaculture from the proposed project.

<sup>2</sup> The Draft EIR is on file in the Office of the District Clerk as Clerk Document No. 74430.

<sup>3</sup> The original MOU, dated June 26, 1997, has District Document No. 36077; the Amended and Restated MOU, dated January 18, 2000, has District Document No. 39834; the Amendment to the Amended and Restated MOU, dated August 1, 2001, has District Document No. 42362; and the Second Amendment to the Amended and Restated MOU, dated March 3, 2004, has District Document No. 46725.