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October 16, 2023

San Diego Regional Water Quality Control Board  
Attn: Wileen Manaois  
Director, Development Services  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, CA 92101

VIA EMAIL  
SeaportSD@portofsandiego.org

**Re: Comments – CEQA Scoping for Seaport San Diego Redevelopment Project (UPD #EIR-2022-117)**

Dear Ms. Manaois:

On behalf of the following public interest environmental organizations, including San Diego Coastkeeper (“Coastkeeper”), Surfrider Foundation San Diego County (“Surfrider San Diego”), Environmental Center of San Diego, San Diego Audubon Society, and Sierra Club San Diego Chapter (collectively “Environmental Groups”) please accept the following comments regarding the Notice of Preparation for the Draft Environmental Impact Report (DEIR) for Seaport San Diego Redevelopment Project (UPD #EIR-2022-117) (“Project”).

San Diego Coastkeeper works to protect and restore the waters of the San Diego region through water quality monitoring, advocacy, education, community engagement, and enforcement. Surfrider Foundation is a nonprofit environmental organization that engages a vast volunteer network of ocean users to protect the ocean, waves, and beaches. Surfrider San Diego County represents thousands of ocean recreation users — from surfing to seabird watching and beachgoing — as well as the coastal communities and economies that rely on them throughout the region. The Environmental Center of San Diego’s goal is to protect and enhance the natural environment of San Diego through education, activism and direct action. The non-profit organization works to promote healthy natural systems in San Diego by inspiring a deeper understanding and appreciation of positive environmental change and advocacy while working to

improve the quality of life and economic vitality of our community. The mission of San Diego Audubon Society is to foster the protection and appreciation of birds, other wildlife, and their habitats, through education and study, and advocate for a cleaner, healthier environment.

In order to fulfill the legal requirements of the California Environmental Quality Act (CEQA), the EIR should, among other things, (a) identify a reasonable range of alternatives that includes a “no project” alternative; (b) analyze the broad range of environmental impacts caused by the expansive project; and (c) include measures to mitigate significant environmental impacts of the project, as described below.

### **Legal Background**

An EIR must analyze a “reasonable range of alternatives to the project,” with an emphasis on alternatives which “offer substantial environmental advantages over the project proposal.”<sup>1</sup> The purpose of analyzing alternatives is to assess options for attaining the basic objectives of the project while avoiding or substantially lessening environmental impacts and to evaluate the comparative merits of each alternative.<sup>2</sup> Specifically, “[t]he range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects” in order to “permit a reasoned choice”<sup>3</sup> and “foster informed decision-making and public participation.”<sup>4</sup>

In light of the foregoing, Environmental Organizations offer the following comments.

### **Biological Resources:**

To begin, the footprint of the Project is massive in size and scope, comprising approximately 102 acres, 66 of which are sited over what is currently mostly open water. The Project proposes approximately 128,290 sf of floating docks and gangways and approximately 159 boat slips, the majority of which are for large vessels over 40 feet in length, and many of which are for vessels over 80 feet in length. Existing development within the Project site totals approximately 125,978 square feet (sf) of single- to two-story structures, and 902 parking spaces. The landside portion of the Project proposes ten new buildings ranging from two to 34 stories and comprising approximately 2.7 million sf of mixed-use development, up to 2,050 hotel rooms and 2,250 parking spaces, as well as a 500-foot tower with observation deck, aquarium, butterfly exhibit, event center, beach, commercial, retail, health & wellness facilities, restaurants, and learning center.

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<sup>1</sup> *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 566 (1990); *California Native Plant Society v. City of Santa Cruz*, 177 Cal. App. 4th 957, 982-83 (2009).

<sup>2</sup> 14 CCR § 15126.6

<sup>3</sup> *Id.* § 15126.6(c), (f).

<sup>4</sup> 14 CCR § 15126.6(a). *See also Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 406-07 (1988).

As a preliminary, general comment, in light of sheer magnitude of the Project, Environmental Organizations strongly urge the Port must follow its own policies in the soon-to-be-adopted Port Master Plan Update (“PMPU”), including but not limited to the following:

- Development adjacent to habitat areas occupied by threatened or endangered species shall be in compliance with the federal and California Endangered Species Acts and shall be implemented to protect the health and survival of the species. ECO Policy 1.1.7;
- Development above the water or adjacent to sensitive habitat areas should use ecologically sensitive lighting that is shielded and directed away from the water or sensitive habitat areas, sensor activated, and of the lowest possible color temperature that also meets public safety requirements. ECO Policy 1.1.10;
- Science-based management practices shall be used on Tidelands to guide water, sediment, and natural resource decisions, which includes a suite of programs, conditions, or criteria to protect and enhance ecosystems including restoring and creating wetlands, establishing new mitigation banks for eelgrass, wetlands, or other sensitive habitat types, and enhancing fisheries. ECO Policy 1.1.12;
- Strive to achieve a net increase of wetland habitat acreage from baseline conditions throughout the Bay. ECO Policy 1.1.14;
- The District shall prioritize the use of nature-based solutions composed of natural or sustainable materials that increase shoreline biodiversity and coastal resiliency, including but not limited to living shorelines and wetland and coastal habitat restoration, where feasible and applicable. ECO Policy 1.1.17;
- The District shall maximize habitat connectivity and continuity for intertidal and subtidal habitats within the Bay particularly for those areas that provide habitat and nursery areas for estuarine and marine species. ECO Policy 1.1.21;
- The District shall pursue opportunities to create, preserve, enhance or restore intertidal and subtidal habitats in areas that have historically been impacted by development. ECO Policy 1.1.23.

The waterside development is a large footprint over what is now primarily open water, used and useable by fish, turtles, seals & sea lions, birds, etc. The existing Pierhead Line extends approximately 564 feet from the Navigation Channel in San Diego Bay. The Project proposes to extend the existing U.S. Pierhead Line approximately 354 feet west to only 210 foot clearance of the Federal Navigation Channel. The Project is sited in a pinched bottleneck zone of the bay, already a narrow corridor of the bay between the eastern Bayfront and Coronado. This area lies between the open ocean, and the US natural wildlife refuge in the southern end of the bay where much of the bay’s most productive habitat is located. As such, numerous fish and other aquatic animals must pass through this narrow area during their annual migration or life cycle. As such, the EIR must assess all impacts of the Project’s dramatic narrowing of the open water corridor regarding the increased likelihood of ship strikes of marine life, other behavioral impacts to aquatic fauna, and potential impacts to tidal flow dynamics in the bay..

Environmental Organizations request that the EIR assess and mitigate the extent to which the additional docks, piers, and boats (particularly as many of slips are for very large vessels) impact, reduce, or eliminate existing ecological conditions of the Project area. How will aquatic

flora (particularly sea grasses) fauna be impacted by Project construction, dredging, additional shading, and/or increased boat trips and activity. The footprint alone will significantly reduce the area of foraging and livable space for birds, fish, mammals, turtles, etc. This will require the EIR to thoroughly assess existing ecological conditions of the waterside Project development area, including the extent to which eelgrass is present, as eelgrass serves as a lynchpin of the ecological web, is productive habitat for many species of fish, as well as an excellent carbon sink. Environmental Organizations also request an assessment of whether an increase in commercial fishing boats will impact declining fish populations.

The EIR must also assess and mitigate impacts to all biological resources during the construction phase, which may take up to ten years. Construction activities will cause noise that will have as significant ecological impact, both above and below water. The Project requires driving hundreds of piles deep into floor of the bay, additional fixed pier additions, and thousands of feet of fixed sheet pile breakwater constructed, all of which will have massive noise impacts on above and below water ecological communities. Noise from the final project will also impact biological resources, both day and night, and thus must also be assessed and mitigated. The EIR should also assess the additional boat strikes of aquatic fauna during construction activities. The EIR must also assess various types of pier and pile construction, shape, materials, spacing, etc. How will this waterside development impact the benthic community, broader ecosystem, and the behavior of aquatic species? Indirect impacts must be assessed.

Environmental Organizations request the EIR thoroughly assess and mitigate the noise and light pollution associated with the Project's many added hotels, restaurants, boats, piers, docks, marina areas, and foot traffic. The additional noise and light will impact the behavior of both land-based, and aquatic-based fauna, including degrading the navigation abilities of migrating birds. One recommended mitigation strategy to assess is turning off lights from 11 PM to 6 AM at all times, but especially during bird migration periods.

The Project area is sited in a popular bird corridor. Due to the height of the proposed buildings, many birds will be killed or injured because of collisions with windows. The project also proposes reflective decks for pedestrians, designed to mimic the experience of walking in sky, which may also present a danger for increased bird strikes. Such impacts must be assessed and mitigated, and windows should be designed and constructed incorporating measures to discourage bird strikes.

Environmental Organizations request an assessment of a significantly expanded living shoreline. The currently proposed living shoreline is 52,000 sq feet. As the Project will radically change hundreds of thousands of square feet of marine habitat, Environmental Organizations request additional living shoreline throughout project, and in the optional water cut feature. The Project presents a unique opportunity to improve water quality and ecological richness in San Diego Bay. The EIR must assess an alternative in which all armored shorelines are replaced by living shorelines, eelgrass, tide pools, engineered tidepools using technology such as eConcrete, or other green infrastructure. The assessment must evaluate the multiple benefits of such

replacement, including but not limited to water quality, carbon sequestration, climate resiliency, ecosystem benefits, and aesthetic appeal.

The EIR must also carefully assess all state and federal endangered and threatened species that use not only the Project area, but the nearby areas in San Diego Bay. The EIR must thoroughly evaluate both the construction phase and completed Project's impacts on all such species.

### **Hydrology/Water Quality:**

Although Environmental Organizations encourage more connection with the water, however, we have significant concerns about the proposed urban beach as all of San Diego Bay is impaired for PCBs, PAHs, and mercury. Sediment contamination is rampant, including in the nearby Campbell shipyard site. Studies have shown that PCB contamination was once so rampant that San Diego Bay has its own PCB signature, and that existing sediment contamination constantly stirred by large ship activity, including by massive Navy vessels. In short, while Environmental Organizations prioritize physically connecting the public with San Diego Bay, existing contamination levels are extremely concerning in the context of significantly expanding human contact recreation.

To first assess the feasibility and safety of an urban beach, the EIR must require a robust sediment and water quality monitoring program, which includes monitoring pre-, during-, and post-construction activities. Due to the tidal flow dynamics of the bay, the monitoring locations must be dispersed in multiple locations to determine water and sediment quality.

The NOP explains that the construction of the urban beach would require the excavation an estimated 40,400 cubic yards of sediment. The Embarcadero Marina Park North peninsula was created from the dredging of the bay's shipping channels in the 1970s, when sediment contamination was significantly worse than it is today. As such, this sediment also requires robust monitoring, and the EIR must assess water quality impacts of excavation, and if the sediment is contaminated, contemplate where it will be disposed.

Construction of the waterside project will require extensive dredging and bay floor construction. As previously noted, the Project proposes hundreds of additional piles, and thousands of feet of fixed sheet pile breakwater, and fixed pier additions/extensions. Environmental Organizations are highly concerned with sediment resuspension and contamination. The EIR must contemplate a robust sediment and water quality monitoring program pre-, during-, and post-construction.

The completed Project's 128,290 sf of floating docks and gangways an approximately 159 boat slips will negatively impact quality via copper, zinc, oil and grease, and other pollutants commonly associated with shipyards and marinas. As such, the EIR must require pre-, during-, and post-construction water quality monitoring, and mitigate negative water quality impacts.

The EIR must thoroughly assess all pervious and impervious surfaces, water quality impacts from stormwater, and mitigate for any negative impacts. The NOP called for new landside construction to tie into existing storm drain outfalls. Some storm drain outfalls around the Port, are regularly tidally inundated, threatening flooding, and diminishing functionality and/or limiting BMP options and feasibility. This will be exacerbated by sea level rise. “The District shall encourage the use of biologically engineered stormwater solutions to prevent degradation of coastal wetlands and marine ecosystems, and to reduce stormwater pollution to the Bay.” ECO Policy 1.1.11. As such, the EIR should contemplate entirely new stormwater BMPs and management systems.

The new fish processing facility will contain both dry and cold storage, fish cleaning and cutting, and packaging facilities. Thus, the EIR must assess project for potential impacts from fish waste, rinse/wash water, melted ice, other bacteria laden are properly handled, and assess whether connection to sanitary sewer is planned. The EIR must also water quality impacts from the fish market, such as whether water associated with fish waste, rinse/wash water, melted ice, other bacteria laden water are properly disposed.

### **Sea Level Rise**

In 2018, Section 15126.2 of the CEQA guidelines was revised to clarify that agencies should evaluate any potentially significant impacts from locating development in areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk), taking into account both short-term and long-term conditions in those areas. A lead agency’s analysis must reasonably reflect evolving scientific knowledge and state regulatory schemes. *See* CEQA Guidelines, § 15064.4, subd. (b). Governor Newsom signed SB 1 (Atkins) on September 23, 2021, which establishes the California Sea Level Rise (“SLR”) State and Regional Support Collaborative, which is tasked with: ... “directing the California Coastal Commission to incorporate SLR in all planning, development, and mitigation efforts.” As multiple permits are required for the Project, including from the Coastal Commission, the EIR requires a robust and thorough assessment and climate change and SLR, planning and allowing for climate modeling error, and building long-term resiliency into the project plan.

The Project would also increase existing elevation by up to three feet in Landside Blocks A, B, C, and F. However, California’s coast could face sea-level rise (SLR) of up to one foot by 2050 and 3.5 feet by 2100. Storms are becoming more intense, and water ocean waters are allowing tropical systems to affect our region with more frequency. In addition to the billions of dollars of infrastructure investment, human health and safety is a stake, and thus a rigorous SLR and climate analysis is of paramount importance.

### **Water Supply:**

For water supply impacts, the revised CEQA guidelines clarify that CEQA requires analysis of a proposed project’s possible sources of water supply over the life of the project, the environment impacts of supplying that water to the project, any uncertainties in water supply,

and potential alternatives for water supply. With over 2000 new hotel rooms, restaurants, and aquarium, and other attractions, the EIR must assess the increased water demands of the Project.

### **Noise:**

In addition to the impact ten years of construction noise impacts to the biological resources, this construction will likely impact the public's enjoyment of the surrounding area for a decade.

### **Public Trust:**

“The entirety of the approximate 102-acre Project site is managed in trust by the District and includes public parks and promenades as well as areas that are leased or subleased by existing tenants in Seaport Village, Chesapeake Fish Processing Center, and Tuna Harbor.” According to the Trust Lands Use Plan (TLUP), 8,000 additional acres of tidelands and submerged lands within San Diego Bay to the District on January 1, 2020, and approximately 27 acres of the Project Site is included in the approximately 8,000 acres transferred to the District.

Use and enjoyment of the Project's new amenities is likely easiest for nearby downtown residents (which is very expensive housing), and tourists (in light of over 2,000 hotel rooms). To ensure equitable public access to the Projects new amenities, the EIR must assess the ease or difficulty with which South Bay residents can access this area, including how much parking cost, and the ease with one local communities can reach the Project area via public transit. Environmental Organizations also request the EIR assess the extent to which new docks, piers, and gangways and publicly accessible versus privatized. Most waterside development in San Diego Bay disconnects the public on the shore from the open water of the bay. The same is true of the Project as proposed. Aesthetics, scenic vistas, and connection to water and nature are negatively impacted by placement of large boats between the public and the open water of San Diego Bay.

### **Aesthetics:**

The EIR requires a thorough viewshed and aesthetics analysis. The conversion to multiple buildings hundreds of feet tall, as opposed to one and two-story existing development, will substantially alter vista points from numerous areas along the Bayfront, Coronado, and from boats on the water, impacting the public's enjoyment of the bay. The proposed elevated green strand will need high barricades, and physically moves people further from the water, and therefore they are less likely to see fish, and feel connection with open water and nature. The currently pathway provides the public with close proximity and relatively unobstructed views of the bay. However, with the proposed new boat slips, the public will be treated to a view of boats, piers, and docks, hundreds of feet from the open water in some cases.

**Transportation, Air Quality, and Green House Gases.**

The landside development of the project proposed to increase from 125,978 square feet to 2.7 million square feet, and increased parking from 902 spaces to 2,250 spaces. The EIR must assess GHGs and VMT of the service all of the employees for these large hotels, restaurants, other attractions, service trucks & deliveries, waste management, as well as thoroughly analyze transit options, routes, frequency, stops, etc. for workers, tourists, local public. Trips and congestion will not be limited to the parking that occurs within the project. People will park all over downtown, and walk to these attractions from several blocks away. This is a project impact and must be assessed. The EIR must also assess traffic, trips, trucks for expanded commercial fishing operations, fish processing, and fish market. In addition to the land-based traffic, the Project will lead to a significant increase in boat traffic which must also be assessed. In addition to GHG contributions, during both construction and through the life of the project, the EIR must also assess air pollution and particulate contribution from construction, day-to-day operations, and increased land- and water-based traffic.

Thank you for your consideration of our comments.

Sincerely,

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San Diego Coastkeeper

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