

CALIFORNIA STATE LANDS COMMISSION

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Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

File Ref: SCH #2023110696

Allyson Teramoto
Port of Long Beach
415 W. Ocean Ave.
Long Beach, CA 90802

SENT VIA ELECTRONIC MAIL ONLY (ceqa@polb.com)

**Subject: Notice of Preparation, Notice of Intent for the Pier Wind Terminal
Development Project**

Dear Allyson Teramoto:

The California State Lands Commission (Commission) staff has reviewed the Notice of Preparation (NOP)/Notice of Intent (NOI) prepared by the Port of Long Beach (Port) for the Pier Wind Terminal Development Project (Project). The Port, as the public agency proposing to carry out the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Commission submits these comments and suggestions in its capacity as a trustee agency, pursuant to State CEQA Guidelines section 15386, for projects that could directly or indirectly affect sovereign land and their accompanying Public Trust resources or uses. Staff also provides these comments in keeping with the Commission's responsibility to provide oversight of the State's granted tidelands and submerged lands pursuant to Public Resources Code section 6009.1, subdivision (b). Additionally, if the Project involves activities on State lands, then the Commission will act as a responsible agency.

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009,

subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the ordinary high water mark which is generally marked by the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections. The California Legislature transferred portions of the State's tide and submerged lands to local governmental entities, including the City of Long Beach (City), through Legislative grants. The grantees have fiduciary duties to manage the granted sovereign land for the benefit of the Statewide public consistent with the Public Trust Doctrine and the terms of their grant. The granted lands remain subject to the oversight authority of the State through the Commission.

The State's tide and submerged lands within the City limits were legislatively granted, in trust, to the City pursuant to Chapter 676, Statutes of 1911, and are held subject to the trust as subsequently amended by the Legislature. Through the City's Charter, portions of these Public Trust lands are within the Port and managed by the Long Beach Board of Harbor Commissioners. There are approximately 23 legislative acts which govern the use of the State's tide and submerged lands granted, in trust, to the City. These statutes provide the authority and parameters for use and management by the City of these Public Trust lands and assets.

Project Description

The Project would develop 400 acres in Long Beach Harbor into a terminal for the assembly of offshore wind (OSW) turbine foundations and for the staging and integration of wind turbine generators. The development within the harbor is proposed in the Southwest Long Beach Harbor Planning District (District 6) in the Outer Harbor of the Port, south of the Navy Mole and West Basin, east of the POLA Pier 400 marine container terminal, north of the federal breakwater, and west of the Main Channel, Pier F, and Pier J. Additionally, the Project includes 30 acres for a transportation corridor extending adjacent to and west of the Port of Los Angeles Pier 400 Transportation Corridor to facilitate the receipt, staging, and storage of these components, as well as their integration and assembly. The Project includes site preparation, marine terminal construction, dredging, establishment of wet storage sites, and Project operations. The Initial Study (IS) describes five objectives of the Project: provide waterfront facilities to meet the requirements set forth in the [AB 525 Port Readiness Plan](#); enable California to meet its goal to deploy 25 GW of OSW power by 2045 and the United States to meet its goal to deploy 110 GW of OSW power by 2050 and 15 GW of floating OSW power by 2035; provide economies of scale to reduce the cost of floating OSW technologies by

more than 70% as set forth in the federal Floating Offshore Wind Shot™ initiative; support the Port's Zero Emissions, Energy Resilient Operations Policy objective to support state and federal efforts to develop and supply renewable energy; and provide opportunities for local job creation for OSW developments to maximize economic benefits for the State and United States.

The NOP/NOI acknowledges that Project activities, in particular the dredging of sand for the terminal and transportation corridor, may not all occur within Long Beach Harbor. If a sand borrow site is identified outside of the harbor boundary and within Commission jurisdiction, then an application for a lease will be required. Please contact Kelly Connor (information provided below) for information on the Commission's leasing jurisdiction.

Environmental Review

Commission staff requests that the Port consider the following comments on the NOP/NOI.

General Comments

1. **Project Description**: A thorough and complete Project Description should be included in the Draft Environmental Impact Report (DEIR) and Draft Environmental Impact Statement (DEIS) to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all proposed activities (e.g., types of equipment or methods that may be used, maximum area of impact or volume of sand removed or disturbed, seasonal work windows, locations for dredging borrow and fill, construction schedule and staging areas, etc.), defining the Project area, as well as the details of the timing and length of activities.

Aesthetics

2. **Light Pollution**: The DEIR/DEIS should address aesthetic issues including, but not limited to, changes to the visual setting due to the increased industrialization of this currently aquatic/open area within the Port. The IS identifies potentially significant impacts that will be studied further in the DEIR/DEIS and some may be long-term impacts. These include impacts to scenic vistas, scenic resources along State Scenic Highways, public views, and new sources of light pollution from nighttime lighting changes due to both construction and operations activities. The IS discusses the need to implement "night lighting control strategies" (p. 2-5) for the identified nighttime lighting changes. Please discuss how these strategies would or would not reduce the potentially significant impacts to aesthetics to a less than significant level.

Air Quality

3. **Emissions and Pollutants**: The IS identified potentially significant impacts to air quality which include the cumulatively considerable net increase of criteria pollutants, exposure of sensitive receptors to substantial pollutant concentrations,

and emissions that may result in odors to a substantial population. The DEIR/DEIS should thoroughly describe the impact of the Project on air quality and the efforts to avoid, minimize, and mitigate those impacts.

Biological Resources

4. Sensitive Species and Habitats: The DEIR/DEIS should disclose and analyze all potentially significant effects on sensitive species and habitats in and around the Project area, including special-status wildlife, fish, and plants, and if appropriate, identify feasible mitigation measures to reduce those impacts. While the IS identifies sensitive species that may be impacted by Project activities through queries of California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database, staff recommends the Port also consult with the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS). Consultation with these three agencies will facilitate the Port identifying potentially significant effects on sensitive species and wildlife so that appropriate mitigation measures and required permits may be determined.
5. Invasive Species: The IS does not address the potential impacts to native plant and wildlife species from the colonization or spread of aquatic invasive species (AIS) due to Project activities. The DEIR/DEIS should consider the Project's potential to introduce and facilitate the establishment or proliferation of AIS. For example, construction boats and barges brought in from long stays at distant ports may transport new species to the Project area via ballast water or vessel biofouling, wherein marine and aquatic organisms attach to and accumulate on the hull and other wetted surfaces of a vessel. If the analysis in the DEIR/DEIS finds potentially significant AIS impacts, possible mitigation could include contracting vessels and barges from nearby or requiring contractors to perform vessel cleaning prior to arrival. The CDFW's Invasive Species Program and the Commission's Marine Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at <https://www.wildlife.ca.gov/Conservation/Invasives> and <https://www.slc.ca.gov/misp/>).
6. Construction Noise: The IS includes a discussion regarding noise and vibration impacts on fish, turtles, and marine mammals from Project activities (p. 2-13 and 2-14). The DEIR/DEIS should include a more refined analysis of these impacts, including impacts to birds and bats. Mitigation measures could include species-specific work windows as defined by CDFW, USFWS, and NMFS. Again, staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.

Cultural Resources

7. Submerged Resources: The dredging of 50 million cubic yards (CY) of material and the installation of utilities may impact submerged cultural resources (p. 2-18). The DEIR/DEIS should thoroughly evaluate potential impacts to submerged cultural resources in the Project area. The Commission maintains a shipwrecks database that can assist with this analysis. Please contact Commission staff to obtain shipwrecks data from the database and Commission records for the Project site (see contact information at end of letter for Environmental Review). The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in state waters for more than 50 years is presumed to be significant. Because of this possibility, please add a mitigation measure requiring that in the event cultural resources are discovered during any construction activities, Project personnel shall halt all activities in the immediate area and notify a qualified archaeologist to determine the appropriate course of action.
8. Title to Resources: The DEIR/DEIS should also mention that the title to all archaeological sites, shipwrecks, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the California State Lands Commission, except where transferred by appropriate legal conveyance (Pub. Resources Code, § 6313). Commission staff requests that the Port consult with Commission staff should any such resources on state lands be discovered during construction of the proposed Project. In addition, staff requests that the following statement be included in the DEIR/DEIS's Mitigation Monitoring and Reporting Program: "The final disposition of archaeological, historical, and paleontological resources recovered on State sovereign land under the jurisdiction of the California State Lands Commission must be approved by the Commission."

Greenhouse Gas Emissions

9. Greenhouse Gas (GHG): A GHG emissions analysis consistent with the California Global Warming Solutions Act (Assembly Bill [AB] 32) and required by the State CEQA Guidelines should be included. The IS notes that direct GHG emissions from construction activities, operational equipment exhaust, and indirect GHG emissions from electricity consumption will be evaluated in the Draft EIR/EIS. This analysis should identify a threshold of significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of Project construction and operations activities, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to the extent feasible.

Hazards/Hazardous Materials

10. Hazardous Materials: Staff appreciates that the IS discusses hazards and hazardous materials, including fuels, lubricants, solvents, and other vehicle and equipment maintenance fluids (p 2-28). We also appreciate the discussion of the potential negative impacts associated with dredging activities near contaminated soil located

within the Long Beach Naval Complex (p. 12-29). The DEIR/DEIS should describe the Port's response plan for the accidental release of hazardous materials and plans for disposal of any hazardous materials generated during Project activities.

Hydrology/Water Quality

11. Runoff: The IS has identified potentially significant impacts to hydrology and water quality from the planned project activities which include potential violations of water quality standards by dredging activities, introduction of contaminants or spills through surface runoff, changes in the rate or amount of surface runoff from construction, and changes to the drainage patterns on-site from the construction of the new terminal which could impede or redirect flood flows. The DEIR/DEIS should identify and analyze in further detail any potential discharges, describe how erosion control measures or other best management practices will be used during construction and operation, and identify mitigation measures that will be used to avoid or minimize potentially significant impacts.

Land Use and Planning

12. Land Use: We appreciate the statement in the IS that the Port intends to conduct a land use policy consistency analysis within the DEIR/DEIS (p. 2-38). In addition to the land use policies and regulations listed in the IS, the Port should discuss any potential conflicts with its granting statutes. We furthermore encourage the Port to address land use conflicts or changes that could occur during both construction and operation.

Recreation

13. Public Access: The IS identifies potential impacts to public access points including the South Shore Launch Ramp, Harborlight Landing/Harborlight Yacht Club, Harry Bridges Memorial Park, and Pier H (p. 2-47). In the DEIS/DEIR, please provide a comprehensive description of existing recreational uses and public access to waterways and coastal resources within the Project area and vicinity. One potentially useful resource, among others, is the [State of California Geoportal](#) on public access points.

Tribal Cultural Resources

14. Consideration of Tribal Cultural Resources: AB 52, as discussed in the IS (p. 2-53), includes both procedural *and* substantive requirements, including the requirement that lead agencies strive to avoid significant adverse changes to tribal cultural resources, regardless of whether consultation is requested or occurs, and incorporate mitigation measures recommended by tribes unless the lead agency determines those suggestions are not feasible. Please note that it is the Commission's broader policy to go beyond the requirements of AB 52 by conducting outreach and consultation with all tribes culturally affiliated with a project area, as determined by the Native American Heritage Commission, for a proposed project that may have significant effects on tribal cultural resources. The Commission

strongly encourages early, frequent, and meaningful engagement with all culturally affiliated tribes that may be affected by this Project.

Other Commission Considerations – Commercial and Recreational Fishing

15. Commercial and Recreational Fishing Activities: The DEIR/DEIS should provide details about the Project's impacts, if any, on commercial and recreational fishing including, but not limited to, user conflicts for the mouth of the channel and displacement of fishing activities from important areas, such as docks and storage facilities. If dredging is to occur in fishing grounds, impacts to commercial and recreational fishing should be discussed and mitigation strategies suggested.

Other Commission Considerations – Environmental Justice

16. Environmental Justice Analysis: Environmental justice is defined by California law as “the fair treatment and meaningful involvement of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” (Gov. Code, § 65040.12.) This definition is consistent with the Public Trust Doctrine's principle that management of trust lands is for the benefit of all people.

The Commission adopted and updated its [Environmental Justice Policy and Implementation Plan](#) in December 2018, to ensure that environmental justice is an essential consideration in the agency's processes, decisions, and programs. Through its policy, the Commission reaffirms its commitment to an informed and open process in which all people are treated equitably and with dignity, and in which its decisions are tempered by environmental justice considerations. Among other goals, the policy commits the Commission to strive to minimize additional burdens on and increase benefits to marginalized and disadvantaged communities resulting from a proposed project or lease. Furthermore, the Commission's Environmental Justice Policy aligns with that of its sister agency, the California Coastal Commission.

Industrial facilities and transportation projects have historically been built among traditionally marginalized communities who do not have access to resources to address the environmental and public health impacts that come with these developments, causing an environmental justice issue. According to [CalEnviroScreen 4.0](#), many of the neighborhoods surrounding the Port, especially those located north of the Port, are ranked among the highest in the State (up to the 98th percentile) for their pollution burden, an aggregate scoring of various forms of pollution. In addition, the Census Tracts closest to the Project (Census Tracts 6037294701, 6037294830, 6037294900, 6037296210, 6037297110, and 6037296220) have pollution burden percentiles ranging from 88 percent to 98 percent relative to the rest of the State, depending on the Census Tract. In other words, communities near the Project are disproportionately impacted by various sources of pollution and health hazards, including diesel emissions, toxic releases,

presence of hazardous waste, and groundwater threats. These forms of pollution are known to cause significant human health effects, including cancer, cardiovascular diseases, low birth weights and premature birth, and premature death. Furthermore, these communities are disproportionately impacted by socioeconomic burdens, including poverty, unemployment, and housing burdens.

Adverse health disparities overwhelmingly affect the marginalized communities adjacent to the Port, and this Project may augment such disparities by increasing air pollution. According to the 2019 City of Long Beach [Community Health Assessment](#), “The percentage of adults in Long Beach who currently have asthma (8.6%) is higher compared to the state of California (7.7%). The burden of asthma on Long Beach is also apparent with higher rates of hospital admissions and ER visits for both children and adults, where in all cases the rates exceed those for Los Angeles County and California.” Additionally, zip code 90813 (northeast of the Port) has the highest rates of emergency room visits, with rates that are double the rates for adult asthma compared to Long Beach, Los Angeles County, and California. This same zip code also has the highest rate of child hospitalizations due to asthma. As stated in the IS, this Project would potentially have significant adverse impacts on air quality. Short-term exposure to particulate matters above the Federal or State standards can result in aggravated asthma, acute bronchitis, respiratory symptoms, decreased lung functions, heart attacks, and premature mortality.

Consistent with the [Assembly Bill 525 Draft Strategic Plan for Offshore Wind Development](#), which highlights the need to incorporate environmental justice in the development and deployment of offshore wind, Commission staff suggests that the Port include a detailed section describing the environmental justice community outreach and engagement undertaken in developing the DEIR/DEIS and the results of such outreach. Environmental justice communities often lack access to the decision-making process and experience barriers to becoming involved in that process. It is crucial that these communities are consulted as early as possible in the project planning process. In this manner, the CEQA public comment process can improve and provide an opportunity for more members of the public to provide input related to environmental justice. Commission staff also recommends incorporating or addressing opportunities for community engagement in mitigation measures, community benefit agreements, and project labor agreements.

Other Commission Considerations – Sea Level Rise

17. Sea level rise/flood risk: The project design accounts for approximately 4.3 feet of sea level rise and a 100-year storm surge event by constructing the new terminal to be 16.5 feet above mean lower low water (MLLW) on the north side and 18.5 feet above MLLW on the south side. The projection of 4.3 feet of sea level rise is consistent with the medium-high risk aversion, high emissions scenario for the year 2080 (referencing the Santa Monica tide gauge), from the Ocean Protection Council’s 2018 State of California Sea-Level Rise Guidance. The design is aligned with the Port’s updated Coastal Resiliency Plan (2022), an earlier version of which was submitted to the Commission in compliance with AB 691 (2013). In January

2024, the Ocean Protection Council released the draft State of California [Sea Level Rise Guidance: 2024 Science and Policy Update](#) including new sea level rise projections and guidance for the state, based on the latest science and research from NOAA. In addition, FEMA is expected to release a new flood visualization tool in 2024 that will provide comprehensive flood risk analysis for coastal regions. Commission staff encourages the Port to review these new resources as they become available and adjust the project design as necessary, in accordance with the most recent research and findings, to ensure the entire site (all of the terminal as well as its utility infrastructure) is resilient to sea level rise and climate change, including more frequent and intense storms.

Thank you for the opportunity to comment on the NOP/NOI for the Project. Staff requests that you consider these trustee agency comments as you develop the DEIR/DEIS.

Staff appreciates that the Port added a virtual scoping meeting option during this public comment period. We encourage the Port, at every opportunity, to use the technological tools at its disposal to solicit feedback from as many potentially affected people as possible.

Please send copies of future Project-related documents, including electronic copies of the DEIR/DEIS, Mitigation Monitoring and Reporting Program, Notice of Determination, CEQA Findings and, if applicable, Statement of Overriding Considerations, when they become available, and refer questions concerning environmental review to Amy Vierra, Senior Environmental Scientist, at amy.vierra@slc.ca.gov and Robin Tuohy, Environmental Scientist, at robin.tuohy@slc.ca.gov. For questions about Commission jurisdiction, please contact Reid Boggiano, Public Land Management Specialist, at reid.boggiano@slc.ca.gov and Kelly Connor, Public Land Management Specialist, at kelly.connor@slc.ca.gov. For questions relating to the Commission's Environmental Justice Policy and outreach, please contact Yessica Ramirez, Environmental Justice and Tribal Liaison, at yessica.ramirez@slc.ca.gov. Please send inquiries regarding the Commission's shipwrecks database to Shipwreck.Database@slc.ca.gov.

Sincerely,



Nicole Dobroski, Chief
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cc: Office of Planning and Research
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