
1.0 Introduction

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1.1 DOCUMENT PURPOSE AND LEGAL AUTHORITY

1.1.1 DOCUMENT PURPOSE

This Environmental Impact Report (EIR) is an informational document intended for use by the City of Encinitas (hereafter referred to as “the City”), Responsible and Trustee Agencies, and members of the general public in evaluating the physical environmental effects of the proposed *Batiquitos Bluffs* project.

An Initial Study Checklist and Notice of Preparation (NOP) was prepared for the project by the City pursuant to state CEQA Guidelines (§15082 et seq.), and the NOP was distributed to the California State Clearinghouse, Responsible and Trustee Agencies, and interested members of the public on (September 15, 2006). The Initial Study determined that the proposed project has the potential for significant environmental impacts, and a Project EIR, as defined by CEQA Guidelines (§15161 et seq.), will be required. The "project" consists of the proposed project and its associated approvals, and the subsequent actions necessary to implement the land uses proposed by the project. The following discretionary actions are evaluated by this EIR and are collectively called “the project” throughout this document:

- Tentative Map (TM) No. 05-157 proposes to subdivide the 47.81-gross acre property into 19 single-family residential lots on 6.79 net acres, 2 open space lots on 37.48 acres, and private streets on the remaining 2.27 acres of the site. The remaining 1.27 acres of the site would be utilized for easements and public rights-of-way. Proposed residential lots would range in size from 13,400 to 21,700 net square feet in size. The TM also includes a preliminary grading plan that proposes to grade approximately 9.86 acres (21%) of the project site, with a cut and fill volume of approximately 19,000 cubic yards. Vehicular access to the site would be provided via a right-turn in/out only access from La Costa Avenue.
- Major Use Permit (MUP) No. 05-157 is required pursuant to Section 30.16.020.A.1 of the Encinitas Municipal Code (EMC) in order to allow for Lot Area Averaging. The lot sizes proposed by TM 05-157 would not be consistent with the underlying zoning designation of the site for Rural Residential 1 (RR-1), which requires a Minimum Net Area of 1.0 acre per residential lot. Approval of MUP No. 05-157 would allow lot sizes ranging from 13,400 to 21,700 net square feet in size, as proposed by TM No. 05-157, in exchange for the conservation of sensitive coastal bluffs and wetlands on 37.48 acres of the site as permanent open space.
- Design Review Permit (DR) No. 05-157 is required pursuant to EMC Chapter 23.08 in order to demonstrate project consistency with the City’s Design Review Guidelines as well as other regulations regarding the physical development of the City, including the certified Local Coastal Program. As part of the project, a Landscape Concept/Site Plan has been prepared to address the requirements of EMC Chapters 23.08 and 30.34.030B. The Landscape Concept/Site Plan addresses landscaping, brush management, and site design.
- Coastal Development Permit (CDP) No. 05-157 is required pursuant to EMC Chapter 30.80 because the proposed project site is located within the Coastal Zone of the City of Encinitas.

The CDP is required to demonstrate that the proposed project would be consistent with the City of Encinitas Local Coastal Program (LCP) as described in the General Plan.

This document serves as a Project EIR for the evaluation of physical environmental impacts associated with the proposed project. CEQA Guidelines (§15161) state that:

“This type of EIR should focus primarily on the changes in the environment that would result from the development Project. The EIR shall examine all phases of the Project including planning, construction, and operation.”

Furthermore, CEQA Guidelines (§15126.2[a]) requires that an EIR “identify and focus on the significant environmental effects” of a proposed project. “Effects” and “impacts” have the same meaning and are used interchangeably within this EIR. In the environmental analysis sections of this EIR (Sections 4.0 and 5.0), the existing site conditions are disclosed followed by an analysis of physical impacts that may be caused by implementation of the proposed project. Where the impact analysis demonstrates that a physical effect would or may (without undue speculation) occur and is found to have a substantial or potentially substantial and adverse impact on physical conditions within the area affected by the project, mitigation measures are provided which would minimize the significant effects. This EIR discloses significant environmental consequences which may occur from implementing the proposed project and evaluates the ability of mitigation measures to reduce or avoid impacts. In most cases, the mitigation measures would reduce impacts to below a level of significance. If feasible mitigation measures are not available, the significant effect is identified as one which would result in a significant unavoidable adverse impact.

1.1.2 LEGAL AUTHORITY

According to CEQA Guidelines (§21067, §15367, and §15050 through §15053), the City of Encinitas is the *Lead Agency* under whose authority this document has been prepared. This Project EIR fulfills the environmental review requirements of the California Environmental Quality Act of 1970 (CEQA) for the proposed Tentative Map (TM 05-157), Major Use Permit (MUP 05-157), Design Review Permit (DR 05-157), Coastal Development Permit (CDP 05157), and other implementing actions, and discloses the physical environmental impacts resulting from implementation of the proposed project. This Project EIR is an informational document that will be used by the City of Encinitas, decision makers, and members of the general public in evaluating the physical environmental effects of the proposed project.

Pursuant to CEQA Guidelines (§15123[b][3]), an EIR must contain a summary of issues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects of the project. Acting as Lead Agency, the City of Encinitas will consider the following issues regarding the proposed project: a) evaluation of the Project EIR to determine if the physical environmental impacts are adequately disclosed; b) assessment of the adequacy and feasibility of identified mitigation measures and the potential addition, modification to, or deletion of mitigation measures, standard conditions or project design features; c) consideration of alternatives to the project that would reduce or eliminate significant environmental effects of the project; and d) consideration of project benefits that override the project’s unavoidable and unmitigable significant effects on the environment.

Pursuant to CEQA Guidelines (§15040 through §15043), upon completion of the CEQA review process, the City will have the legal authority to take the following actions:

1. Approve the proposed project;
2. Require feasible changes in any or all activities involved in the project in order to substantially lessen or avoid significant effects on the environment;
3. Disapprove the project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed; and
4. Approve the project even though the project would cause a significant effect on the environment if the Lead Agency (i.e., City of Encinitas) makes a fully informed and publicly disclosed decision that a) there is no feasible way to lessen the effect of avoid the significant effect; and b) specifically identifies expected benefits from the project that outweigh the policy of reducing or avoiding significant environmental impacts of the project.

1.2 SCOPE AND CONTENT OF THE EIR

1.2.1 SCOPE

A Notice of Preparation (NOP) for the Draft EIR, including a description of potential adverse environmental impacts of the proposed project, was distributed to the California State Clearinghouse, Trustee and Responsible Agencies, and other intersected parties on September 15, 2006 for a 30-day public review period. The objective of distributing the NOP was to assist the City in identifying and determining the full range and scope of potential environmental issues of concern so that these issues can be fully examined in this EIR. Written comments received by the City during the NOP process are addressed in this EIR.

The Initial Study, NOP, public review distribution list, and written comments received by the City during the 30-day NOP public review period are contained in Appendix A to this EIR. Issues raised in comments on the NOP are listed below in Table 1-1, *Issues to be Resolved*. The purpose of this table is to present the primary environmental issues of concern. The table is not intended to list every comment raised during the NOP public review period. Regardless of whether or not a comment is listed in the table, all applicable comments received in response to the NOP are addressed in this EIR.

Table 1-1 ISSUES TO BE RESOLVED

a. Potential direct, indirect and cumulative impacts to sensitive biological resources, including sensitive plant communities, sensitive plant and wildlife species and jurisdictional wetlands.
b. Compatibility of the proposed project with the Multiple Habitat Conservation Program (MHCP) and the City of Encinitas' draft MHCP Subarea Plan.
c. Potential impacts to sensitive cultural and historical resources and measures to reduce those impacts.
d. Potential impacts to traffic and circulation, including issues associated with infrastructure potential issues associated with access to the project site.
e. Potential impacts related to storm water runoff and measures to reduce those impacts.
f. Consistency with the Encinitas General Plan, including policies related to aesthetics, land use, population and housing, utilities and public services, geology and recreation.

1.2.2 FORMAT AND CONTENT

The format and content of this document conforms to the requirements of the California Environmental Quality Act (CEQA) and State CEQA Guidelines. Section 2.0 of this EIR describes the environmental setting, including descriptions of the on-site conditions and surrounding land uses and development. Section 3.0 serves as the EIR's Project Description. Sections 4.0 and 5.0 provide analyses of direct, indirect, and cumulative impacts that have the potential to occur from implementation of the proposed project. Land use appropriateness and General Plan land use consistency are discussed in Sections 4.1 and 5.1. Other topical areas required by CEQA are presented in Sections 6.0 through 8.0. The project's required Mitigation Monitoring and Reporting Program (MMRP) is included within the Executive Summary as Section ES.6.

Several technical studies, reports, and supporting documentation that were used in preparing this EIR are bound separately as technical appendices and are available for review at the City of Encinitas Planning and Building Department, located at 505 S. Vulcan Ave., Encinitas, CA. The Technical Appendices include the following:

- A. Initial Study, Notice of Preparation, and Written Comments
- B. Tentative Map No. 05-157
- C. Site Plan and Landscape Concept Plan
- D. General Plan Policies Not Applicable to the Proposed Project
- E1. Archaeological Resources Survey
- E2. Archaeological Resources Evaluation
- F. Geotechnical Investigation
- G1. Biological Resources Technical Report
- G2. Draft Wetland Mitigation and Monitoring Plan
- H. Summer Botanical Survey
- I. Phase I Environmental Site Assessment
- J. Report of Limited Pesticide Sampling and Testing
- K. Traffic Impact Analysis
- L. Hydrology Study
- M. Noise Study
- N. Air Quality Impact Analysis
- O. Written Correspondence

This EIR also references other non-project specific technical studies, analyses, and reports that have been incorporated by reference. Referenced, non-project specific documents are identified in the appropriate section(s) of this document and the relationship between the incorporated part of the referenced document is described. In accordance with CEQA Guidelines (§15150), documents incorporated by reference are available for public review at the physical locations and/or website addresses listed. These and other documents and reference sources used during the preparation of this EIR are identified in Section 8.0, *References*.

Table 1-2, *Index of Required CEQA Topics*, provides a quick reference in locating the CEQA-required sections within this document.

Table 1-2 INDEX OF REQUIRED CEQA TOPICS

CEQA REQUIRED TOPIC	LOCATION
• Table of Contents or Index (§15122)	Table of Contents
• Summary [§15123 (1, 2, and 3)]	Executive Summary
• Environmental Setting (§15125)	Section 2.0
• Project Description (§15124)	Section 3.0
• Environmental Impacts (§15126 and §15126.2[a])	Section 4.0
• Mitigation Measures (§15126.4)	Section 4.0
• Cumulative Impacts (§15130)	Section 5.0
• Significant Environmental Effects of the Proposed Project which Cannot be Avoided if the Proposed Project is Implemented (§15126.2[b])	Section 6.1
• Significant Irreversible Environmental Changes which would be Involved in the Proposed Action should it be Implemented (15126.2[c])	Section 6.2
• Growth Inducing Impacts (§15126.2[d])	Section 6.3
• Effects Not Found to be Significant (§15128)	Section 6.4
• Alternatives to the Proposed Project (§15126.6)	Section 7.0
• Organizations and Persons Consulted (§15129)	Section 8.0

1.3 INTENDED USES OF THE EIR

This EIR is intended to disclose any physical impact that may occur to the environment as a result of project implementation. In addition to being made available to the public as an informational document, the conclusions reached in this EIR will be considered by the Lead Agency (*i.e.*, City of Encinitas) and Responsible and Trustee Agencies in determining whether to grant the various project approvals. A description of each of the roles of the various agencies is provided below, followed by a listing of the various approvals required for the project. This EIR is intended to cover all federal, state, and local government approvals which may be needed to construct or implement the project, whether or not each approval is explicitly listed below.

1.3.1 LEAD AGENCY

State law requires that a public agency be identified as the Lead Agency, which is defined as “the public agency which has the principal authority under CEQA in deciding whether an EIR or Negative Declaration will be required for a project and will cause the document to be prepared. The City of Encinitas has primary discretionary approval over the project’s primary actions, including the decision whether to approve, conditionally approve, or deny the proposed TM, MUP, CDP, and DR. Accordingly, and pursuant to CEQA Guidelines (§21067, §15367, and §15050 through §15053), the City of Encinitas is identified as the Lead Agency for the project.

1.3.2 RESPONSIBLE AND TRUSTEE AGENCIES

State law requires that all EIRs be reviewed by state Trustee and Responsible Agencies CEQA Guidelines (§15205 and 15096). A Trustee Agency is defined in §15386 as “a state agency having jurisdiction by law over natural resources affected by a Project which are held in trust for the people of the State of California.” Per §15381, “the term ‘Responsible Agency’ includes all public agencies

other than the Lead Agency which have discretionary approval power over the Project.” For the proposed project evaluated in this Project EIR, the Regional Water Quality Control Board (RWQCB) and the California Department of Fish and Game (CDFG) are identified as Trustee Agencies. The RWQCB will require a National Pollution Discharge Elimination System (NPDES) Permit and §401 Water Quality Certification to ensure that during and after construction, on-site water flows do not result in siltation, other erosional actions, or degradation of surface or subsurface water quality. A Streambed Alteration Agreement (§1602) would be required from the CDFG for impacts to jurisdictional state streambeds and wetlands. The U.S. Army Corps of Engineers (ACOE) is identified as a Responsible Agency for issuance of a §404 permit for impacts to jurisdictional waters of the U.S. In addition, if it is determined that the proposed project would result in impacts to the coastal California gnatcatcher, a Section 7 consultation and Biological Assessment also would be required from the ACOE (lead agency) and the US Fish and Wildlife Service. The Local Agency Formation Commission (LAFCO) is identified as a Responsible Agency for approval of a boundary adjustment for the cities of Encinitas and Carlsbad that may be required in order to facilitate the proposed improvements within the La Costa Avenue right-of-way. The City of Carlsbad is identified as a Responsible Agency for issuance of a Coastal Development Permit, a Special Use Permit (Floodplain) and a Right-of-Way Permit that may be required for proposed improvements that may be within a City of Carlsbad right-of-way (La Costa Avenue). The Olivenhain Municipal Water District (OMWD) and the Leucadia Wastewater District (LWD) are identified as Responsible Agencies for permits and approvals associated with installation of water and sewer infrastructure to service the project. In addition, the California Coastal Commission (CCC) is identified as a Responsible Agency. Although approval from the CCC is not required for the project, the CCC would have discretionary authority over the project’s Coastal Development Permit if the approval of the Coastal Development Permit is appealed to the CCC by the project applicant or any interested person (EMC §30.80.30.B).

1.4 SUMMARY OF DISCRETIONARY ACTIONS

The City is the Lead Agency for the proposed project, under whose authority this EIR has been prepared. The discretionary actions known to be required and the agencies responsible for their approvals are listed below; however, this EIR covers all state and local government approvals which may be needed to construct or implement the project, whether explicitly listed or not [CEQA §15124(d)]. If, after certification of this EIR, a change in the project scope is proposed that requires discretionary approval that could result in a new or expanded environmental impact not disclosed in this EIR, the Lead Agency is required to conduct additional environmental review pursuant to CEQA requirements.

1.4.1 CITY OF ENCINITAS PLANNING COMMISSION

- a. Approve by resolution Tentative Tract Map No. 05-157.
- b. Approve by resolution Major Use Permit No. 05-157.
- c. Approve by resolution Design Review Permit No. 05-157.
- d. Approve by resolution Coastal Development Permit No. 05-157.
- e. Certify by resolution the *Batiquitos Bluffs* Environmental Impact Report and make appropriate CEQA findings; adopt MMRP and Statement of Overriding Considerations.

1.4.2 SUBSEQUENT DISCRETIONARY ACTIONS

Subsequent discretionary actions may include, but are not limited to, the following:

- a. Decision by the Encinitas City Council, if Planning Commission approval of discretionary permits is appealed.
- b. Decision by the California Coastal Commission, if City approval of Coast Development Permit No. 05-157 is appealed to the Coastal Commission.
- c. LAFCO Boundary Adjustment
 - City Detachment (Uninhabited), City of Encinitas
 - City Annexation (Uninhabited), City of Carlsbad
- d. Grading permits, road improvements, and drainage improvements by the City of Encinitas, to allow implementation of the proposed project.
- e. Coastal Development Permit, Special Use Permit (Floodplain), and a Right-of-Way Permit by the City of Carlsbad to allow implementation of the proposed improvements within the La Costa Avenue right-of-way.
- f. Water system approval by the Olivenhain Municipal Water District to construct the necessary infrastructure to provide domestic water service.
- g. Sewer system approval by the Leucadia Wastewater District to construct the necessary infrastructure to provide sewer service.
- h. National Pollution Discharge Elimination System (NPDES) Permit and §401 Water Quality Certification by the Regional Water Quality Control Board regarding water quality and the prevention of siltation, erosion, or water quality degradation.
- i. Encroachment permit(s) by the City and/or the City of Carlsbad to allow access within their respective rights-of-way, for construction of roadway/circulation and utility improvements.
- j. Section 1602 Permit from the California Department of Fish and Game for impacts to existing fish and wildlife resources (i.e., jurisdictional wetlands and waters).
- k. Section 404 Permit from the U.S. Army Corps of Engineers for the discharge of dredged or fill material into waters of the U.S.
- l. Section 7 [or 10\(a\)](#) Consultation with the U.S. Army Corps of Engineers (lead agency) and U.S. Fish and Wildlife Service, if it is determined that the proposed project could result in direct or indirect impacts to the coastal California gnatcatcher.