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# Chapter 1
# Introduction

This Environmental Assessment/Program Environmental Impact Report (PEIR; State Clearinghouse House [SCH] No. 2015041044) has been prepared pursuant to Government Code Section 65759 to address potential environmental effects associated with the proposed Housing Element Update (HEU) in the City of Encinitas (City). The project includes an update to the 1992 Housing Element (uncertified by State of California Department of Housing and Community Development), including revised goals and policies, along with new, modified, and continuing implementation programs to ensure consistency with current State housing law. The Housing Element is one of the seven mandated elements of a General Plan. The content and process by which a Housing Element is prepared is prescribed in Government Code Section 65583. Housing Element law, enacted in 1969, and subsequently amended over time, requires local governments to adequately plan for existing and projected housing needs of all economic segments of the community. Therefore, a major focus of this HEU addresses the provisions of accommodating future housing growth and identifying specific sites suitable for residential development. As part of this effort, the update integrates updated socioeconomic data, as well as other population and household characteristics to support the development of the Housing Element. In a letter issued to the City, the California Department of Housing and Community Development determined that the City's draft Housing Element meets statutory requirements and directed that the City take certain actions necessary to achieve certification following adoption of the HEU (Appendix A-1).

The HEU includes other conforming General Plan and Municipal Code amendments as necessary for clarification and consistency purposes. Specifically, the HEU includes General Plan Land Use Plan amendments; rezoning of housing sites; Zoning Code amendments; Municipal Code amendments; new Design Guidelines; amendments to the North 101 Corridor Specific Plan, Downtown Encinitas Specific Plan, Encinitas Ranch Specific Plan, and Cardiff-by-the-Sea Specific Plan; a Local Coastal Program Amendment; and the adoption of other programs necessary to implement the Housing Element, as set forth in the implementation program. The HEU also includes an update to the Noise Element, which was found necessary to administer to address relevancy and consistency. A detailed description of the HEU, including the required discretionary approvals, is provided in the Project Description in Chapter 3 of this PEIR.

# 1.1 PEIR Purpose and Legal Authority

## 1.1.1 PEIR Purpose

The purpose of this PEIR is to provide an environmental assessment pursuant to Government Code Section 65759 and, through voluntary compliance with the California Environmental Quality Act (CEQA), to provide public agency decision-makers and members of the public with detailed information about the potential significant environmental effects of the project, possible ways to minimize its significant effects, and reasonable alternatives that would reduce or avoid identified significant effects.

On July 14, 2015, the City and the Building Industry Association of San Diego County (BIA) entered into a Settlement Agreement to resolve litigation filed by the BIA. The Settlement Agreement provides, in part, that the City must adopt: (1) an updated Housing Element; (2) conforming amendments to other General Plan elements; and (3) zoning ordinance amendments needed to implement the Housing Element. The proposed Housing Element, the other General Plan amendments, and the zoning ordinance amendments are all included in the project description in this PEIR.

The Settlement Agreement was incorporated into a Judgment Pursuant to Stipulation entered into by the San Diego County Superior Court on July 22, 2015. The Judgment provides in part that environmental review will be completed under the terms of Government Code Section 65759. Under Section 65759 and the Judgment:

1. CEQA does not apply to "any discretionary actions necessary to bring the Housing Element and relevant mandatory elements of the General Plan into compliance with State Law." Therefore, CEQA does not apply to the following actions included in the project description:

    a. Adoption of the Housing Element;

    b. Adoption of all amendments to the General Plan needed to bring the General Plan into compliance with State law, including:

        i. Amendment to the General Plan Land Use Element for conformance and add language that supports the floating zone program.
        ii. Amendment to Land Use Element Goals 2 and 4 for growth management program modification.
        iii. Amendment to the Community Character and Voters' Rights Initiative portion of the Land Use Element to modify building height limitations and authority to grant land use change approvals in very specific circumstances; and
        iv. Amendment to the North 101 Corridor Specific Plan to remove governmental constraints to housing development (i.e., ground-floor retail requirements and separate lot or air space requirements; and
        v. Required amendments to the Noise Element; and

c. Adoption of zoning and amendments to specific plans as needed (including the North 101 Corridor Specific Plan, the Encinitas Ranch Specific, the Downtown Encinitas Specific Plan, and the Cardiff Specific Plan) to provide sites that can ensure the continued availability to accommodate at least 1,093 lower income units throughout the entire Housing Element planning period utilizing mixed use sites and floating zones. Housing and Community Development (HCD) has stated that the adoption of the zoning as proposed is required for the City's Housing Element to be found in conformance with State law.

2. Even though CEQA does not apply to these actions, the City must complete an Initial Study and prepare an 'environmental assessment' in the form of a Draft Environmental Impact Report if any of the proposed actions may have a significant effect on the environment (Section 65759(a)). This PEIR constitutes the 'environmental assessment' required by Government Code Section 65759.

3. The City has voluntarily agreed to complete the full CEQA process if it can be completed by August 1, 2016. The City intends to issue a Draft EIR, accept comments during the comment period, respond to comments, issue a Final EIR, adopt all feasible mitigation measures, and prepare a Mitigation Monitoring and Enforcement Program as it would for any other City project.

4. Pursuant to Government Code Section 65759 (a)(3), the environmental assessment (this Draft PEIR) is deemed to be part of the City's General Plan.[1]

## 1.1.2 EIR Legal Authority

This PEIR has been prepared by the City as lead agency, in compliance with the criteria, standards, and procedures of the CEQA of 1970 as amended (Public Resources Code, Section 21000 et seq.), and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.).

### 1.1.2.1 Lead Agency

The City is the lead agency for the project, pursuant to Article 4 (Sections 15050 and 15051) of the CEQA Guidelines. The lead agency, as defined by CEQA Guidelines Section 15367, is the public agency that has the principal responsibility and authority for carrying out or

[1] "This judgment expressly incorporates the terms of the attached Settlement Agreement, including but not limited to, the provisions of Government Code Section 65759, which provides in part that the California Environmental Quality Act ("CEQA") 'does not apply to any action necessary to brings its general plan or relevant mandatory elements of the plan into compliance with any court order or judgment under this article,' provided the City will conduct the environmental assessment required by that provision. Pursuant to Section 65759, CEQA does not apply to any discretionary actions necessary to bring the Housing Element and relevant mandatory elements of the General Plan into compliance with State Law."

approving a proposed project. As lead agency, the City of Encinitas Planning and Building Department conducted a preliminary review of the project and determined that a PEIR was required. The analysis and findings in this PEIR reflect the independent, impartial conclusions of the City.

#### 1.1.2.2 Responsible and Trustee Agencies

State law requires that all EIRs be reviewed by responsible and trustee agencies. A Responsible Agency, defined pursuant to CEQA Guidelines Section 15381, includes all public agencies other than the lead agency that have discretionary approval authority over one or more actions involved with project implementation. A Trustee Agency is defined in Section 15386 of the CEQA Guidelines as a state agency having jurisdiction by law over natural resources affected by a project that are held in trust for the people of the state of California.

Responsible/Trustee Agencies for the project include, but are not limited to:

- California Coastal Commission (CCC),
- San Diego County Air Pollution Control District (SDAPCD),
- San Diego Regional Water Quality Control Board (RWQCB),
- State Department of Housing and Community Development (HCD), and
- California Department of Transportation (Caltrans).

The CCC shall make a determination on certifying the Local Coastal Plan Amendment (LCPA). The CCC certification of the LCPA shall be scheduled after the proposed HEU is adopted. The LCPA portion of the HEU and associated amendments shall not be effective unless and until fully certified by the CCC.

The SDAPCD is an agency that regulates sources of air pollution within the county and would be responsible for issuing permits for construction of future projects associated with the HEU. The RWQCB regulates water quality through monitoring of compliance with the regional water quality general permit in accordance with the Clean Water Act (CWA) Section 401 certification process. The RWQCB would have the responsibility of approving the Notice of Intent to comply with the terms of the general permit to discharge storm water associated with future construction activity allowed by the HEU. The RWQCB would also be a Trustee Agency as it holds regional water quality in its trust through the National Pollutant Discharge Elimination System (NPDES) compliance review process. Additionally, Caltrans is an agency that is responsible for the state highway system, including freeway entrance and exit ramps.

# 1.2 EIR Type, Scope, Organization, and Content

## 1.2.1 Type of EIR

This EIR has been prepared as a PEIR, as defined in Section 15168 of the CEQA Guidelines. A PEIR is recommended for a series of actions that are related geographically, as logical parts in a chain of contemplated actions, or in connection with the issuance of plans that govern the conduct of a continuing program [per CEQA Guidelines, Section 15168(a)]. The advantages of a PEIR include the ability to provide a more exhaustive consideration of alternatives and cumulative effects than might be possible in a single project-specific EIR; to avoid duplication of basic policy considerations; and to provide the lead agency with the ability to consider broad program-wide policies and mitigation measures that would apply to specific projects within the overall program [CEQA Guidelines, Section 15168 (b)].

## 1.2.2 PEIR Scope

The scope of analysis for this PEIR was determined by the City as a result of initial project review, consideration of agency and public comments received in response to the Notice of Preparation (NOP) circulated April 10, 2015, and a scoping meeting held on April 23, 2015. The NOP and letters received in response are included in Appendix A-2 of this PEIR.

Through these scoping activities, the project was determined to have the potential to result in the following significant environmental impacts:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural/Paleontological Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Noise
- Population and Housing
- Public Services and Recreation
- Transportation/Traffic
- Utilities and Service Systems

Pursuant to CEQA Guidelines Section 15126, impacts are identified as direct or indirect, short-term or long-term, and assessed on a “plan-to-ground” basis. The “plan-to-ground” analysis addresses the changes or impacts that would result from implementation of the project compared to existing ground conditions. An analysis of the impacts of the project compared to existing adopted plans, a “plan-to-plan” analysis, is presented within Chapter 9, Project Alternatives, under the No Project (Development under the Adopted General Plan) Alternative.

## 1.2.3 PEIR Organization and Content

### 1.2.3.1 Organization and Content

The PEIR has been organized in accordance with the most recent CEQA Guidelines. A brief summary of the organization and content of this PEIR is provided below:

- **Executive Summary** provides a brief description of the project, identification of areas of controversy, a summary of the PEIR analysis, and a summary table identifying significant impacts, proposed mitigation measures, and impact level after mitigation. A summary of the project alternatives and a comparison of the potential impacts of the alternatives with those of the project is also included.

- **Chapter 1.0 Introduction** contains an overview of the legal authority, purpose, and intended uses of the PEIR, as well as its scope and organization. It also provides a discussion of the CEQA environmental review process, including opportunities for public involvement.

- **Chapter 2.0 Environmental Setting** provides a description of the project's regional and local setting including its locational context, existing physical characteristics and land use, available public infrastructure and services, and relationship to other relevant plans.

- **Chapter 3.0 Project Description** provides a detailed description of the project, including background on its development, its main objectives, and key features. The discretionary actions required to fully adopt and implement the project are also described.

- **Chapter 4.0 Environmental Analysis** contains an evaluation of potential impacts for the environmental issues identified in the PEIR scope. Each issue evaluation includes discussion of the existing conditions, including the existing regulatory framework, identification of the thresholds and methodology for determining the significance of impacts, an assessment of potential impacts, and an evaluation of the significance of the impacts in light of the existing regulatory framework and/or new standards proposed in conjunction with the HEU. Where analysis demonstrates that potentially significant impacts could occur, an outline of the regulatory framework, including a mitigation framework for future projects consistent with the HEU is provided and a conclusion regarding the adequacy of the mitigation framework and significance of the impact after consideration of the mitigation framework is stated.

- **Chapter 5.0 Significant Unavoidable Environmental Effects/Significant Irreversible Environmental Changes/Energy** discusses the significant unavoidable or irreversible impacts that would occur with project implementation. This chapter describes the potentially significant irreversible changes that may be expected with implementation of the project and addresses the use of nonrenewable

resources during its construction and operational life. A discussion related to energy, pursuant to Appendix F of the CEQA guidelines also is included.

- **Chapter 6.0 Growth Inducement** evaluates the potential for the project to induce economic or population growth, either directly or indirectly, within the project area and region.

- **Chapter 7.0 Cumulative Impacts** identifies the impacts of the project in combination with other planned and future development in the region.

- **Chapter 8.0 Effects Found Not to be Significant** identifies all of the issues (agricultural and forestry resources and mineral resources) determined in the scoping and preliminary environmental review process to be not significant based on CEQA criteria, and briefly summarizes the basis for these determinations.

- **Chapter 9.0 Alternatives** provides a description and comparative analysis of the project alternatives, including the Alternatives Considered but Rejected; the No Project (Development under the Adopted General Plan) Alternative, and the Sustainable Mixed Use Places (SMUP) Alternative. A summary and tabular comparison of the three housing strategies and the alternatives is included in Chapter 9.0. Finally, as required by CEQA Guidelines Section 15126.6(e)(2), the PEIR identifies the environmentally superior alternative.

- **Chapter 10.0 References Cited** lists all of the reference materials cited in the PEIR.

- **Chapter 11.0 Individuals and Agencies Consulted** identifies all of the individuals and agencies consulted during preparation of the PEIR.

- **Chapter 12.0 Certification** identifies all of the agencies, organizations, and individuals responsible for the preparation of the PEIR.

### 1.2.3.2 Technical Appendices

Technical appendices, used as a basis for much of the environmental analysis in the PEIR, have been summarized in the PEIR, and are printed under separate cover as part of the PEIR. The technical appendices are available for review at the City of Encinitas Planning and Building Department at 505 South Vulcan Avenue, Encinitas, California 92024.

### 1.2.3.3 Incorporation by Reference

As permitted by CEQA Guidelines Section 15150, this PEIR has referenced several technical studies and reports. Information from these documents has been briefly summarized in this PEIR, and their relationship to this PEIR described. These documents are included in Chapter 10.0, References Cited, and are hereby incorporated by reference. They are available for review at the City of Encinitas Planning and Building Department at 505 South Vulcan Avenue, Encinitas, California 92024.

# 1.3 PEIR Intended Use and Review Process

## 1.3.1 PEIR Intended Use

This document is intended to be used by the City, as lead agency, in evaluating the HEU and related amendments. In addition, as a PEIR, this document is intended to be used by the City when taking action on subsequent applications for development on the housing sites consistent with the HEU, to ensure compliance with the housing goals and policies, zoning, design guidelines of the project, and mitigation framework.

## 1.3.2 PEIR Process

The PEIR review and certification process occurs in two basic stages. The first stage is the Draft PEIR, which offers agencies and the public the opportunity to comment on the document. The second stage is the Final PEIR, which provides the basis for approving the project.

### 1.3.2.1 Draft PEIR

In accordance with Sections 15085 and 15087 (a) (1) of the CEQA Guidelines and the City's CEQA Supplemental Regulations, upon completion of the Draft PEIR a Notice of Completion is filed with the State Office of Planning and Research and notice of availability of the Draft PEIR is issued in a newspaper of general circulation in the area.

The Draft PEIR is distributed for review to the public and interested and affected agencies for the purpose of providing comments "on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated" (Section 15204, CEQA Guidelines).

The Draft PEIR and all related technical studies are available for review during the public review period at the offices of the City of Encinitas Planning and Building Department at 505 South Vulcan Avenue, Encinitas, California 92024. Copies of the Draft PEIR are also available at the following public location:

Encinitas Branch Library
540 Cornish Drive
Encinitas, California 92024

The draft PEIR can be downloaded from the City's website at: http://www.athomeinencinitas.info/documents/.

### 1.3.2.2 Final PEIR

Following public review of the Draft PEIR, the City will provide written responses to comments per CEQA Guidelines Section 15088 and will consider all comments in making its decision to certify the Final PEIR. Responses to the comments received during public

review, associated revisions to the Draft PEIR sections, a Mitigation Monitoring and Reporting Program, Findings of Fact, and a Statement of Overriding Considerations (if applicable) for any impacts identified in the Draft PEIR as significant and unmitigated, will be prepared and compiled as part of the Final PEIR. Findings of Fact and a Statement of Overriding Considerations are required for any impacts identified in the Draft PEIR as significant and unmitigated. The PEIR identified significant and unavoidable impacts relative to aesthetics, air quality, cultural resources, greenhouse gas emissions, land use, and traffic/circulation; therefore, a Findings of Fact and a Statement of Overriding Considerations will be prepared.

The culmination of this process is a public hearing where the City Council will determine whether to certify the Final PEIR as being complete and in accordance with CEQA. The Final PEIR will be available for public review at least 14 days before the decision-making bodies make a recommendation or final determination, in order to provide commenters the opportunity to review the written responses to their comment letters.

### 1.3.3 Subsequent Environmental Review

As allowed in CEQA Guidelines Section 15168, *Program EIR*, future development proposals within the project area will be reviewed in light of the Final PEIR by the City. The PEIR and subsequent project review process, defined in Section 15168 of the CEQA Guidelines, allows a PEIR to serve as the basis for environmental review of subsequent projects. Sections 15182 and 15183 of the CEQA Guidelines provide additional review guidance for projects proposed in accordance with an adopted specific plan, or consistent with an adopted community plan, general plan, or zoning.

If any future projects within the HEU area have potentially significant adverse environmental effects that were not examined in this PEIR, an Initial Study would be prepared for that project, leading to the preparation of either a Negative Declaration, Mitigated Negative Declaration, focused EIR, or supplement to this PEIR. When additional environmental documentation for a new project is necessary, this PEIR may be incorporated by reference to address regional context, secondary effects, cumulative impacts, alternatives, and other factors that apply to the program as a whole.

Additional information on future project approvals and procedures is included in Section 3.7 of this PEIR.