

## Section 3.9

### Land Use and Planning

---

This section addresses the existing land use and planning conditions of the affected environment and evaluates project consistency with applicable environmental goals and policies. Analysis in this section draws upon data in the *City of Encinitas General Plan* (City of Encinitas 1991) and the *City of Encinitas 2013-2021 Housing Element Update Environmental Assessment* (City of Encinitas 2018).

#### ENVIRONMENTAL SETTING

The project site is located northeast of the intersection of Piraeus Street and Plato Place, in the Leucadia community of Encinitas. The site is bordered by Plato Place to the south and Piraeus Street to the west. Surrounding land uses include single-family residences directly to the east and at a distance to the southeast/south; Piraeus Street and I-5 to the west; and vacant land and Sky Loft Road to the north. La Costa Avenue is located adjacent to the north of the off-site preserve area.

The site is located on the eastern side of a drainage that empties into Batiquitos Lagoon to the north, at the western edge of a developed suburban neighborhood setting, and just east of the northbound I-5 freeway. The property is currently undeveloped, vacant land, with a mix of vegetation communities.

The project site is comprised of County assessor parcel number (APN) 254-144-01-00, which is approximately 6.88 acres in size. The proposed off-site preserve area would be comprised of APN 216-110-35-00; residential development would occur on APN 254-144-01-00.

The City of Encinitas General Plan land use and zoning designations for the subject property are Rural Residential 2 (RR-2), with an R-30 overlay covering the project site as part of the City's General Plan Housing Element. Per the R-30 overlay zone that applies to this parcel, up to 161 residential units could be developed without application of allowances under state Density Bonus laws (5.36 net acres x 30 DU/acre). With the application of a density bonus, the project could support up to 310 homes [(6.88 gross acres x 30 DU/acre) x 1.5 density bonus]. Additionally, the project site is within the coastal zone, placing it under the jurisdiction of the Coastal Commission and the Local Coastal Program (LCP). No changes to the existing land use or zoning are required or proposed to allow for project implementation.

## REGULATORY FRAMEWORK

### *State*

#### **California Planning and Zoning Law**

California Planning and Zoning Law, Government Code Sections 65000–66499.58 set forth the legal framework in which California cities and counties exercise local planning and land use functions. Under state planning law, each city and county must adopt a comprehensive, long-term general plan. State law gives cities and counties wide latitude in how a jurisdiction may create a general plan, but there are fundamental requirements that must be met. These requirements comprise the inclusion of seven mandatory elements described in the Government Code, including a section on land use. Each of the elements must contain text and descriptions setting forth objectives, principles, standards, policies, and plan proposals; diagrams and maps that incorporate data and analysis; and mitigation measures. The City of Encinitas General Plan is summarized below.

### *Regional*

#### **2050 Regional Transportation Plan and Sustainable Communities Strategy**

Regional Transportation Plans (RTPs) are developed to identify regional transportation goals, objectives, and strategies. Such plans are required to be prepared in conformance with the goals of Senate Bill (SB) 375 aimed at reducing regional greenhouse gas emissions from automobiles and light-duty trucks through changes in land use and transportation development patterns.

The San Diego Association of Governments (SANDAG) serves as the Regional Transportation Agency for the Southern California region and is therefore required to adopt and submit an updated RTP to the California Transportation Commission and Caltrans every 4 to 5 years, based on regional air quality attainment status. Working with local governments, SANDAG is required by federal law to prepare and implement an RTP that identifies anticipated regional transportation system needs and prioritizes future transportation projects.

The 2050 Regional Transportation Plan and Sustainable Communities Strategy (RTP/SCS) provides guidance for investing an estimated \$208 billion in local, state, and federal transportation funds anticipated to be available within the San Diego region over the next three decades. The 2050 RTP plans for a regional transportation system that enhances quality of life, promotes sustainability, and offers varied mobility options for both goods and people. The plan addresses improvements for transit, rail and bus service, express and managed lanes, highways, local streets, bicycling, and walking to achieve an integrated, multimodal transportation system by 2050. In accordance with the requirements of SB 375, the plan includes a Sustainable

Communities Strategy that provides regional guidance for reduction of GHG emissions to state-mandated levels over upcoming years. The 2050 RTP/SCS are components of *San Diego Forward: The Regional Plan*, adopted by SANDAG in 2019.

### ***Local***

#### **City of Encinitas General Plan and Certified Local Coastal Program**

The City of Encinitas General Plan serves as a policy document that provides long-range guidance to City officials responsible for decision-making with regard to the City's future growth and long-term protection of its resources. The General Plan is intended to ensure decisions made by the City conform to long-range goals established to protect and further the public interest as the City continues to grow and to minimize adverse effects potentially occurring with ultimate buildout. The City of Encinitas General Plan also provides guidance to ensure that future development conforms to the City's established plans, objectives, and/or policies, as appropriate.

The California Coastal Act (Public Resources Code Section 30000 et seq.) is intended to protect the natural and scenic resources of the Coastal Zone. All local governments located wholly or partially within the Coastal Zone are required to prepare a Local Coastal Plan (LCP) for those areas of the Coastal Zone within its jurisdiction. More than half of Encinitas lies within the boundaries of the California Coastal Zone (approximately 7,875 acres of a total 13,266 acres in the City).

The City of Encinitas General Plan includes issues and policies related to California Coastal Act requirements; therefore, the City of Encinitas General Plan serves as an LCP Land Use Plan for the City. The LCP incorporates land use plans for future development in the Coastal Zone, provisions of the City's Zoning Regulations, zone overlays for sensitive resources, and other implementing measures to ensure the protection of coastal resources. Projects within the Coastal Zone Overlay are subject certain design restrictions for developing in the Coastal Zone (building height limits, retaining view corridors, maintaining coastal access, protection of coastal resources, etc.).

The state's goals for the Coastal Zone include the following:

- Protect, maintain, and where feasible, enhance and restore the overall quality of the Coastal Zone environment and its natural and artificial resources.
- Assure orderly, balanced utilization and conservation of Coastal Zone resources taking into account the social and economic needs of the people of the state.

- Maximize public access to and along the coast and maximize public recreational opportunities in the Coastal Zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.
- Assure priority for coastal-dependent and coastal-related development over other development on the coast.
- Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the Coastal Zone.

For those lands located within the Coastal Zone, any conflicts that occur between the Land Use Plan and any policy or provision of the General Plan that is not a part of the LCP, the Land Use Plan takes precedence. Any such conflicts shall result in identifying a resolution that achieves the highest degree of protection for resources in the Coastal Zone.

General Plan and LCP goals and policies applicable to the project include the following:

*Land Use Element*

**Policy 1.13:** In areas identified as susceptible to brush or wildfire hazard, the City shall provide for construction standards to reduce structural susceptibility and increase protection. Brush clearance around structures for fire safety shall not exceed a 30-foot perimeter in areas of native or significant brush, and as provided by Resource Management Policy 10.1.

**GOAL 3:** **To assure successful planning for future facilities and services, and a proper balance of uses within the City, the City of Encinitas will establish and maintain a maximum density and intensity of residential and commercial uses of land within the City which will:**

- a) provide a balance of commercial and residential uses which creates and maintains the quality of life and small-town character of the individual communities; and
- b) protect and enhance the City's natural resources and indigenous wildlife.

**GOAL 6:** **Every effort shall be made to ensure that the existing desirable character of the communities is maintained.**

- Policy 6.5: The design of future development shall consider the constraints and opportunities that are provided by adjacent existing development. (Coastal Act/30251)
- GOAL 7: Development in the community should provide an identity for the City while maintaining the unique identity of the individual communities.**
- Policy 7.6: Private development shall coordinate with street/public improvements, i.e. streetscape, landscape, site design and the like.
- GOAL 8: Environmentally and topographically sensitive and constrained areas within the City shall be preserved to the greatest extent possible to minimize the risks associated with development in these areas. (Coastal Act/30240/30253) Goal 8 amended 5111195 (Reso. 95- 32)**
- GOAL 9: Preserve the existence of present natural open spaces, slopes, bluffs, lagoon areas, and maintain the sense of spaciousness and semirural living within the I-5 View Corridor and within other view corridors, scenic highways, and vista/viewsheds as identified in the Resource Management Element. (Coastal Act/30240/30251)**

*Resource Management Element*

- Policy 10.1: The City will minimize development impacts on coastal mixed chaparral and coastal sage scrub environmentally sensitive habitats by preserving within the inland bluff and hillside systems, all native vegetation natural slopes of 25% grade and over other than manufactured slopes. A deviation from this policy may be permitted only upon a finding that strict application thereof would preclude any reasonable use of the property (one dwelling unit per lot). This policy shall not apply to construction of roads of the City's circulation element, except to the extent that adverse impacts on habitat should be minimized to the degree feasible. Encroachments for any purpose, including fire break brush clearance around structures, shall be limited as specified in Public Safety Policy 1.2, brush clearance, when allowed in an area of sensitive habitat or vegetation, shall be conducted by selective hand clearance (Coastal Act/30240/30250/30251/30253).

Additionally, the Resource Management Element of the City's General Plan identifies a number of visual resources within the City's boundaries that are considered to contribute to the scenic quality of the local Encinitas community as well as the larger region. The Resource Management

Element identifies a variety of scenic vista points, defines critical viewsheds, and identifies scenic roadways and scenic view corridors (City of Encinitas 2016).

The Resource Management Element identifies two proposed “scenic vista points” within the vicinity of the project site; one at the northwest corner of I-5/La Costa Avenue (southbound off-ramp) and one at the northeast corner of I-5/La Costa Avenue (northbound on-ramp); refer to Figure 3.1-1A, Scenic Resources. The Resource Management Element identifies these points as those “to be acquired and developed” (City of Encinitas 2016). These vista points lie off-site to the north of the subject property.

Additionally, the City’s Resource Management Element requires the City to designate Scenic/Visual Corridor Overlay areas within which the character of proposed development is regulated to protect the integrity of the City’s designated vista points (e.g., the potential vista points to the north of the project site). Critical viewsheds are defined in the Resource Management Element as those areas that extend radially for approximately 2,000 feet from the vista point and cover areas upon which development could potentially obstruct, limit, or degrade the view (City of Encinitas 2016).

Interstate 5 is identified as a designated Scenic View Corridor in the vicinity of the project site (City of Encinitas 2016; refer to Figure 3.1-1A, Scenic Resources). Development within such critical viewshed areas is subject to City design review to ensure that building height, bulk, roofline, color, and scale do not limit or degrade existing views and that landscaping is used to screen undesirable views. Additionally, La Costa Avenue from just west of I-5 to El Camino Real is designated by the City as being a scenic road (City of Encinitas 2016; see Figure 3.1-1A).

The Resource Management Element also designates “Station White,” located approximately 0.34 miles east of the project site, as a historic viewshed (City of Encinitas 2016). Station White is located directly east of Gascony Road and is identified by the City as a historic overlook that served as an observation post during World War II, due to the clear views it provided to the Pacific Ocean.

#### *Public Safety Element*

Policy 1.2: Restrict development in those areas where slope exceeds 25% as specified in the Hillside/Inland Bluff overlay zone regulations of the zoning code. Encroachment into slopes as detailed in the Hillside/Inland Bluff overlay may range from 0 percent to a maximum of 20 percent, based on a sliding scale of encroachment allowances reflective of the amount of the property within steep slopes, upon the discretionary judgement that there is no feasible alternative siting or design which eliminates or substantially reduces the need for such encroachment, and it is found that the bulk and

scale of the proposed structure has been minimized to the greatest extent feasible and such encroachment is necessary for minimum site development and that the maximum contiguous area of sensitive slopes shall be preserved. Within the Coastal Zone and for the purposes of this section, "encroachment" shall constitute any activity which involves grading, construction, placement of structures or materials, paving, removal of native vegetation including clear-cutting for brush management purposes, or other operations which would render the area incapable of supporting native vegetation or being used as wildlife habitat. Modification from this policy may be made upon the finding that strict application of this policy would preclude any reasonable use of property (one dwelling unit per legal parcel). Exceptions may also be made for development of circulation element roads, local public streets or private roads and driveways which are necessary for access to the more developable portions of a site on slopes of less than 25% grade, and other vital public facilities, but only to the extent that no other feasible alternatives exist, and minimum disruption to the natural slope is made. Policy 1.2 amended 5/11/95 (Reso. 95-32).

Policy 1.3: In areas identified as susceptible to brush or wildfire hazard, the City shall provide for construction standards to reduce structural susceptibility and increase protection. Brush clearance around structures for fire safety shall not exceed a 30-foot perimeter in areas of native or significant brush, and as provided by Resource Management Policy 10.1.

### **City of Encinitas Housing Element 2019**

In March 2019, the City Council adopted the Housing Element Update (HEU) which provides the City with a coordinated and comprehensive strategy for promoting the production of safe, decent, and affordable housing for all within the City. The purpose of the HEU is to ensure the City establishes policies, procedures, and incentives to increase the quality and quantity of the housing supply in the City.

The HEU includes the 2013-2021 Housing Element Update and a series of discretionary actions to update and implement the City's Housing Element. As part of the approvals, the project site was designated with an R-30 overlay (maximum 30 dwelling units per net acre). Relevant policies and goals related to land use and planning are provided below.

**GOAL 3:**                    **The City will encourage the maintenance and preservation of the existing housing stock as well as quality design in new housing.**

- Policy 3.1: Where determined to be dangerous to the public health and safety, substandard units in the City shall be repaired so that they will comply with the applicable building, safety and housing codes. When compliance through repair is not or cannot be achieved, abatement of substandard units shall be achieved.
- Policy 3.2: Enforce the building, safety and housing codes through vigorous code enforcement efforts.

### **City of Encinitas Municipal Code**

As part of the City's Municipal Code, the Zoning Regulations (Title 30) are used as an implementation mechanism for achieving the goals, objectives, and policies identified in the General Plan. While the General Plan land use designations provide basic criteria and guidelines for future development in the City, specific development standards are included in the Zoning Regulations to better define such guidelines. The land use designations identified in the General Plan Land Use Element correspond to the boundaries of one or more zoning districts identified on the City's Zoning Map (i.e., specific plan areas).

The City's Municipal Code establishes noise criteria to prevent noise and vibration that may jeopardize the health or welfare of the City's citizens or degrade their quality of life. Chapter 9.32, Noise Abatement and Control, and Chapter 30.40, Performance Standards, establish property line noise level limits. These limits apply to existing uses, but also apply to future uses and are used for evaluating potential impacts of future on-site generated noise levels.

As stated in Section 30.40.10 of the Municipal Code, "Every use shall be so operated that the noise generated does not exceed the following levels at or beyond the lot line and does not exceed the limits of any adjacent zone." Additionally, Section 30.40.10 (B) of the Municipal Code identifies property line ground vibration limits. The Code states that "Every use shall be so operated that the ground vibration generated at any time and measured at any point along the lot line of the lot on which the use is located shall not be perceptible and shall not exceed the limits of any adjacent zone."

#### *Special Study Overlay Zone*

The project site is located within a Special Study Overlay Zone. The Special Study Overlay designation is used for preserving environmentally significant areas, as well as indicate those areas where development standards will be more stringent to minimize potential hazards to future development. A special study is required within this zone to assess the slopes on-site.

The Hillside/Inland Bluff Overlay Zone regulations apply to all areas within the Special Study Overlay Zone where site-specific slope analysis indicates that 10 percent or more of the natural



area of a parcel of land exceeds 25 percent slope. A site-specific slope analysis has been performed for the project area.

#### *Scenic/Visual Corridor Overlay Zone*

Section 30.34.080, Scenic/Visual Corridor Overlay Zone, of the Municipal Code provides provisions for lands located within the City's Scenic/Visual Corridor Overlay Zone. The zone applies to all properties within the scenic view corridor along scenic highways and adjacent to significant viewsheds and vista points as identified on the visual resource sensitivity map of the General Plan Resource Management Element. Development within the overlay zone is subject to consideration for overall visual impact of the proposed project and conditions or limitations on project bulk, mass, height, architectural design, and grading. Other visual factors may also be applied to design review approval and shall be applied to coastal development permit approval.

#### **City of Encinitas Climate Action Plan (CAP)**

The City's Climate Action Plan (CAP) was adopted in January 2018 and was most recently updated and adopted on November 18, 2020. The CAP serves as a guiding document and outlines a course of action for community and municipal operations to reduce GHG emissions and the potential impacts of climate change within the jurisdiction. The CAP benchmarks GHG emissions in 2012 and identifies what reductions are required to meet GHG reduction targets based on state goals embodied in AB 32. The 2020 CAP Update incorporates the HEU residential units into the business-as-usual projection and legislatively adjusted projection and presents associated updates and revisions to the CAP measures. The CAP aims to achieve local community wide GHG reduction targets of 13 percent below 2012 levels by 2020 and 44 percent below 2012 levels by 2030.

To achieve these objectives, the CAP identifies a summary of baseline GHG emissions and the potential growth of these emissions over time; the expected climate change effects on the City; GHG emissions reduction targets and goals to reduce the community's contribution to global warming; and identification of strategies, specific actions, and supporting measures to comply with statewide GHG reduction targets and goals, along with strategies to help the community adapt to climate change impacts.

As part of the CAP implementation, each strategy, action, and supporting measure will be continually assessed and monitored. Reporting on the status of implementation of these strategies, periodic updates to the GHG emissions inventory, and other monitoring activities will help ensure that the CAP is making progress.

## STANDARDS OF SIGNIFICANCE

### *Thresholds of Significance*

The following thresholds of significance are based, in part, on CEQA Guidelines Appendix G. For the purposes of this EIR, the project would have a significant adverse impact related to land use if it would:

1. Physically divide an established community.
2. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

## PROJECT IMPACTS AND MITIGATION

### ***PHYSICALLY DIVIDE AN ESTABLISHED COMMUNITY***

---

<b>Impact 3.9-1</b>	<b>The project would not physically divide an established community. Impacts would be less than significant.</b>
---------------------	--

---

The project site is currently undeveloped, vacant land and is characterized predominantly by several vegetation communities. The project site is bordered by single-family residences directly to the east and at a distance to the southeast/south; Piraeus Street and I-5 to the west; and vacant land and Sky Loft Road to the north. As discussed, the off-site preserve area would be preserved in perpetuity and left in its current state in order to mitigate for biological resource impacts resulting with project implementation. The project site would be located entirely on the southern parcel and would serve as a visual extension of similar existing residential uses to the east and south of the project site.

Interior circulation is proposed via a two-lane, 26-foot-wide interior roadway that would extend through the site and provide connection between existing Piraeus Street and Plato Place. The main roadway, along with internal/emergency access drives would provide vehicular access to the residential units and on-site recreational amenities.

Pedestrian connections between the residential uses and the pool and common areas would be provided by an on-site community paseo with enhanced hardscape and landscape plantings within the interior of the site. Sidewalks or pathways would be constructed along the on-site drives and along the frontage on Piraeus Street and Plato Place. The project would not eliminate or obstruct any means of pedestrian access or circulation within the project vicinity, as the proposed pedestrian pathways would provide a link to the existing off-site sidewalk system.

The project design includes a variety of walls and fences within the property. Construction of a number of concrete masonry retaining walls are proposed along the majority of the northern, eastern, southern, and western boundaries of the development area. The proposed walls and fences are depicted in Figure 2.0-6, Wall and Fencing Plan. However, these elements would not create physical barriers to existing access to/from the subject site, other properties in the area, or adversely affect established vehicular or pedestrian circulation patterns or access.

Ornamental landscaping would be planted along the eastern, southern, and western project perimeters to visually enhance the development and provide a buffer from adjacent uses. Additionally, limited landscaping would be planted along the northern boundary of the project site, between the development and the proposed off-site preserve area to provide a buffer and serve as a transition between the development and the natural open space. Such improvements would not directly or indirectly result in division of the surrounding neighborhood.

The project does not propose the construction of new infrastructure through surrounding residential areas that may divide an established community, due to the project's location and proximity to major roadways and existing infrastructure systems already serving the area. All off-site improvements proposed are within or adjacent to existing rights-of-way as described in Section 3.12, Transportation, and Section 3.14, Utilities and Service Systems.

Lastly, the project's potential to result in indirect growth or induce additional growth that may divide an established community is addressed in Section 6.3, Growth Inducing Impacts. As determined therein, the project would not remove barriers to growth, generate extraordinary economic growth, generate an indirect inducement to significant growth, be a precedent setting action, or encroach into open space. Therefore, the project would not result in indirect growth or induce additional growth that may divide an established community.

For the reasons above, the project would not physically divide an established community. Impacts would be **less than significant**.

**Mitigation Measures:** None required.

**Level of Significance:** Less than significant.

**CONFLICT WITH AN APPLICABLE PLAN**

**Impact 3.9-2**            **The project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Impacts would be less than significant.**

**General Plan 2019 Housing Element Update**

Under the 2019 HEU, the project site was identified as the “Cannon Property (Piraeus) - Site Number 02.” The project site currently has a General Plan land use designation of R30 OL (Residential 30 Overlay) and RR2 (Rural Residential; 1.01-2.00 dwelling units per acre) and is zoned RR2 with a R-30 overlay zone as part of the City’s Housing Element. Per the R-30 overlay zone that applies to this parcel, up to 161 residential units could be developed without application of allowances under state Density Bonus laws (5.36 net acres x 30 DU/acre). With the application of a density bonus, the project could support up to 310 homes [(6.88 gross acres x 30 DU/acre) x 1.5 density bonus]. No changes to the existing land use or zoning are required or proposed to allow for project implementation.

The proposed development would consist of 52 one-bedroom homes, 37 two-bedroom homes, and 60 three-bedroom homes for a total of 149 residential units, which would be built within 16 individual three-story residential buildings. The 149 multi-family residential units proposed with the project would therefore be within the allowable unit count as identified in the HEU.

On October 8, 2019, the City received certification from the State Department of Housing and Community Development (HCD) which confirmed the HEU was compliant with the state’s requirements (Department of Housing and Community Development 2019). As stated in its certification letter, HCD concluded:

*All approvals necessary to implement appropriate zoning and development standards, including California Coastal Commission (CCC) approval of an LCP amendment, are required to find Encinitas’ Housing Element compliant with state Housing Element law (Article 10.6 of the Government Code). The September 16, 2019 correspondence, and associated documentation satisfy the requirements described in HCD’s reviews. As a result, the March 13, 2019 adopted Housing Element complies with state Housing Element law (Article 10.6 of the Government Code).*

Relative to the Development Standards and Policies, the project would be consistent with the standards as determined by City review of the project’s proposed components. The project would adhere to state Density Bonus Law by providing 15 “very low” income units (affordable to households earning no more than 50 percent of the area median income), which represents

approximately 10 percent of the overall unit count. While this allows the project to utilize the maximum density bonus (up to a 50 percent increase in unit count), the project is not proposing to utilize Density Bonus Law to increase the unit density on-site.

Density Bonus Law allows projects to utilize up to three concessions and unlimited waivers. The project requests one incentive which is to eliminate the City's undergrounding utilities requirement for existing overhead utilities, pursuant to Encinitas Municipal Code Section 23.36.120. All existing San Diego Gas & Electric utility poles that currently surround the project site are 12 kilovolt and would typically be required to be undergrounded. However, the undergrounding of those utilities would involve substantial improvement costs, and the cost savings associated with this incentive request would enable the project to instead provide for deed-restricted affordable housing on-site. Additionally, the project requires a waiver as the project exceeds the allowable encroachment into steep slopes pursuant to Encinitas Municipal Code Section 30.34.030 (Hillside/Inland Bluff Overlay Zone). The project requires an approximately 40% encroachment into steep slope areas; without City approval of the waiver, the project footprint would be substantially reduced, thereby impacting the project's ability to provide for deed-restricted affordable housing on-site; refer also to discussion under City of Encinitas Municipal Code, below.

For the reasons above, the project would not conflict with the General Plan HEU relative to avoidance or mitigation of an environmental effect. Impacts would be less than significant.

#### ***City of Encinitas General Plan and Certified Local Coastal Program***

The City of Encinitas General Plan includes issues and policies related to California Coastal Act requirements; therefore, the City of Encinitas General Plan serves as an LCP Land Use Plan for the City. The LCP incorporates land use plans for future development in the Coastal Zone, provisions of the City's Zoning Regulations, zone overlays for sensitive resources, and other implementing measures to ensure the protection of coastal resources. For those lands located within the Coastal Zone, any conflicts that occur between the Land Use Plan and any policy or provision of the General Plan that is not a part of the LCP, the Land Use Plan takes precedence. Any such conflicts shall result in identifying a resolution that achieves the highest degree of protection for resources in the Coastal Zone.

The City is responsible for the issuance of Coastal Development Permits within the Coastal Zone, excluding submerged lands, tidelands, or public trust lands. Relative to the City's LCP, subsequent to the City's approval of the HEU, the City processed an amendment to update the City's LCP to include the HEU sites. On September 11, 2019, the HEU was approved by the California Coastal Commission. The following excerpts are specific to the project site, where the Coastal Commission found that (CCC 2019):

*Cannon Property (Piraeus) (Site 2) - This site is a vacant property located at the corner of Piraeus Street and Plato Place, both of which are two-lane local streets. The southern portion of the site is flat due to previous grading, with the majority of the rest of the site sloping up towards a flat pad on the northeast corner. Some mature trees and vegetation are on the northern portion of the site. The land use classification of the site is Rural Residential 2 (RR2)...*

*...Three of the sites were identified as having sensitive vegetative communities, including the Cannon property (Site 2), the Encinitas Blvd and Quail Gardens Sites (Site 5), and Sage Canyon (Site AD1). Additionally, Sage Canyon was identified as having wetlands on-site. All future development on sites with coastal sage scrub or wetlands will be subject to the certified LCP policies as well as mitigation measures within the EA, which includes avoidance and minimization measures for impacts to vegetation communities from grading and development, as well as suitable mitigation in accordance with the North County Multiple Habitat Conservation Program...*

*...While a number of the inventoried sites to be re-designated have lower density land use designations (in some cases, significantly lower, as is the case with the Cannon Property, Echter Property, and Greek Church Parcel), the R-30 Overlay is intended to respect neighborhood character, be compatible with community specific settings and provide reasonable transitions between existing residences and potential development sites. All of the sites are located within, contiguous with, or in close proximity to, existing developed areas...*

*...Ten of the thirteen sites within the Coastal Zone overlap with scenic resources, whether it is a view corridor, critical viewshed, or is located along a scenic road. Review of site locations reveal that development will occur in areas that will not impede coastal views. The Cannon property (Site 2), for example, is located within the I-5 Scenic Corridor and Critical Viewshed for two viewpoints along I-5 and La Costa Avenue. However, the development is proposed to occur on the inland side of the vista points, and the site itself is upslope of the I-5 Corridor and will therefore not impact scenic views.*

The project would be subject to the certified LCP policies as well as mitigation measures for sensitive vegetation communities, which include avoidance and minimization measures for impacts to vegetation communities from grading and development, as well as suitable mitigation in accordance with the North County Multiple Habitat Conservation Program; refer Section 3.3, Biological Resources. The development would also be consistent with the existing character of the area and community, and would not impede coastal views as it would be located on the inland side of identified viewpoints within the vicinity; refer to Section 3.1, Aesthetics.

In reference to the City's General Plan policies Resource Management Element 10.1 and Public Safety Element 1.2, the City may only deviate from these policies if the strict application thereof would preclude "any reasonable use of the property." It is worth noting here that – different from other properties in the City – Housing Element sites must build a minimum residential unit count as disclosed in the Housing Element, and that minimum residential unit count is determined based on applying the minimum allowable density of 25 units per acre. As such, "any reasonable use of the property" for a Housing Element site is interpreted as achieving the minimum allowable residential yield.

If the strict application of Resource Management Element 10.1 and Public Safety Element 1.2 would preclude a developer from attaining the minimum residential yield required by the Housing Element, the City may deviate from this policy. This is the case the City is faced with on these Housing Element projects, and as such, a deviation from the policy is warranted.

In reference to the City's General Plan policies Land Use Element 1.13 and Public Safety Element 1.3, the project must deviate from these policies as stated in Section 10.04.010 of the Municipal Code. In 2018, the City adopted the 2018 International Fire Code and 2019 California Fire Code as the Fire Code for the City of Encinitas to regulate and govern the safeguarding of life and property from fire hazards and related events. Section 10.02.010, Fire Map, of the Municipal Code identifies those land areas within the City considered to be Very High Fire Hazard Severity Zones, and therefore, to be at greater risk for potential wildfire occurrence. As a result, a 100 foot Fuel Modification Zone is required in order to ensure public safety.

For these reasons, land use conflicts within the R-30 Overlay zone, in which the project site is located, would be minimized in accordance with Section 30242 of the Coastal Act, and as such, the CCC found the City's HEU to be consistent with the relevant policies of the CCC. Because the project is consistent with the 2019 HEU, the project would not conflict with any land use plan, policy, or regulation adopted by the CCC.

Additionally, the off-site preserve area (APN 216-110-35) is not identified in the HEU and was therefore not included in the evaluation herein of HEU consistency with the Coastal Act. However, this parcel is similarly subject to the Coastal Overlay Zone. As the parcel would remain in its natural state, no development would occur that would substantially degrade the scenic quality of any coastal resources or the character of designated scenic views in the area. No conflict with the Coastal Act would result in this regard.

The project site would also be subject to the Scenic/Visual Corridor Overlay Zone for the protection of visual resources; see additional discussion of project conformance provided below under City of Encinitas Municipal Code. Interstate 5 is identified as a designated Scenic View Corridor in the vicinity of the project site (City of Encinitas 2016; refer to Figure 3.1-1A, Scenic

Resources). Development within such critical viewshed areas is subject to City design review to ensure that building height, bulk, roofline, color, and scale do not limit or degrade existing views and that landscaping is used to screen undesirable views.

Additionally, La Costa Avenue from just west of I-5 to El Camino Real is designated by the City as being a scenic road (City of Encinitas 2016; see Figure 3.1-1A). The project would be subject to discretionary review to ensure that design standards are met and that no adverse effects on the City's designated scenic resources result with project implementation; refer also to analysis in Section 3.1, Aesthetics. Further, the project would be in conformance with maximum height allowances of the Coastal Zone, and no conflict would occur.

As stated previously, the Resource Management Element identifies two proposed "scenic vista points" within the vicinity of the project site; one at the northwest corner of I-5/La Costa Avenue (southbound off-ramp) and one at the northeast corner of I-5/La Costa Avenue (northbound on-ramp). Additionally, the City's Resource Management Element requires the City to designate Scenic/Visual Corridor Overlay areas within which the character of proposed development is regulated to protect the integrity of the City's designated vista points (i.e., the potential vista points to the north of the project site). Critical viewsheds are defined in the Resource Management Element as those areas that extend radially for approximately 2,000 feet from the vista point and cover areas upon which development could potentially obstruct, limit, or degrade the view (City of Encinitas 2016). As stated, the project would be subject to City discretionary review to ensure conformance with applicable design regulations within these areas adopted for the long-term protection of designated scenic resources.

Relative to the LCP, the project as designed would maintain coastal access while providing increased connectivity to the existing pedestrian network through proposed sidewalk improvements along Piraeus Street and Plato Place. The project would not create new access restrictions or eliminate existing circulation patterns, thereby allowing residents and visitors continued access to the beach to the west of the site (across I-5). Through conformance with the General Plan and LCP goals and policies (see also Regulatory Framework section above), the project would provide continued protection of the City's coastal resources.

Additionally, as discussed in Section 3.15, Wildfire, the project site is identified as being within a very high fire hazard severity zone within the Local Responsibility Area for the City of Encinitas (City of Encinitas n.d.) and therefore requires management measures to ensure that the risk of wildfire events or spread is reduced to the maximum extent feasible. Policy 1.13 of the City's General Plan requires that, in areas identified as susceptible to brush or wildfire hazard, the City shall provide for construction standards to reduce structural susceptibility and increase protection. Further, brush clearance around structures for fire safety shall not exceed a 30-foot perimeter in areas of native or significant brush, and as provided by Resource Management Policy



10.1. Brush management zones would be provided with the project consistent with the measures recommended in the site-specific Fire Protection Plan prepared by FIREWISE (2022; see Appendix O) and as required by the Encinitas Fire Department. Zone 1A (Irrigated Zone) would be maintained by the homeowners association (HOA) and would include an irrigated landscaped zone typically 50 feet in width from each proposed structure, with combustible building materials prohibited within the zone. Zone 1B (Irrigated Zone) would include an irrigated landscaped zone up to 50 feet in width, located on lands that are publicly owned but maintained by the HOA (including manufactured slopes located more than 50 feet from a structure). Zone 2 (Thinning Zone) would be HOA maintained and begin on the north side of the proposed retaining wall located to the north of the northernmost on-site buildings and extending northward for a distance of 80 feet from the front of each building face.

As the proposed brush management zones are intended to reduce the potential for wildfire risk and slow wildfire spread, such improvements would not exacerbate fire risk or result in temporary or ongoing impacts to the environment; refer also to Section 3.3, Biological Resources, for evaluation of potential effects of vegetation removal on-site. The project would be consistent with General Plan Policy 1.13 in that it would incorporate construction standards to reduce structural susceptibility and increase wildfire protection; refer to Appendix O. Although the project would maintain brush clearance zones around structures for fire safety that would exceed a 30-foot perimeter in areas of native or significant brush, such measures were determined to be required, in combination with required construction features described in the Fire Protection Plan and as required by the City of Encinitas Fire Department, to adequately mitigate any radiant heat or direct flame impingement under a worst-case weather and fuels scenario. As such, the project would be consistent with site-specific requirements, as determined by the relevant agencies, and is not considered to cause a significant environmental impact due to a conflict with the General Plan or related policies adopted for the purpose of avoiding or mitigating an environmental effect.

For the reasons above, the project would not conflict with the General Plan or LCP relative to avoidance or mitigation of an environmental effect. Impacts would be less than significant.

### ***City of Encinitas Municipal Code***

The off-site preserve area is zoned RR1 (1 dwelling unit per acre maximum) and RR2 (2 dwelling units per acre maximum); no development is proposed on the off-site preserve area, and therefore, no conflict with the Municipal Code would occur. The project site is zoned RR2 with a R-30 overlay zone as part of the City's Housing Element. Per the R-30 overlay zone that applies to the project site, up to 161 residential units could be developed without application of allowances under state Density Bonus laws ((5.36 net acres x 30 DU/acre)). With the application of a density bonus, the project could support up to 310 homes ((6.88 gross acres x 30 DU/acre) x

---

**3.9 Land Use and Planning**

1.5 density bonus). As the project proposes development of 149 townhome units, the project would be in conformance with allowable density regulations for the subject property. No changes to the existing zoning are required or proposed to allow for project implementation.

As described in Section 2.0, Project Description, the project requests one incentive under the Density Bonus Law: the elimination of the City's undergrounding utilities requirement for existing overhead utilities pursuant to Encinitas Municipal Code Section 23.36.120. The undergrounding of the existing utilities would involve substantial improvement costs, and the cost savings associated with this incentive request would enable the project to instead provide for deed-restricted affordable housing on-site. As the overhead utilities would remain as-is pending approval of the request, allow for more affordable housing in alignment with the goals of the City of Encinitas General Plan, and no changes to the existing land use or zoning are required or proposed to allow for project implementation, the project would not conflict with the Encinitas Municipal Code in this regard.

As stated above, the project requests City approval of one waiver, as allowed under the Density Bonus Law. As designed, the project exceeds maximum encroachment into steep slope areas within the Hillside/Inland Bluff Overlay Zone pursuant to Municipal Code Section 30.34.030. Without the waiver, the project footprint would be substantially reduced to meet the requirements of Municipal Code Section 30.34.030. City approval of the waiver would allow for the development of more affordable housing units on-site, in alignment with the goals of the General Plan. The waiver does not require changes to the existing land use or zoning that apply to the subject property. This inconsistency with the Municipal Code would be allowed with City approval of the waiver.

Per Section 30.16.010.B.6.a, Development Standards, of the City's Municipal Code, the standard height limit for residential buildings shall be the lesser of three stories in the R-30 Overlay zone or 35 feet, as measured to the top of a flat roof (or in the case of a pitched roof to the top of the roof immediately above the exterior plane of the wall below, including roofing material). Buildings in the R-30 Overlay zone may exceed the 35-foot height limit a maximum of five feet to accommodate necessary equipment (such as elevator shafts and other mechanical equipment) and screening, as long as any projections do not occupy more than 25 percent of the roof area and are set back a minimum of 10 feet from the edge of the wall plane on all sides.

The proposed residential units have been designed in accordance with allowable height limits for the existing R-30 overlay zone that currently apply to the project site. Maximum building height proposed is 35 feet, consistent with requirements of the R-30 overlay zone. Per Municipal Code Section 30.16.101B.a.iii, a maximum of 5 feet is allowed beyond the 35-foot height limit for "allowed projections" such as mechanical equipment and other screening. As such, the proposed

on-site structures (including projections) would not exceed 40 feet in height. The project would not conflict with Municipal Code provisions in this regard.

Additionally, as indicated in Section 3.10, Noise, of this EIR, project construction and operations would be subject to the restrictions set forth in the City's Noise Ordinance which establishes noise limits for certain activities to avoid or mitigate an environmental effect. No significant noise impacts resulting with project construction or operation were identified. However, due to the site's adjacency to I-5, measures would be required (e.g., installation of noise barriers or incorporation of proper building materials) to reduce on-site noise levels at outdoor locations (rooftop decks and pool area) and for reduction of interior noise levels to below the adopted thresholds. Impacts relative to noise would be less than significant with mitigation incorporated.

### **Special Study Overlay Zone**

As stated, the project site is subject to the Special Study Overlay designation, intended to protect environmentally significant areas, as well as indicate those areas where development standards will be more stringent to minimize potential hazards to future development. A special study is required within this zone.

The Hillside/Inland Bluff Overlay Zone regulations apply to all areas within the Special Study Overlay Zone where a site-specific slope analysis indicates that 10 percent or more of the natural area of a parcel of land exceeds 25 percent slope. Approximately 12,025 square feet (0.28 acres) of existing steep slopes on the project site are manufactured (Geocon 2019). According to the slope analysis prepared for the project site, approximately 32.7 percent (2.25 acres) of the proposed development area (southernmost parcel) has an existing slope greater than 25 percent. Therefore, the project site is subject to the Hillside/Inland Bluff Overlay Zone regulations.

As allowed by state Density Bonus Law, the project requests one waiver. The waiver requested is necessary because the project exceeds the allowable encroachment into steep slopes pursuant to Encinitas Municipal Code Section 30.34.030 (Hillside/Inland Bluff Overlay Zone). The project requires an approximately 33% encroachment into steep slope areas, and without City approval of this waiver, the project footprint would be substantially reduced, thereby impacting the project's ability to provide for deed-restricted affordable housing on-site. As stated above, this inconsistency with the Municipal Code would be allowed with City approval of the waiver. Impacts would be less than significant in this regard.

### **Scenic/Visual Corridor Overlay Zone**

Section 30.34.080, Scenic/Visual Corridor Overlay Zone, of the Municipal Code provides development restrictions for lands within this zone. As stated above, I-5 in the vicinity of the project site a Scenic Highway/Visual Corridor (City of Encinitas 2016). For development within

the Scenic/Visual Corridor Overlay Zone, the City gives consideration to “the overall visual impact of the proposed project and conditions or limitations on project bulk, mass, height, architectural design, and grading, and other visual factors may be applied to design review approval and shall be applied to coastal development permit approval.”

The project has been designed to respect the existing character of the I-5 corridor and would not incorporate elements that would obstruct, restrict, or otherwise adversely affect any scenic vista points or scenic views experienced along the corridor. The proposed height of on-site structures would not exceed maximum allowed building height, and therefore, the project is not anticipated to adversely affect scenic resources along the corridor. The project would be subject to the City’s design review process to ensure that the architectural style and character of the proposed structures and other improvements do not adversely affect or reduce the value of any scenic resources along I-5. Further, landscaping would be incorporated into the design to enhance views to the site and to blend the development into the surrounding visual setting.

Based on the discussion above, the project would not cause a significant environmental impact due to a conflict with City Municipal Code regulations adopted for the purpose of avoiding or mitigating an environmental effect. Impacts in this regard would be **less than significant**.

#### ***City of Encinitas Climate Action Plan***

As stated, the City’s CAP commits to implementing specific programs and projects aimed at reducing and mitigating the impacts of GHG-emitting activities by targeted dates. The CAP organizes strategies, goals, and actions tied to various emissions sources (e.g., transportation, electricity, natural gas, solid waste, water, off-road transportation, and wastewater).

In November 2020, the Encinitas City Council adopted an updated version of the CAP, in which the Housing Element sites are taken into account as part of its overall inventory and analysis. The CAP Update determined that due to the characteristics of the Housing Element projects, the City would be able to continue to comply with emissions reductions targets established in the CAP even with the additional density from development of the Housing Element sites.

Of particular relevance to the proposed project, the CAP requires all new housing be constructed with rooftop solar panels, low-flow fixtures, and solar water heaters. The project as designed would address CAP requirements as the project proposes to install roof-mounted solar panels that would provide up to approximately 149 KW of solar power; install low flow water fixtures in all residential units; and install high-efficiency water heaters or solar water heater systems. Other energy-saving and emission-reducing features proposed include provision of four electric vehicle charging stations (EVCS), compliance with ENERGYSTAR requirements, and installation of LED lighting, among others. Refer to Section 3.5, Energy Conservation and Climate Change, for

additional discussion. As determined therein, the project would not impede implementation of the City's CAP.

For the reasons above, the project would not conflict with the CAP relative to avoidance or mitigation of an environmental effect. Impacts would be less than significant.

### ***2050 Regional Transportation Plan and Sustainable Communities Strategy (RTP/SCS)***

The 2050 RTP plans for a regional transportation system that enhances the quality of life, promotes sustainability, and offers varied mobility options for both goods and people (SANDAG 2011). The plan addresses improvements for transit, rail and bus service, express and managed lanes, highways, local streets, bicycling, and walking to achieve an integrated, multimodal transportation system by 2050. The project site is located within the Urban Area Transit Strategy Boundary in the San Diego Association of Governments' (SANDAG's) Smart Growth Concept Map (SANDAG 2016). Refer to Section 3.5, Energy Conservation and Climate Change, for a summary of project consistency with the Regional Plan, referred to as San Diego Forward: The Regional Plan. As determined therein, the project would not impede implementation of the RTP/SCS, and therefore, no conflict would occur with project implementation.

### ***Conclusion***

The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project, including but not limited to the City of Encinitas General Plan, Local Coastal Program, Municipal Code, CAP, or SANDAG's Regional Plan, adopted for the purpose of avoiding or mitigating an environmental impact. Impacts would be **less than significant**.

**Mitigation Measures:** None required.

**Level of Significance:** Less than significant.

### ***CUMULATIVE IMPACTS***

<b>Impact 3.9-3</b>	<b>The project would not result in cumulative land use impacts. Impacts would be less than cumulatively considerable.</b>
---------------------	---

### ***Geographic Scope***

Cumulative projects that would have the potential to be considered in a cumulative context with the project's incremental contribution to a potential cumulative impact relative to land use and planning are identified in Table 3.0-1 and Figure 3.0-1 in Section 3.0, Environmental Analysis, of this EIR. The inclusion of all projects in Table 3.0-1 was based on the location of these projects in

the general vicinity of the project site and the possibility that these projects, in combination with the proposed project, may conflict with applicable land use plans and policies. Additionally, to be conservative, the cumulative impact analysis includes 2019 HEU sites to the extent they may contribute to certain issue-specific cumulative effects; refer to Table 3.0-2.

### ***Potential Cumulative Impacts***

Land use plans are inherently cumulative in nature due to their long-term programmatic scope; therefore, if a project complies with policies identified in a plan, then the project is not considered to contribute to a cumulative effect. As discussed above, the project site is included in the HEU. As part of the HEU process, potential project-specific impacts were analyzed, as well as potential cumulative impacts from implementation of all the HEU projects combined. The following plans were evaluated as part of the cumulative analysis.

#### **City of Encinitas General Plan and Local Coastal Program**

The City of Encinitas General Plan includes issues and policies related to California Coastal Act requirements; therefore, the City of Encinitas General Plan serves as an LCP Land Use Plan for the City. As described under Impact 3.9-2, more than half of the City of Encinitas lies within the boundaries of the California Coastal Zone. Therefore, the majority of the cumulative projects are also located in the Coastal Zone and would be subject to the goals and policies of the LCP as required by the California Coastal Act.

As with the proposed project, each cumulative project within the California Coastal Zone would be evaluated by the City to determine LCP compliance in order to issue a coastal development permit. The project has been designed in conformance with the goals and policies of the City of Encinitas General Plan and LCP, including building height limits, retaining view corridors, maintaining coastal access, and protecting coastal resources, and would obtain a coastal development permit as part of the discretionary process, which would confirm project consistency with the General Plan and LCP. Therefore, with demonstrated conformance with the goals and policies identified in the City of Encinitas General Plan and LCP, the project is not anticipated to contribute to a significant cumulative impact in this regard when considered with other cumulative projects.

#### **City of Encinitas Municipal Code**

It is the responsibility of the City to review each individual project to confirm compliance with the City's Municipal Code as part of the discretionary approval process. Conformance with the Municipal Code is administered on a project-specific basis.

As appropriate, all cumulative projects would be required to demonstrate conformance with Chapter 9.32, Noise Abatement and Control, and Chapter 30.40, Performance Standards, of the City Municipal Code which establish property line noise level limits to reduce potential adverse environmental noise effects. No significant noise impacts resulting with project construction or operation were identified. However, due to the site's adjacency to I-5, measures would be required to reduce on-site noise levels at outdoor locations (rooftop decks and pool area) and for reduction of interior noise levels to below the adopted thresholds. Impacts relative to noise would be less than significant with mitigation incorporated; refer to Section 3.10, Noise. As applicable to the project design, with conformance to City Municipal Code noise regulations, the proposed project, when combined with other cumulative projects, is not anticipated to substantially increase noise levels within the surrounding community or to contribute to a significant cumulative impact in this regard.

As noted above, due to the project's location, the site lies within the Hillside/Inland Bluff Overlay Zone and the Scenic/Visual Corridor Overlay Zone. Other cumulative projects considered may be subject to similar overlay zones and the siting and design requirements that are imposed as a result. As such, over time, the project would have the potential to combine with other projects located within these zones in the surrounding viewshed and alter existing views and/or the visual character experienced along the I-5 corridor.

All discretionary projects considered would be subject to the City's design review process on a site-specific basis to ensure the protection of resources, such as scenic bluffs and steep slopes, views to the ocean or lagoon, and/or the established visual character of the community that the City seeks to maintain. Such projects would be evaluated for conformance to grading/site design requirements, as well as building height, materials, architectural style, and other such aspects relative to the applicable overlay zone(s), to minimize potential adverse effects.

The project would be consistent with the Scenic Visual Corridor Overlay Zone. As designed, the project exceeds the allowable encroachment into steep slope areas within the Hillside/Inland Bluff Overlay Zone. However, the project proposes a waiver, as allowed by Density Bonus Law. Project implementation would be contingent on City approval of a waiver to exceed maximum encroachment into steep slope areas. This inconsistency with the Municipal Code would be allowed with City approval of the waiver.

For the reasons above, it is not anticipated that the project would contribute to a significant cumulative impact due to conflict with such overlay zones or associated regulations. The project's contribution to a cumulative impact in this regard would be less than significant.

**City of Encinitas Climate Action Plan**

As climate change is a global issue, not one project or a collection of cumulative projects have the potential to significantly affect GHG emissions. However, it has been determined project compliance with the City's adopted CAP equates to compliance with local and state climate change efforts. Therefore, with conformance to the CAP (subject to City discretionary review), implementation of the cumulative projects would result in less than significant cumulative impacts. Through evaluation, the project was found to be consistent with the CAP (see Section 3.5, Energy Conservation and Climate Change); therefore, the project is not anticipated to contribute to a significant cumulative impact in this regard. Cumulative impacts would be less than significant.

**2050 Regional Transportation Plan and Sustainable Communities Strategy**

As determined in Section 3.5, Energy Conservation and Climate Change, the project would not impede implementation of the RTP/SCS. Other cumulative projects would be evaluated for consistency with the RTP/SCS to identify any conflicts and to reduce potential effects, as appropriate. As such, the project is not anticipated to contribute to a significant cumulative effect in this regard. The project's contribution to a cumulative impact would be less than significant.

***Conclusion***

If incompatibilities or land use conflicts are identified for any of the cumulative projects, it is reasonable to assume the City would either deny the project or require conditions or mitigation to avoid or minimize this type of land use impact. Therefore, the proposed project is not anticipated to contribute to a significant cumulative impact relative to land use and planning. Impacts would be **less than cumulatively considerable**.

**Mitigation Measures:** None required.

**Level of Significance:** Less than cumulatively considerable.