

1.0 INTRODUCTION

This document is a Final Environmental Impact Report (EIR) for the proposed City of Malibu 2008-2014 Housing Element Update. The primary goal of the 2008-2014 Housing Element Update is to establish specific goals, policies, and objectives relative to the provision of housing for all income levels consistent with all applicable state housing element laws (ie: Article 10.6 of the Government Code) and to adopt an implementation program. This section describes: (1) the general background of the project's EIR process; (2) the purpose and legal authority of the EIR (3) the scope and content of the EIR; (4) lead, responsible, and trustee agencies; and (5) the environmental review process required under the California Environmental Quality Act (CEQA).

This Final EIR includes responses to comments on the Draft EIR, as required by CEQA (see Section 8.0). In certain instances, the text of the EIR has been modified slightly in response to comments received. However, in no case did any of the changes made identify new significant impacts or significant impacts of increased severity as compared to what was identified in the Draft EIR.

In addition to responding to specific comments on the Draft EIR, the City performed additional analysis of a number of issues subsequent to completion of the analyses included in the Draft EIR. Based on this additional analysis, certain impact discussions have been modified as compared to the impact discussions in the Draft EIR. However, in no case did any of the additional analysis identify any new significant impacts beyond those identified in the Draft EIR or any significant impacts of increased severity as compared to what was identified in the Draft EIR. In fact, for a number of issue areas, the additional analysis determined that impacts would be less severe than was reported in the Draft EIR. The additional analysis is included to clarify and amplify the previously circulated Draft EIR (Pub. Res. Code § 21092.1; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 447; *Silverado Modjeska Recreation & Parks Dist. v. Cnty. of Orange* (2011) 197 Cal.App.4th 282, 302-03).

The following are the specific impacts that were determined to be less severe than was determined in the Draft EIR:

- Impact HAZ-4 (on-site soil contamination) in Section 4.7, *Hazards and Hazardous Materials* – identified as “significant but mitigable” in the Draft EIR, but is now identified as “less than significant” with implementation of standard requirements and mitigation measures identified in the La Paz EIR
- Impact LU-1 (consistency with General Plan policies) in Section 4.9, *Land Use and Planning* – identified as “significant and unavoidable” in the Draft EIR due to potential inconsistencies with policies related to traffic levels, but is now identified as “less than significant” since traffic impacts have been determined to be mitigable (as discussed below)
- Impacts T-1, T-2, and T-3 (intersection impacts under various analysis scenarios) in Section 4.13, *Transportation and Traffic* – identified as “significant and unavoidable” in the Draft EIR, but based on additional analysis conducted in accordance with the City’s newly adopted analysis methodology and assumptions regarding project and cumulative traffic



generation, has been determined to be “significant but mitigable” with mitigation measures included in Section 4.13

For other impact discussions, although the text and discussion have been modified to some degree, the overall magnitude of the impact has not changed.

1.1 ENVIRONMENTAL IMPACT REPORT BACKGROUND

A Notice of Preparation (NOP) of an environmental impact report was prepared for the proposed project and distributed for agency and public review for the required 30-day review period from March 1, 2012 to April 2, 2012. Five written responses to the NOP were received. These included responses from the Los Angeles County Fire Department, the South Coast Air Quality Management District, the Metropolitan Transportation Authority and two responses from private citizens. The NOP is presented in Appendix A, along with the written comment letters received. A public scoping meeting was also held on March 22, 2012 at the Malibu City Hall on Stuart Ranch Road. The intent of the scoping meeting was to provide interested individuals, groups, public agencies and others a forum to provide input to the City of Malibu (Lead Agency) to assist in further refining the intended scope and focus of the EIR. Table 1-1 lists the issues relevant to the EIR that were raised in the NOP comment letters and at the NOP public scoping meeting, and the EIR sections where the issues are addressed.

Table 1-1 NOP Comment Issues

Issue	EIR Section
Impacts related to lighting	Aesthetics
Identify any adverse air quality impacts	Air Quality
Quantify PM2.5 emissions and compare to thresholds	Air Quality
Air quality impacts compared to Localized Singificance Thresholds	Air Quality
Identify and analyze impacts related to fault zones	Geology and Soils
Growth inducing impacts related to the need for a wastewater treatment plant	Growth Inducing Impacts
Fire Department service to the sites	Public Services
Future development must comply with all fire code and ordinance requirements for construction, access, water mains, fire flows, and fire hydrants	Public Services
The traffic impact area should include all congestion managemnt plan (CMP) intersections, on/off ramps where the project will add 50 or more trips	Traffic and Circulation
If CMP arterial segments are being analyzed, the study should include all segments where 50 or more trips are added	Traffic and Circulation
The traffic impact area should include all CMP mainline freeway monitoring locations where the project will add 150 trips or more	Traffic and Circulation
Traffic counts should be up to date	Traffic and Circulation
Traffic counts should utilize a tube counter (a kind of device to count traffic)	Traffic and Circulation
Traffic counts should not be taken during spring break, but during summer	Traffic and Circulation
Traffic counts should be taken on a weekday and a weekend	Traffic and Circulation
Traffic study must address standard Caltrans and Metro criteria	Traffic and Circulation



Table 1-1 NOP Comment Issues

Issue	EIR Section
Impacts to utility infrastructure, including water services and onsite wastewater treatment systems (OWTS)	Utilities

1.2 PURPOSE AND LEGAL AUTHORITY

The 2008-2014 Housing Element Update requires the discretionary approval of the City of Malibu. Therefore, it is subject to the requirements of CEQA. In preparing the NOP for this project, it was determined that, under CEQA, this project requires preparation of an EIR. In accordance with Section 15121 of the *CEQA Guidelines*, the purpose of this EIR is to serve as an informational document that:

...will inform public agency decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.

This document will serve as a Program EIR for the 2008-2014 Housing Element Update. Although the legally required contents of a Program EIR are the same as those of a Project EIR, Program EIRs are typically more conceptual and may contain a more general discussion of impacts, alternatives, and mitigation measures than a Project EIR. As provided in Section 15168 of the *CEQA Guidelines*, a Program EIR may be prepared on a series of actions that may be characterized as one large project. Use of a Program EIR provides the City (as Lead Agency) with the opportunity to consider broad policy alternatives and program-wide mitigation measures and provides the City with greater flexibility to address environmental issues and/or cumulative impacts on a comprehensive basis.

Agencies generally prepare Program EIRs for programs or a series of related actions that are linked geographically, are logical parts of a chain of contemplated events, rules, regulations, or plans that govern the conduct of a continuing program, or are individual activities carried out under the same authority and having generally similar environmental effects that can be mitigated in similar ways.

In practice, this Program EIR could be utilized as a first tier of environmental review for subsequent activities that include site-specific environmental review of new development projects in accordance with the General Plan Housing Element Update. However, if new effects could occur due to project discrepancies when compared to the program, or due to a change in baseline conditions, an EIR or a Negative Declaration would be required for the specific future project. Prior to the issuance of any entitlements for future development associated with the subsequent tier projects, the City must determine either that the Program EIR analysis is sufficiently specific and comprehensive to cover future projects, or require additional environmental review and documentation.

This EIR is to serve as an informational document for the public and City of Malibu decision-makers. The process will culminate with Planning Commission and City Council hearings to consider certification of a Final EIR and approval of the 2008-2014 Housing Element Update.



1.3 SCOPE AND CONTENT/ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

This EIR addresses the issues determined to be potentially significant by the City of Malibu. The issues addressed in this EIR include:

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

This EIR addresses the issues referenced above and identifies potentially significant environmental impacts, including site-specific and cumulative effects of the project, in accordance with the provisions set forth in the *CEQA Guidelines*. In addition, the EIR recommends feasible mitigation measures, where possible, that would reduce or eliminate adverse environmental effects.

In preparing the EIR, use was made of pertinent City policies and guidelines, certified EIRs and adopted CEQA documents, and background documents prepared by the City. A full reference list is contained in Section 7.0, *References and Report Preparers*.

The Alternatives Section of the EIR (Section 6.0) was prepared in accordance with Section 15126.6 of the *CEQA Guidelines*. The alternatives discussion evaluates the CEQA-required “no project” alternative and three alternative development scenarios for the site. It also identifies the environmentally superior alternative among the alternatives assessed.

The level of detail contained throughout this EIR is consistent with the requirements of CEQA and applicable court decisions. The *CEQA Guidelines* provide the standard of adequacy on which this document is based. The Section 15151 of the *CEQA Guidelines* states:

An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement



among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure.

1.4 LEAD, RESPONSIBLE, AND TRUSTEE AGENCIES

The *CEQA Guidelines* define lead, responsible and trustee agencies. The City of Malibu is the lead agency for the project because it holds principal responsibility for approving the project.

A responsible agency refers to a public agency other than the lead agency that has discretionary approval over the project. The California Coastal Commission would be a responsible agency as they must certify the proposed amendments to the Local Coastal Program (LCP).

A trustee agency refers to a state agency having jurisdiction by law over natural resources affected by a project.

1.5 ENVIRONMENTAL REVIEW PROCESS

The major steps in the environmental review process, as required under CEQA, are outlined below. The steps are presented in sequential order.

1. **Notice of Preparation (NOP).** After deciding that an EIR is required, the lead agency must file an NOP soliciting input on the EIR scope to the State Clearinghouse, other concerned agencies, and parties previously requesting notice in writing (*CEQA Guidelines* Section 15082; Public Resources Code Section 21092.2). The NOP must be posted in the County Clerk's office for 30 days. The NOP may be accompanied by an Initial Study that identifies the issue areas for which the proposed project could create significant environmental impacts.
2. **Draft Environmental Impact Report (DEIR) Prepared.** The DEIR must contain: a) table of contents or index; b) summary; c) project description; d) environmental setting; e) discussion of significant impacts (direct, indirect, cumulative, growth-inducing and unavoidable impacts); f) a discussion of alternatives; g) mitigation measures; and, h) discussion of irreversible changes.
3. **Notice of Completion.** A lead agency must file a Notice of Completion with the State Clearinghouse when it completes a Draft EIR and prepare a Public Notice of Availability of a DEIR. The lead agency must place the Notice in the County Clerk's office for 30 days (Public Resources Code Section 21092) and send a copy of the Notice to anyone requesting it (*CEQA Guidelines* Section 15087). Additionally, public notice of DEIR availability must be given through at least one of the following procedures: a) publication in a newspaper of general circulation; b) posting on and off the project site; and c) direct mailing to owners and occupants of contiguous properties. The lead agency must solicit input from other agencies and the public, and respond in writing to all comments received (Public Resources Code Sections 21104 and 21253). The minimum public review period for a DEIR is 30 days. When a Draft EIR is sent to the State Clearinghouse for review, the public review period must be 45 days unless the Clearinghouse (Public Resources Code Section 21091) approves a shorter period.



4. **Final EIR.** A Final EIR (FEIR) must include: a) the Draft EIR; b) copies of comments received during public review; c) list of persons and entities commenting; and, d) responses to comments.
5. **Certification of FEIR.** Prior to making a decision on a proposed project, the lead agency must certify that: a) the FEIR has been completed in compliance with CEQA; b) the FEIR was presented to the decision-making body of the lead agency; and, c) the decision-making body reviewed and considered the information in the FEIR prior to approving a project (*CEQA Guidelines* Section 15090).
6. **Lead Agency Decision.** A lead agency may: a) disapprove a project because of its significant environmental effects; b) require changes to a project to reduce or avoid significant environmental effects; or, c) approve a project despite its significant environmental effects, if the proper findings and Statement of Overriding Considerations are adopted (*CEQA Guidelines* Sections 15042 and 15043).
7. **Findings/Statement of Overriding Considerations.** For each significant impact of the project identified in the EIR, the lead or responsible agency must find, based on substantial evidence, that either: a) the project has been changed to avoid or substantially reduce the magnitude of the impact; b) changes to the project are within another agency's jurisdiction and such changes have or should be adopted; or, c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible (*CEQA Guidelines* Section 15091). If an agency approves a project with unavoidable significant environmental effects, it must prepare a written Statement of Overriding Considerations that sets forth the specific social, economic, or other reasons supporting the agency's decision.
8. **Mitigation Monitoring Reporting Program.** When an agency makes findings on significant effects identified in the EIR, it must adopt a reporting or monitoring program for mitigation measures that were adopted or made conditions of project approval to mitigate significant effects.
9. **Notice of Determination.** An agency must file a Notice of Determination after deciding to approve a project for which an EIR is prepared (*CEQA Guidelines* Section 15094). A local agency must file the Notice with the County Clerk. The Notice must be posted for 30 days and sent to anyone previously requesting notice. Posting of the Notice starts a 30-day statute of limitations on CEQA legal challenges [Public Resources Code Section 21167(c)].

