

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800



# F8b

**DATE:** November 20, 2018

**TO:** Commissioners and Interested Persons

**FROM:** Steve Hudson, Deputy Director  
Barbara Carey, District Manager  
Deanna Christensen, Supervising Coastal Program Analyst  
Michelle Kubran, Coastal Program Analyst

**SUBJECT:** County of Santa Barbara Local Coastal Program Amendment No. LCP-4-STB-18-0071-2-Part A (Highway 101 HOV: Carpinteria to Santa Barbara), for public hearing and Commission action at the Friday, December 14, 2018 Commission Hearing in Newport Beach.

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## DESCRIPTION OF THE SUBMITTAL

The County of Santa Barbara is requesting an amendment to the Land Use Plan (LUP) and Implementation Plan (IP) components of its certified Local Coastal Program (LCP) with regard to wetland, recreation, and access policies and provisions to allow for the development of a transportation improvement project, which includes construction of high occupancy vehicle (HOV) lanes and coastal access improvement projects.

The County of Santa Barbara submitted Local Coastal Program Amendment LCP-4-STB-18-0071-2 (Parts A and B) to the Commission on September 21, 2018. After the submittal of additional information requested by Commission staff, the amendment proposal was deemed complete and filed on October 1, 2018. Pursuant to Section 30512 of the Coastal Act and California Code of Regulations, Title 14, Section 13522, an amendment to the certified LCP that combines changes to the LUP and IP must be scheduled for a public hearing and the Commission must take action within 90 days of a complete submittal. In the subject case, the 90<sup>th</sup> day will be December 30, 2018. However, at the November 2018 hearing the Commission extended the 90-day time limit for a period not to exceed one year to provide flexibility in scheduling both parts of the amendment submittal - Part A (Highway 101 HOV: Carpinteria to Santa Barbara) which is the subject of this report, and Part B (Accessory Dwelling Units) which is tentatively scheduled for hearing in early 2019.

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## SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **deny** the proposed County of Santa Barbara LUP Amendment No. LCP-4-STB-18-0071-2-Part A as submitted, and **approve** the proposed amendment with one suggested modification. This modification has been requested by the County. Commission staff recommends that the Commission **approve** the proposed County of Santa Barbara IP Amendment No. LCP-4-STB-18-0071-2-Part A as submitted. The motions to accomplish this recommendation are found starting on **Page 7** of this staff report.

The subject LCP amendment is project-specific and has been requested by the County to allow for a transportation improvement project along the U.S. Highway 101 corridor along the south coast of Santa Barbara County, between the City of Carpinteria and the City of Santa Barbara ([Exhibit 1](#)). The existing highway along this section of the coast consists of four lanes, two in each direction. The transportation project includes construction of a high occupancy vehicle lane (HOV) lane in each direction, a pedestrian and bicycle path from Santa Claus Lane to Carpinteria Avenue (dubbed the Santa Claus Lane bikeway), public access and streetscape improvements along Santa Claus Lane, California Coastal Trail signage, vertical beach access signage and a sidewalk extension project on Padaro Lane, restroom facilities at the Loon Point beach parking area, enhancements to the South Padaro Lane undercrossing, enhancements to the California Coastal Trail on Via Real, enhancements to coastal access on Finney Road, at Lookout Park, and at the Evans Avenue undercrossing, construction of a sidewalk and coastal parking on Wallace Avenue, extension of the Eucalyptus Lane sidewalk, and construction of roundabouts on San Ysidro and Olive Mill Roads ([Exhibit 3](#)). The HOV lanes would be part-time HOV lanes, meaning that they will operate as general-purpose lanes during off-peak periods on weekdays and on weekends.

Highway 101 is the most heavily traveled facility in the County and plays a vital role in enabling motorists to access the local communities of Ventura, Carpinteria, Summerland, Montecito, Santa Barbara, and Goleta and the coastal areas on the south coast of Santa Barbara County. Traffic studies conducted by the California Department of Transportation (Caltrans) showed that most commuters travel from the cities of Ventura and Carpinteria into Santa Barbara in the morning and then travel back south in the evening. Additionally, other types of travel along this corridor include interregional travel, tourist travel, goods movement as well as more localized travel for activities such as school, shopping, recreation, and coastal access. Currently, demand is exceeding the capacity of the highway during weekday and weekend peak travel periods causing an average of 4.5 hours per day of congestion along the South Coast Highway 101 corridor. Due to projected housing and job increases in the region, demand is expected to continue to increase through the year 2040, which would cause an average of 11 hours per day of congestion along the corridor and result in increased delays to motorists, including those seeking access to the coast. The project objectives are to improve operations on Highway 101 and improve vehicular, transit, bicycle, and pedestrian access and circulation locally and regionally.

In the early 1990's Caltrans began discussions regarding the expansion of Highway 101 from Santa Barbara to Ventura to decrease traffic congestion. The Santa Barbara County Association of Governments subsequently created the "101 In Motion" Study, which recommended improvements to the 101 corridor, including transit, carpool, commuter, interchange, and freeway lane modifications. Thus far, improvements to the Highway 101 corridor have been completed within the City of Santa Barbara and between Mussel Shoals and Carpinteria. These existing improvements have created a six-lane highway up-coast and downcoast of the subject transportation project. Freeway improvements to add HOV lanes in each direction are currently under construction in Carpinteria. The proposed amendment would allow for the next phase of highway and HOV lane improvements between Carpinteria and the City of Santa Barbara in order to complete the larger highway widening project from Santa Barbara to Ventura.

Approval of the subject LCP amendment and implementation of the proposed transportation project will have impacts on wetlands and wetland buffers located in the project area. It is anticipated that construction of the subject HOV lanes would impact approximately 0.084 acres of wetlands and approximately 0.33 acres of wetland buffer. Since the Santa Claus Lane Bikeway would be located between the highway and the Carpinteria Salt Marsh, the project would impact approximately 0.57 acres of wetland and 0.93 acres of wetland buffer. Finally, the Santa Claus Lane Beach Access and Streetscape Improvements project would impact approximately 0.40 acres of wetlands and 0.50 acres of wetland buffer, which are adjacent to the existing road. In total, the Highway 101 HOV: Carpinteria to Santa Barbara project would impact 1.054 acres of wetland and 1.76 acres of wetland buffer ([Exhibit 2](#)). Although these impacts are proposed to be minimized and mitigated, the LCP amendment would allow for the approval of a project that is inconsistent with Coastal Act Section 30233, which does not allow transportation uses in wetlands. However, as described in Section D of this report, the project can be approved under the conflict resolution provisions of the Coastal Act, because denial of the amendment would conflict with the Coastal Act's mandate to maximize public access to the coast, and the proposed amendment is, on balance, the most protective of significant coastal resources. In particular, the project includes numerous public access improvements, including bike paths, pedestrian walkways, and coastal access signage, all of which are required to be completed along with the corresponding sections of the freeway project. It also provides for increased vehicular access along Highway 101, which is the main route used by visitors to access this portion of the coast. Given that the project's impacts to wetlands are relatively minor, that the roadway widening would take place within the existing right-of-way, and that the project includes numerous access improvements, approval of the project is, on balance, the most protective of significant coastal resources.

Nevertheless, measures must be taken to minimize impacts to the maximum extent feasible, to mitigate the project's impacts, and to structure the LCP so that it requires a project that comes as close to compliance with the Chapter 3 policies of the Coastal Act as possible. Three build alternatives and a No-Build Alternative were analyzed by Caltrans for the subject transportation project. The preferred alternative minimizes impacts to wetlands and retains and enhances median/shoulder landscaping and the scenic quality of the corridor. As proposed to be amended, the LCP would require significant on- and off-site wetland habitat restoration, establishment (creation), and/or enhancement. The proposed LCP amendment would also require the subject transportation project to include Best Management Practices and other measures to ensure protection of marine resources and water quality. The proposed measures adequately mitigate for biological resource impacts and would result in a project that comes as close to compliance with the Chapter 3 policies as possible.

Since submittal of the proposed amendment, the County has conducted additional feasibility studies for the proposed public access projects and found that the proposed multi-use pathway on Via Real (from the North Padaro Lane interchange to Greenwell Avenue in the Summerland area) is not feasible due to the overall footprint and the location of existing utilities. Therefore, the County has requested to change this portion of the project, as described in Policy 7-32, to allow for an Americans with Disabilities Act (ADA) accessible pathway on the ocean side of the road and buffered Class II bicycles lanes on both sides of the road, but to maintain an existing equestrian/pedestrian path on the landward side of the road, instead of having that path also

located on the ocean side of the road. The extended ADA-compliant sidewalk would complete a gap in the California Coastal Trail for pedestrians on the ocean side of Via Real consistent with the originally proposed project. The buffered Class II bicycle lanes would also create safer conditions than what the existing Class II bicycle lanes provide. Therefore, the proposed changes to the public access facilities on Via Real would still improve conditions for both pedestrians and bicyclists. In order to allow for this change, the project description within proposed Policy 7-32 must be changed. The County has suggested revised language that is consistent with the public access policies of the Coastal Act and the existing policies in the LCP. Therefore, **Suggested Modification No. 1** is necessary to revise proposed LUP Policy 7-32 in order to provide for the County's proposed changes to public access along Via Real. Because the detailed language for the Via Real project is not provided for in the proposed IP amendment, a suggested modification to the IP amendment is not necessary for the amendment to be consistent with the LUP as amended.

The proposed LCP amendment would allow for the construction of several components of the subject transportation improvement project that would serve to enhance recreation and access opportunities for both local residents and visitors to this coastal area. As proposed, construction of the coastal access improvements would be completed no later than the completion of the adjacent Highway 101 improvement project.

<p><b>Additional Information:</b> Please contact Michelle Kubran at the South Central Coast District Office of the Coastal Commission at (805) 585-1800 or 89 South California Street, Suite 200, Ventura, CA 93001</p>
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### EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Locations of Impacted Wetlands](#)

[Exhibit 3 – Locations of Public Access Projects](#)

[Exhibit 4 – Santa Barbara County Resolution No. 18-174 containing the proposed Land Use Plan  
Amendment text](#)

[Exhibit 5 – Santa Barbara County Ordinance No. 5050 containing the proposed Coastal Zoning  
Ordinance text](#)

### I. PROCEDURAL OVERVIEW

#### A. STANDARD OF REVIEW

The Coastal Act provides:

*The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30512(c))*

*The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...(Section 30513)*

*...The Commission may only reject zoning ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out together with its reasons for the action taken...(Section 30513)*

*The Commission may suggest modifications in the rejected zoning ordinances, zoning district maps, or other implementing actions, which, if adopted by the local government and transmitted to the commission, shall be deemed approved upon confirmation by the executive director...(Section 30513)*

*Any proposed amendments to a certified local coastal program shall be submitted to, and processed by, the commission in accordance with the applicable procedures and time limits specified in Sections 30512 and 30513... (Section 30514(b))*

Pursuant to Section 30512(c), the standard of review that the Commission utilizes in reviewing the adequacy of the proposed amendment to the County's certified LUP is whether the proposed amendment is consistent with the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed amendment to the County's certified IP/CZO, pursuant to Sections 30513 and 30514(b) of the Coastal Act, is whether the proposed amendment is in conformance with, and adequate to carry out, the provisions of the LUP portion of the County's certified LCP. Additionally, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the County's certified LUP as guiding policies pursuant to Policy 1-1 of the LUP.

## **B. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in the preparation, approval, certification and amendment of any LCP. Santa Barbara County held 26 public meetings and hearings regarding the Highway 101 construction project between May 13, 2009 and August 14, 2018. All County hearings were duly noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment was posted in a local newspaper at least ten days prior to the December 14, 2018 Coastal Commission hearing, and individual notices have been distributed to all known interested parties.

## **C. PROCEDURAL REQUIREMENTS**

Pursuant to Section 13551(b) of the California Code of Regulations, the County resolution for submittal of the LCP amendment can either require formal local government adoption after Commission approval, or designate that an amendment will take effect automatically upon Commission approval pursuant to Public Resources Code Sections 30512, 30513, and 30519.

However, if the Commission approves this amendment with any modifications the County must act to accept the certified suggested modifications within six months from the date of Commission action for the amendment to become effective (CCR Sections 13544.5 and 13537). Pursuant to Section 13544 of the California Code of Regulations, the Executive Director shall determine whether the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, no further action is required by either the Commission or the County.

## **II. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS FOR THE COASTAL LAND USE PLAN**

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided prior to each resolution.

### **A. DENIAL AS SUBMITTED**

**MOTION I:** *I move that the Commission **certify** Land Use Plan Amendment No. LCP-4-STB-18-0071-2-Part A as submitted by the County of Santa Barbara.*

### **STAFF RECOMMENDATION TO CERTIFY:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the Amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

### **RESOLUTION TO DENY:**

The Commission hereby **denies** the Land Use Plan Amendment No. LCP-4-STB-18-0071-2-Part A as submitted by the County of Santa Barbara and adopts the findings set forth below on grounds that the amendment as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment would not meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have not been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment, or 2) there are further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Amendment as submitted.

### **B. APPROVAL WITH SUGGESTED MODIFICATIONS**

**MOTION II:** *I move that the Commission **certify** Land Use Plan Amendment No. LCP-4-STB-18-0071-2-Part A for the County of Santa Barbara if modified as suggested in this staff report.*

**STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Amendment with suggested modifications and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

**RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:**

The Commission hereby **certifies** the Land Use Plan Amendment No. LCP-4-STB-18-0071-2-Part A for the County of Santa Barbara if modified as suggested and adopts the findings set forth below on grounds that the amendment with the suggested modifications will meet the requirements of and be in conformity with the Coastal Act. Certification of the Land Use Plan Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Land Use Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Amendment as submitted.

**III. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS FOR THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE**

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided prior to each resolution.

**A. APPROVAL AS SUBMITTED**

**MOTION II:** *I move that the Commission **reject** Implementation Plan Amendment No. LCP-4-STB-18-0071-2-Part A as submitted by the County of Santa Barbara.*

**STAFF RECOMMENDATION TO CERTIFY:**

Staff recommends a **NO** vote. Failure of this motion will result in certification of the implementation plan as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY:**

The Commission hereby **certifies** Implementation Program Amendment No. LCP-4-STB-18-0071-2-Part A for the County of Santa Barbara as submitted and adopts the findings set forth below on the grounds that the Implementation Plan Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, as amended. Certification of the Implementation Plan Amendment complies with the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the

Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Amendment as submitted.

#### IV. SUGGESTED MODIFICATION TO THE LAND USE PLAN

The staff recommends the Commission certify the proposed LUP amendment, with one suggested modification as shown below. Language proposed to be added by the County of Santa Barbara in this amendment is shown underlined. Language recommended by Commission staff to be inserted is shown double underlined. Language recommended by County and Commission staff to be deleted is shown in ~~double strikethrough~~.

##### A. SUGGESTED MODIFICATION NO. 1

*Subsection b of Policy 7-32 shall be modified as follows:*

**Policy 7-32:** When reviewing a Coastal Development Permit(s) associated with the Highway 101: Carpinteria to Santa Barbara project and other highway improvement projects to the South Coast Highway 101, the County of Santa Barbara shall require coastal access improvements in addition to those required by Policy 7-31 within the corridor with the goals of providing alternative transportation modes and establishing connectivity of the California Coastal Trail. Projects shall be designed to eliminate gaps for non-motorized travel and enhance coastal access, and shall be completed and open to the public no later than the completion of the adjacent phase of construction for the Highway 101: Carpinteria to Santa Barbara project. The following projects shall be required to enhance coastal access and non-motorized travel within the corridor:

...

- b. **Via Real ~~Multi-Use Pathway~~ Coastal Trail Enhancements: Greenwell to North Padaro Lane Interchange** – The project would include improvements along this section of Via Real to add buffered Class II bike lanes, an ADA accessible pathway on the oceanside of the roadway, and would maintain the equestrian/pedestrian trail on the mountainside of the roadway sidewalks, maintain Class II bike facilities on Via Real and construct a buffered multi-use pathway to enhance the California Coastal Trail. The multi-use pathway would provide bicycle and pedestrian access on the ocean side of the roadway and viewing opportunities of the Pacific Ocean.

...

## **V. FINDINGS FOR APPROVAL OF THE LAND USE PLAN WITH A SUGGESTED MODIFICATION AND APPROVAL OF THE IMPLEMENTATION PLAN AS SUBMITTED**

The following findings support the Commission's approval of the LUP Amendment as suggested to be modified, and the IP Amendment as submitted. The Commission hereby finds and declares as follows:

### **A. AMENDMENT DESCRIPTION AND BACKGROUND**

Highway 101 comprises the key transportation corridor between the cities of Ventura and Santa Barbara for both local residents and visitors to the area, and is the most heavily traveled facility in Santa Barbara County. Highway 101 plays a vital role in enabling motorists to access the local communities of Ventura, Carpinteria, Summerland, Montecito, Santa Barbara, and Goleta and other coastal areas on the south coast of Santa Barbara County. Trip types along this corridor include interregional travel, tourist travel, goods movement as well as more localized travel for work, school, shopping, recreation, and coastal access. Traffic studies conducted by the California Department of Transportation (Caltrans) showed that most commuters travel from the cities of Ventura and Carpinteria into Santa Barbara in the morning and then travel back south in the evening with the peak morning commute period between 7:00 a.m. and 9:00 a.m. and the peak afternoon commute period between 3:30 p.m. and 6:30 p.m. Additionally, the northbound lanes are often congested on Friday afternoons/early evenings and mid-Saturday during the summer due to an increase in tourists and other travelers driving to Santa Barbara or other points north, such as the State Beaches on the Gaviota Coast.

Currently, demand is exceeding the capacity of the existing four lane highway during weekday and weekend peak travel periods. In 2008, average traffic counts along this stretch of Highway 101 ranged between 65,000 to 95,000 vehicles per day. Based on existing and predicted housing and job patterns, an increase in average traffic counts is expected in the future. By 2020, average daily traffic counts on the highway in this region are projected to increase by 17 to 21 percent over the 2008 traffic volumes. By 2040, the average daily traffic counts are projected to increase by 50 percent over the 2008 volumes. In 2008, traffic congestion averaged 2 hours during the morning peak period and 2.5 hours during the afternoon peak period with 3,050 person-hours<sup>1</sup> spent on the road per day due to the traffic delays. By 2040, traffic congestion is expected to last a total of 11 hours per day, and the person-hours spent in delayed traffic conditions are expected to increase to 25,700 hours per day if the proposed highway project is not implemented. On the other hand, if the highway project is implemented, the number of person-hours delayed on the road would be reduced by at least 7,000 person-hours per day from the 2008 traffic levels.<sup>2</sup>

To decrease delays and improve traffic conditions in the region, the Santa Barbara County Association of Governments (SBCAG) created the "101 In Motion" Study, which recommended

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<sup>1</sup> Person-hours are based on average vehicle occupancy multiplied by the peak period vehicle hours of delay.

Vehicle hours of delay are calculated based on the length of time it takes for a vehicle to complete a travel trip.

<sup>2</sup> *South Coast 101 HOV Lanes Project Final Environmental Impact Report/Environmental Assessment with Finding of No Significant Impact*. Santa Barbara County. State of California Department of Transportation. 2014.

improvements to the 101 corridor, including transit, carpool, commuter, interchange, and freeway lane modifications. As the lead agency for the highway project, Caltrans analyzed three build alternatives along with a no build alternative. Analysis of the no build alternative showed that traffic congestion would continue to increase resulting in increased delays to motorists. The three build alternatives would all result in the addition of a part-time high occupancy vehicle (HOV) lane in both directions. Alternative 1 (the preferred alternative) would widen the highway to the median in some locations and widen the highway to the shoulder in other locations. Alternative 2 would widen to the shoulder within the entire project limits in order to maximize available areas for median landscaping. Alternative 3 would widen the highway to the median only. Alternative 1 was chosen as the preferred alternative because it contained the design flexibility to avoid and minimize impacts to wetlands and mature vegetation located in the median and on the shoulder of the highway. Alternative 3 would have the smallest footprint, while Alternative 2 would have the largest footprint. However, all three alternatives would have impacts to wetlands, and the difference in impacts between Alternative 1 and Alternative 3 would be minimal, as discussed further in Section C of this report.

Thus far, improvements to the Highway 101 corridor have been completed in the City of Santa Barbara and between Mussel Shoals and Carpinteria. These improvements created a six-lane highway up-coast and downcoast of the subject transportation project, and high occupancy vehicle lanes (HOV) lanes were added with the completion of the Ventura/Santa Barbara HOV project between Mussel Shoals and Carpinteria. Freeway improvements are currently under construction in Carpinteria to add HOV lanes in each direction within the city limits. The Highway 101 HOV: Carpinteria to Santa Barbara project will help complete widening of the existing freeway as part of a continuous widening project.

The County of Santa Barbara is requesting an amendment to the Land Use Plan (LUP) and Implementation Plan (IP) components of its certified Local Coastal Program (LCP) to allow for the construction of HOV lanes and public access improvements between the City of Carpinteria and the City of Santa Barbara that would result in impacts to wetlands and wetland buffers ([Exhibits 1 and 2](#)). The project-specific amendment proposes to amend the LCP with regard to wetland, water quality, recreation, and coastal access policies and provisions to allow for the development of the proposed transportation improvements. The proposed transportation improvement project would include construction of part-time HOV lanes, which would operate as HOV lanes during rush hour periods on weekdays and operate as general-purpose lanes during off-peak periods on weekdays and on weekends. The addition of the new lanes would expand the freeway from four lanes to six (three in each direction). The subject transportation project would also include a Class I bikeway between Santa Claus Lane and Carpinteria Avenue along the ocean side of the highway and beach access and streetscape improvements at Santa Claus Lane. The proposed amendment would require additional public access and recreation projects to be constructed. These include California Coastal Trail signage on Padaro Lane, vertical beach access signage on Padaro Lane, extension of a sidewalk at the North Padaro Lane interchange, restroom facilities at the Loon Point beach parking area, enhancements to the South Padaro Lane undercrossing, enhancements to the California Coastal Trail on Via Real, enhancements to coastal access on Finney Road, at Lookout Park, and at the Evans Avenue undercrossing, construction of a sidewalk and coastal parking on Wallace Avenue, extension of the Eucalyptus Lane sidewalk, and construction of roundabouts on San Ysidro and Olive Mill Roads ([Exhibit 3](#)).

As described in further detail below, the County is requesting to amend the text of existing LUP Policy 9-9 regarding wetlands and wetland buffers and add three new LUP policies (Policies 7-31, 7-32, and 7-33) regarding public access and recreation. The County is also requesting to add a new zoning overlay district (Transportation Corridor Wetland Overlay District) to the IP relating to wetlands and wetland buffers, coastal access, and recreation.

#### Land Use Plan Public Access and Recreation Text Modifications

The proposed amendment would add three new policies to the Coastal Access and Recreation section of the LUP ([Exhibit 4](#)). Proposed Policies 7-31 and 7-32 describe the Santa Claus Lane bikeway, beach access, and streetscape improvement projects as well as the other public access and recreation projects listed above. Proposed Policies 7-31 and 7-32 require those public access projects to be completed and open to the public no later than completion of the adjacent phase of construction for the Highway 101 project. Proposed Policy 7-33 requires the County to strongly encourage development of new pedestrian and/or bicycle-friendly paths along the highway corridor. Policy 7-33 also requires improvements to Highway 101 to not remove existing bikeways or pedestrian paths or preclude development of proposed bikeways or pedestrian paths that are identified in the County's Comprehensive Plan, Coastal Land Use Plan, and community plans without providing comparable or better replacement facilities.

#### Land Use Plan Wetland Text Modifications

The LUP amendment proposes to add text to existing Policy 9-9 to allow for the Highway 101 HOV lane project, as well as projects identified in Policies 7-31 and 7-32, to be developed within wetlands or within the 100-foot wetland buffer ([Exhibit 4](#)). Policy 9-9 prohibits most development within wetlands and requires a minimum buffer of 100 feet for development adjacent to wetlands (with the exception of public trails and passive recreation).

#### Transportation Corridor Wetland Overlay District

The County proposes to amend the IP to include a new zoning overlay district (Section 35-102G) that would apply to the Highway 101 HOV lane project, the Santa Claus Lane bikeway project, Santa Claus Lane beach access and streetscape improvements, and the additional projects identified in Policies 7-31 and 7-32 where appropriate ([Exhibit 5](#)). This overlay establishes standards related to fill or other impacts to wetlands, mitigation measures, and drainage and stormwater management. Specifically, the proposed development standards include replacement ratios for direct and indirect wetland impacts; best management practices to reduce water quality impacts to wetlands and other coastal waters from impervious surfaces; incorporation of pervious surfaces and maximization of infiltration opportunities; and technical specifications for wetland enhancement, restoration, and creation plans. This overlay also requires the construction of the proposed public access and recreation projects as well as the installation of signage for public parks, overlooks, parking areas, trails, and bicycle and pedestrian access ways to assist the public in locating these facilities.

## **B. PUBLIC ACCESS AND RECREATION**

### **1. Coastal Act Policies**

Section 30210 states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30213, in relevant part, states:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30214 states:

*(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*

*(1) Topographic and geologic site characteristics.*

*(2) The capacity of the site to sustain use and at what level of intensity.*

*(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*

*(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

*(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. ...*

Section 30221 states:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30222 states:

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Section 30253, in relevant part, states:

*New development shall:*

... (4) *Minimize energy consumption and vehicle miles traveled.*

## **2. Applicable LUP Policies**

All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Policy 7-5 states:

*For areas controlled by Federal, State, County, or District agencies, in a zone extending approximately 250 feet inland from the mean high tide line, priority shall be given to coastal dependent and related recreational activities and support facilities. However, camping facilities should be set back from the beach and bluffs and near-shore areas reserved for day use activities. Recreational activities that are not coastal dependent may be located within this 250-foot zone if the less desirable coastal dependent support facilities (parking, restrooms, etc.) are located inland. In no case shall facilities, except for required structures (i.e., lifeguard towers, volleyball nets, etc.), be located directly on the dry sandy beach.*

Policy 7-8 states:

*Increased opportunities for beach access shall be provided in the Carpinteria planning area.*

Policy 7-9 states:

*Additional opportunities for coastal access and recreation shall be provided in the Summerland planning area. Parking, picnic tables, bike racks, and restrooms shall be provided where appropriate.*

Toro Canyon Plan Policy LUG-TC-8 states:

*Protection of ESH and public access shall take priority over other development standards and where there is any conflict between general development standards and ESH and/or public access protection, the standards that are most protective of ESH and public access shall have precedence.*

Toro Canyon Plan Policy PRT-TC-1 states:

*The County shall strive to provide new park facilities, increased beach access and new trails.*

Toro Canyon Plan Policy PRT-TC-3 states:

*The County shall ensure that trails provide users with a recreational experience appropriate to the quiet, rural nature of the area.*

Summerland Community Plan Policy PRT-S-1 states:

*Diverse outdoor recreational opportunities shall be pursued to enhance Summerland's recreational resources and to ensure that current and future recreational needs are met for both residents and visitors.*

Summerland Community Plan Policy PRT-S-3 states:

*New trails shall be limited to non-motorized vehicle use. Trails should be designed to keep hikers, equestrians and bikes on the cleared pathways, and shall be designed to minimize impacts to any sensitive habitat area.*

Summerland Community Plan Policy PRT-S-5 states:

*New development shall not adversely impact existing recreational facilities and uses.*

Summerland Community Plan Policy OS-S-1 states:

*Public open space shall be provided and maintained in Summerland.*

### **3. Consistency Analysis**

One of the fundamental objectives of the Coastal Act is the protection of public access and recreation opportunities along the coast. The above referenced Coastal Act sections mandate that maximum public access and recreational opportunities be provided. Additionally, the County's existing certified Local Coastal Program (LCP) includes a number of public access policies, including the public access and recreation policies of the Coastal Act which are incorporated into the LCP, in order to maximize coastal access and recreation within the County.

The subject LCP amendment would add three policies related to public access and recreation (Policies 7-31, 7-32, and 7-33) to the certified Land Use Plan (LUP). Proposed Policy 7-31 would allow for the construction of six public access and recreation projects proposed along the Highway 101 corridor in order to achieve regional improvements to alternative transportation modes for the purposes of increasing access to coastal resources. The subject access and recreation projects consist of:

- The Santa Claus Lane Bikeway: This project would be a Class I path located between Highway 101 and the Union Pacific Railroad (on the ocean side of the highway) from

Sand Point Road to Carpinteria Avenue. Currently, cyclists must travel on the landward side of Highway 101 on this section of the coast. This project would improve bicycle and pedestrian travel by providing a direct coastal route adjacent to the Carpinteria Salt Marsh and complete a gap in the California Coastal Trail. With the addition of the future Carpinteria Rincon Trail project just south of Carpinteria, the proposed Santa Claus Lane Bikeway would tie into the bikeway adjacent to Highway 101 near Mussel Shoals and help to further complete the California Coastal Trail between Santa Barbara and Ventura.

- **Santa Claus Lane Beach Access and Streetscape Improvements:** This project would be located along Santa Claus Lane from South Padaro Lane to Sand Point Road and would include a pedestrian at-grade crossing to provide safe, legal access at a single point across the railroad from Santa Claus Lane to the beach. Additional, beach parking, public restrooms, trash/recycle bins, bike racks, bike lanes, crosswalks, sidewalks, traffic calming measures, and landscaping would also be constructed as part of the project. This project would enhance coastal access as well as pedestrian and bicycle travel by completing a gap in the California Coastal Trail.
- **California Coastal Trail Signage on Padaro Lane:** Currently, the California Coastal Trail can be accessed either by Via Real on the north side of Highway 101 or by Padaro Lane on the south side of Highway 101. The speed limit along Padaro Lane is much slower than Via Real, and vehicles that access Padaro Lane are mainly the residents that live in the area. Additionally, Padaro Lane has large trees and other landscaping on either side of the road. These factors create a more pleasant user experience on Padaro Lane compared to Via Real. However, pedestrians or bicyclists traveling along Via Real may not be aware that Padaro Lane is an alternate route, since one would have to turn off of Via Real to access Padaro Lane and signage does not currently exist to direct bicyclists and pedestrians to the alternate route. Padaro Lane has a northern intersection and a southern intersection with Via Real. Therefore, the proposed project would add California Coastal Trail signage at these intersections to raise awareness of the California Coastal Trail link along Padaro Lane.
- **Vertical Beach Access Signage on Padaro Lane:** A public vertical beach access-way currently exists at 3443 Padaro Lane, but a beach access sign does not exist at the entrance to the access-way. The proposed project would add signage for the public beach access-way in order to raise awareness that this access point exists.
- **North Padaro Lane Interchange Sidewalk:** This project proposes to construct a sidewalk at the North Padaro Lane interchange, which is adjacent to the Loon Point beach parking area. The project would extend the sidewalk from the North Padaro Lane interchange to the entrance for the Loon Point beach parking lot. The beach can be accessed from the parking lot via a trail underneath the North Padaro Lane overpass.
- **Restroom Facilities Installation at Loon Point Beach Parking Area:** This proposed project would install new restrooms that would replace portable toilets that currently exist at the Loon Point beach parking area. This project would enhance the coastal access experience at this location.

In addition to the projects listed above, proposed Policy 7-32 lists several other coastal access improvement projects that the County shall require when reviewing coastal development permits associated with the Highway 101 HOV: Carpinteria to Santa Barbara project or other highway improvement projects to Highway 101 in Santa Barbara County on the South Coast. Proposed Policy 7-32 requires the projects to be designed to eliminate gaps for non-motorized travel and enhance coastal access. The proposed projects consist of:

- South Padaro Lane Undercrossing Enhancements: This project includes enhanced bike and pedestrian facilities at the South Padaro Lane undercrossing as well as new lighting and aesthetic features.
- California Coastal Trail Enhancements on Via Real: This project would include improvements to pedestrian and bicycle facilities along Via Real between Greenwell Avenue and the North Padaro Lane Interchange. Currently, sidewalks in Summerland end at the northern terminus of Via Real, creating a gap in the California Coastal Trail for pedestrian use. The County originally proposed a project that would have maintained the existing Class II bicycle lanes in the roadway and would have constructed a buffered multi-use pathway to enhance the California Coastal Trail. The multi-use pathway would have provided bicycle and pedestrian access on the ocean-side of the roadway and viewing opportunities of the Pacific Ocean. However, the County is now proposing to simply extend the sidewalk from Greenwell Avenue to North Padaro Lane and reconfigure the roadway to add painted buffers between the Class II bike lanes and the lanes for vehicle traffic. These changes and analysis of the new project are discussed further below.
- Finney Road Coastal Access Enhancements: There is currently a coastal access path that leads from Finney Road down a bluff to the beach. The proposed enhancements would provide benches and tables along the bluff top on Finney Road to enhance the coastal access experience and use, particularly for those with mobility challenges, at this coastal access site.
- Lookout Park Enhancements: This project would construct a new group picnic area with a barbeque facility, including covered and uncovered seating areas, a walking path, and a public restroom at Lookout Park.
- Wallace Avenue Coastal Parking and Sidewalk: Coastal access parking currently exists along Wallace Avenue; however, striped spaces do not exist. The project along Wallace Avenue would widen the roadway and create striped parking spaces to provide more available parking. The project would also construct a sidewalk along Wallace Avenue to improve coastal access from the parking area to the beach at Lookout Park.
- Evans Avenue Undercrossing Enhancements: This project would reconfigure the undercrossing to provide improved bicycle and pedestrian facilities, including new lighting and aesthetic features, such as implementation of public art.

- Eucalyptus Lane Sidewalk Extension: Extension of the sidewalk on Eucalyptus Lane in Montecito would occur from the San Ysidro Road/Highway 101 interchange south to the railroad tracks. This project would complete a gap in the sidewalk on Eucalyptus Lane that provides access to the beach.
- San Ysidro Road Roundabout: The San Ysidro Road roundabout would be located at the intersection of San Ysidro Road, North Jameson Lane, and the Highway 101 northbound on- and off-ramps. The San Ysidro Road roundabout project would establish a new roundabout in order to enhance multi-modal circulation, intersection capacity and efficiency, and improve coastal access. As part of this project, the intersection of San Ysidro Road, South Jameson Lane, and the Highway 101 southbound on- and off-ramps would be improved by turning this intersection into an all-way stop intersection, since both the south and north intersections on San Ysidro Road function together.
- Olive Mill Road Roundabout: The Olive Mill Road roundabout would be located at the intersection of Olive Mill Road, North Jameson Lane, Coast Village Road, the Highway 101 northbound on-ramp, and the Highway 101 southbound on-ramp and would establish a new roundabout in order to enhance multi-modal circulation and intersection capacity and efficiency as well as improve coastal access.

The proposed amendment, which includes the public access and recreation projects listed above, will allow for transportation improvements that will enhance public access to and along the coast, which is consistent with the provisions of Section 30210 of the Coastal Act to maximize coastal access and recreation. Additionally, both of the proposed Policies 7-31 and 7-32 require the public access and recreation projects listed within them to be completed and open to the public no later than completion of the adjacent phase of construction for the Highway 101 project. This will ensure that the projects specifically intended to maximize public access are implemented at the same time the Highway 101 HOV Lanes project is implemented.

Since submittal of the proposed amendment, the County has conducted additional feasibility studies for the proposed public access projects. As a result of the feasibility study for the multi-use pathway along Via Real, the County found that there was not enough room between the road and highway to be able to feasibly add a 10 – 12 ft. multi-use pathway. Additionally, the County found that several utilities, including a gas line between Via Real and Highway 101, would need to be moved in order to construct the pathway, which also contributed to a request for revision to the project. Instead of the construction of a multi-use pathway, which would have accommodated pedestrians and bicyclists, the County is now proposing to simply extend the sidewalk on the ocean side of Via Real from Greenwell Avenue to Padaro Lane and reconfigure and restripe the road to allow for buffered Class II bicycle lanes on either side of the road. The new proposal would avoid the utilities because the road would be widened more to the mountain side of the road than the originally proposed project and would also have an overall smaller footprint than the originally proposed project. The extended sidewalk would complete a gap in the California Coastal Trail for pedestrians on the ocean side of Via Real. Currently, an equestrian/pedestrian pathway exists on the inland side of Via Real; however, this path is not compliant with the Americans with Disabilities Act (ADA). The new sidewalk on the ocean side of the road is proposed to provide an ADA compliant pathway consistent with the original proposed project.

The Class II bicycle lanes in the roadway would be buffered from vehicle traffic by a 2 to 3 ft. wide striped area on the road, which would create safer conditions than what the existing Class II bicycle lanes provide. It is also important to note that the County and Caltrans analyzed many potential Coastal Trail alternatives along this stretch of coast between North Padaro Lane and Loon Point, including alternatives on the ocean side of the highway, in order to provide the best coastal trail experience for users. However, there were a number of constraints associated with siting a trail seaward of Via Real that made those alternatives infeasible. Therefore, the proposed changes to the public access facilities on Via Real would still improve conditions and provide a coastal experience for both pedestrians and bicyclists, while maintaining the existing equestrian/pedestrian facilities. In order to allow for this change, the project description within proposed Policy 7-32 must be changed. The County has suggested revised language that is consistent with the public access policies of the Coastal Act and the existing policies in the LCP. Therefore, [Suggested Modification No. 1](#) is necessary to revise proposed LUP Policy 7-32 in order to provide for the County's proposed changes to public access along Via Real. Because the detailed language for the Via Real project is not provided for in the proposed IP amendment, a suggested modification to the IP amendment is not necessary for the amendment to be consistent with the LUP as amended.

In addition to proposed Policies 7-31 and 7-32, proposed Policy 7-33 requires the County to strongly encourage development of new pedestrian and/or bicycle-friendly paths along the highway corridor. This policy, along with the Santa Claus Lane bikeway and other public access projects listed above, will promote non-motorized travel, which is consistent with Section 30253 of the Coastal Act to reduce vehicle miles traveled. Policy 7-33 also requires improvements to Highway 101 to not remove existing bikeways or pedestrian paths or preclude development of proposed bikeways or pedestrian paths that are identified in the County's Comprehensive Plan, Coastal Land Use Plan, and community plans without providing comparable or better replacement facilities. Again, this language ensures that maximum public access is provided, including methods of non-motorized travel, by requiring existing public access to not be reduced, as consistent with Coastal Act Sections 30210 and 30253.

The proposed Transportation Corridor Wetland Overlay District (TCWO), which would be a new overlay in the Implementation Plan (IP), implements proposed Policies 7-31 and 7-32 by restating the projects listed in Policy 7-31 and providing for other coastal access improvements associated with the Highway 101 project as identified in Policy 7-32. Therefore, the TCWO provides for the public access and recreation projects listed in Policies 7-31 and 7-32, which directly carries out the proposed LUP policies. Further, the projects listed in the TCWO and the requirement that the projects are completed at the same time the adjacent phase of the Highway 101 project is completed will increase public access opportunities within the Carpinteria, Toro Canyon and Summerland areas consistent with existing LUP policies that encourage and require public access and recreation opportunities to be provided (see the policies in subsection 2 above).

Proposed section 35-102G.3 of the TCWO requires comprehensive signage to be provided for all coastal public access improvements associated with the Highway 101 project to identify public parks, overlooks, parking areas, trails, and bicycle and pedestrian access-ways in order to assist the public in locating and recognizing these coastal public access facilities. The TCWO also requires the signage to include, where appropriate, the California Coastal Trail logo, adequate

safety information, such as road crossing signs and yield/warning signs on multi-use trails, and information on how to avoid adverse impacts to sensitive coastal resources when utilizing access-ways. The proposed overlay also requires the signs to be posted in English and Spanish. While providing trails, parking areas, and other public access and recreation amenities is vital to maximizing coastal access, providing signage is equally important so that such amenities can be located and used by the public. Requiring that comprehensive bi-lingual signage is provided will help ensure that maximum public access is provided consistent with Section 30210 and the existing and proposed LUP policies.

For all of the reasons stated above, the Commission finds that the LUP amendment, if modified as suggested, meets the requirements of and is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, and the IP amendment, as submitted, conforms with and is adequate to carry out the public access and recreation policies of the certified LUP, as amended.

## **C. BIOLOGICAL RESOURCES AND WATER QUALITY**

### **1. Coastal Act Policies**

Section 30230 states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30233, in relevant part, states:

*(a) The diking, filling, dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
  - (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
  - (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
  - (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
  - (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
  - (6) Restoration purposes.*
  - (7) Nature study, aquaculture, or similar resource dependent activities.*
- ...

Section 13577(b) of the Commission's regulations defines a wetland as follows:

*(b) Wetlands.*

- (1) ... Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:
  - (A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;*
  - (B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or*
  - (C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.**
- (2) For the purposes of this section, the term "wetland" shall not include wetland habitat created by the presence of and associated with agricultural ponds and reservoirs where:*

- (A) *the pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; and*
- (B) *there is no evidence (e.g., aerial photographs, historical survey, etc.) showing that wetland habitat pre-dated the existence of the pond or reservoir. Areas with drained hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands.*

## **2. Applicable LUP Policies**

All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP. The LUP also contains the following policies:

Policy 1-2 states:

*Where policies within the land use plan overlap, the policy which is the most protective of coastal resources shall take precedence.*

Policy 2-11 states:

*All development, including agriculture, adjacent to areas designated on the land use plan or resource maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.*

Policy 3-16 states:

*Sediment basins (including debris basins, desilting basins, or silt traps) shall be installed on the project site in conjunction with the initial grading operations and maintained throughout the development process to remove sediment from runoff waters. All sediment shall be retained on site unless removed to an appropriate dumping location.*

Policy 3-17 states:

*Temporary vegetation, seeding, mulching, or other suitable stabilization method shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes shall be stabilized immediately with planting of native grasses and shrubs, appropriate nonnative plants, or with accepted landscaping practices.*

Policy 3-18 states:

*Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate*

*increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained on-site whenever possible to facilitate groundwater recharge.*

Policy 3-19 states:

*Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.*

Policy 9-9 states:

*A buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in Policy 9-10.*

*The upland limit of wetland shall be defined as: 1) the boundary between land with predominately hydrophytic cover and land with predominately mesophytic or xerophytic cover; or 2) the boundary between soil that is predominately hydric and soil that is predominately nonhydric; or 3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.*

*Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.*

Policy 9-11 states:

*Wastewater shall not be discharged into any wetland without a permit from the California Regional Water Quality Control Board finding that such discharge improves the quality of the receiving water.*

Policy 9-14 states:

*New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.*

Policy 9-36 states:

*When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.*

Toro Canyon Plan Policy WW-TC-4 states:

*Development shall avoid the introduction of pollutants into surface, ground and ocean waters. Where avoidance is not feasible, the introduction of pollutants shall be minimized to the maximum extent feasible...*

### **3. Consistency Analysis**

All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP. Coastal Act Section 30230 requires the maintenance, enhancement, and restoration of marine resources and assigns the highest protection to areas and species of special biological or economic significance. Section 30231 requires the protection of the biological productivity and quality of coastal waters and provides specific methods for achieving these protections. Section 30233 of the Coastal Act limits the fill of wetlands to specific, enumerated uses and also requires that any project that results in fill of wetlands provide adequate mitigation, and that the project be the least environmentally damaging alternative. In addition, the County's existing certified LUP contains numerous policies (listed in subsection 2 above) to protect wetlands and water quality within the County's coastal zone. In particular, LUP Policy 9-9 regulates development within wetlands and wetland buffers. This policy, which is intended to carry out the provisions of Section 30233, prohibits permanent structures within wetlands or wetlands buffers except for structures of a minor nature, such as fences, or structures necessary for light recreation or scientific and educational uses, such as bird watching and nature study. Policy 9-9 also requires a minimum 100 ft. buffer along the periphery of all wetlands.

#### Wetlands

The subject LCP amendment proposes to allow for the construction of a highway improvement and public access project that would result in adverse impacts to wetland habitats. The project components listed below (which would be allowable upon approval of the subject LCP amendment) would result in both temporary and permanent adverse impacts to wetland habitat and wetland buffers as depicted on ([Exhibit 2](#)).

- The HOV lanes for the Highway 101 HOV: Carpinteria to Santa Barbara project
- Santa Claus Lane Bikeway
- Santa Claus Lane Beach Access and Streetscape Improvements

The subject transportation project is not an allowed use within wetlands or wetland buffers under existing LUP Policy 9-9. In order to allow for the above listed project components, the LCP amendment proposes to amend the text of Policy 9-9 to create an exception for the subject transportation project ([Exhibit 4](#)). However, approval of the proposed LCP amendment would create an inconsistency between the LCP and Section 30233 of the Coastal Act, but as described further in Section D of this report, the subject LCP amendment may be approved under the conflict resolution provision of the Coastal Act.

Although the proposed LCP amendment would allow for a project that cannot meet the allowable use test in Section 30233, it may be approved under the conflict resolution provision if it meets various requirements, including that there is no feasible less environmentally damaging alternative and that feasible mitigation measures have been provided to minimize adverse environmental effects. As stated previously, Caltrans reviewed four alternatives, including a no build alternative, through the EIR process and determined that there was no alternative for expansion of the highway that meets the purpose and objectives of the project without requiring wetland fill. Alternative 1 is the preferred alternative, which would allow for the most flexibility to avoid and minimize impacts to wetlands while also maintaining existing vegetation and allowing for new landscaping in the median and on the shoulder. Alternative 2 would have the largest footprint, and therefore, the greatest impact on wetlands. Alternative 3 would have the smallest footprint and fewest impacts on wetlands. However, the difference in impacts to wetlands between Alternative 1 and Alternative 3 is de minimis. Caltrans' analysis of the alternatives showed that Alternatives 1 and 3 would have the same impact on natural wetlands and creeks. Alternative 3, however, would temporarily impact 0.004 fewer acres of human-made wetlands than Alternative 1 and permanently impact 0.02 fewer acres of human-made wetlands. Caltrans determined that these differences were not significant to warrant implementation of Alternative 3 over Alternative 1, given that Alternative 1 would enhance the scenic quality of the highway corridor, while Alternative 3 would not. The Commission concurs with the findings that there is no less environmentally damaging alternative that would maintain the scenic character of the highway corridor and provide the important access improvements while impacting fewer wetlands.

It is anticipated that construction of the subject HOV lanes would impact approximately 0.084 acres of wetlands and approximately 0.33 acres of wetland buffer. Since the Santa Claus Lane Bikeway would be located between the highway and the Carpinteria Salt Marsh, the project would impact approximately 0.57 acres of wetland and 0.93 acres of wetland buffer. Finally, the Santa Claus Lane Beach Access and Streetscape Improvements project would impact approximately 0.40 acres of wetlands and 0.50 acres of wetland buffer, which are adjacent to the existing road. In total, the Highway 101 HOV: Carpinteria to Santa Barbara project would impact 1.054 acres of wetland and 1.76 acres of wetland buffer.

As proposed, the Transportation Corridor Wetland Overlay (TCWO) contains several standards that require comprehensive mitigation for adverse impacts to wetland habitat areas and their buffers. Two categories of wetland areas have been identified within the TCWO area: natural and created wetlands. Natural wetlands include wetlands associated with creeks and areas near the Carpinteria Salt Marsh, and created wetlands are low functioning wetlands that are associated with highway infrastructure. As outlined within the TCWO, direct adverse impacts to natural

wetlands would be mitigated at a 4:1 ratio through wetland establishment (creation) or wetland restoration, and direct adverse impacts to created wetlands would be mitigated at a 3:1 ratio. Indirect impacts to wetlands, such as development in wetland buffer areas, would be mitigated through wetland restoration or wetland enhancement of all available portions of the remaining buffer area through methods such as invasive species removal, native species planting, and water quality improvements. Lastly, temporary impacts to both natural and created wetlands would be mitigated at a 1:1 ratio. Any required mitigation measures would be implemented pursuant to a wetland enhancement, restoration, and/or creation plan prepared by a qualified biologist, and would include specific goals and success criteria, as outlined within the TCWO.

Approval of the subject LCP amendment and implementation of the proposed transportation project would allow for impacts to 1.054 acres of wetland habitat and 1.76 acres of wetland buffer located in the TCWO area. Although the LCP amendment would require impacts from the project to be minimized and mitigated, the LCP amendment would also allow for the approval of a project that is fundamentally inconsistent with Coastal Act policies that do not allow transportation uses in wetlands. As described in Section D of this report, the project may be approved under the conflict resolution provisions of the Coastal Act. However, measures must be taken to minimize impacts to the maximum extent feasible, to mitigate the project's impacts to wetlands, and to structure the LCP so that it requires a project that comes as close to compliance as possible with the Chapter 3 policies discussed above. As proposed to be amended, the LCP requires on and off-site habitat restoration, creation or enhancement to offset the impacts of the project, requires adequate mitigation ratios for biological resource impacts, and would therefore result in a project that comes as close to compliance as possible with Section 30233.

In addition to wetland impacts, the subject transportation project would also result in riparian impacts at Arroyo Paredon, Romero, Oak, and San Ysidro creeks due to bridge replacements at these locations. However, the LCP allows public infrastructure projects, such as culverts and bridges, in stream corridors and riparian habitat when no alternative or other location is feasible and when the best mitigation measures are incorporated into the project (LUP Policy 9-38). Caltrans evaluated numerous project alternatives, as previously discussed, and determined that the proposed project purpose and objectives could not be achieved without impacts to riparian habitat, since the existing freeway crosses several creeks and riparian areas. Further, Caltrans proposes mitigation ratios of 3:1 for impacted willows as well as coast live oaks and western sycamores that are greater than 6 inches in diameter at breast height and a mitigation ratio of 1:1 for Monterey cypress and Monterey pine. Therefore, the riparian impacts as a result of the subject transportation project would be consistent with the existing LCP.

### Water Quality

Implementation of the subject transportation project would result in an increase of impervious surfaces through the construction of new road surfaces, which would result in two long term impacts to the natural hydrologic balance of coastal waters. The first impact on water quality is due to the introduction of pollutants. Pollutants commonly detected in highway runoff include:

- Petroleum products (e.g., gasoline, diesel fuel, motor oil and other lubricants) are common pollutants deposited on the highways and Caltrans' rights-of-way. Some fuels and lubricants contain additives, which may themselves be toxic to humans and aquatic life.

Potential sources of petroleum products from Caltrans' activities include leaks from vehicles and machinery and maintenance activities such as fueling, changing oil and washing. Although petroleum products are commonly used on a daily basis, it is important to be careful about how they are used and disposed.

- Sediment, when it significantly exceeds natural concentrations. Sometimes other potential pollutants (e.g., lead) may become attached to sediments and are transported with the sediments to receiving waters, increasing the potential for water quality impacts. Possible sources of sediment in runoff from highway maintenance activities include the tracking, transport and storage of loose bulk materials (e.g., sand or other aggregate), grading-related activities and soil erosion.
- Litter, defined as manufactured objects, and including items such as paper, aluminum cans, styrofoam cups, water bottles, and other items commonly discarded, which can be transported by wind and storm water into the storm drainage system.
- Dissolved and suspended metals. Metals found in highway storm water runoff are considered pollutants because above a certain threshold even low concentrations of these materials may harm aquatic life. These metals come from various sources and activities, including fuel combustion, brake pad wear (copper), tire wear (cadmium and zinc), metal corrosion, pressure-treated wood and creosote posts used for guard rails (arsenic), paints, herbicides and other materials.
- Nutrients, generally nitrogen and phosphorus, but also including other essential trace elements. Some of the possible sources of nitrogen and phosphorous from Caltrans' maintenance activities and facilities include storage of fertilizers, decaying plant materials from tree trimming, vegetation management surfactants and emulsifiers, and natural sources such as the mineralized organic matter in soils.
- Pathogenic microorganisms, including viruses, bacteria, protozoa and helminth worms, found in adjacent graded and landscaped areas. Sources are soil microorganisms and wild and domestic animal droppings.
- Pesticides, insecticides, and herbicides, which are used in Caltrans chemical weed control and integrated pest management activities.
- Asphalt and epoxy resins. A common product used extensively in Caltrans' maintenance activities is asphalt (especially cold mix), which, while not a pollutant under normal conditions of use, could potentially contribute pollutants to surface waters if mishandled or disposed of improperly. Some bonding, adhesive materials and protective coatings contain epoxy resins. Caltrans' maintenance activities that use epoxy resins include repairs of cracks, joints, bridges, barriers and irrigation lines.

Pollutants are washed off the impervious highway surfaces during rainfall events and become entrained in the highway runoff. The pollutants originate from the vehicles that travel on the highway, maintenance of the highway, and adjacent graded and landscaped areas. This runoff can reach coastal waters such as the streams, wetlands, and groundwater present in the project area.

The second impact on water quality is due to higher volumes and higher velocities of runoff during storms than existing conditions due to the addition of impervious surfaces. The drainage system for the highway also concentrates and often redirects runoff, which also may locally increase flow volumes and velocities in a given area. Adding volume and velocity of runoff can exceed the natural balance between runoff, sediment supply, and resistance to erosion of the bed and banks of a stream course, and result in accelerated erosion of the stream channel. Slight changes in hydrology, including changes in the pattern of runoff, can effect large changes in seasonal wetlands.

Section 30230 of the Coastal Act requires marine resources to be maintained, enhanced, and, where feasible, restored, while Section 30231 requires the biological productivity and quality of coastal waters, streams, and wetlands to be maintained by controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, and maintaining natural vegetation buffer areas. Further, the County's existing LCP requires measures, such as sediment basins and vegetation of graded soil, to prevent erosion and to prevent polluted runoff from contaminating coastal waters.

From a water quality perspective, the greatest area of concern is the project's potential permanent contribution to impervious surface area by the new or widened roads. The project creates a larger surface area that will produce more runoff than the existing highway, commensurate with its size. As the area of impervious surface increases, it becomes incrementally more difficult to dissipate, infiltrate, or treat runoff. In order to minimize adverse impacts to water quality, the proposed TCWO requires each project associated with the Highway 101 HOV: Carpinteria to Santa Barbara project (i.e., the projects listed in Policies 7-31, 7-32, and the TCWO) to emphasize Low Impact Development to minimize runoff, include Best Management Practices in the design and construction of the project, and implement post-construction water quality standards. Examples of these measures that are listed in the LCP amendment include, allowing soil-based or bioengineered BMPs to be located and maintained within wetland buffers only where there is no feasible alternative and where they would support wetland protection, grading to create topographic depressions that capture and detain runoff, amending onsite soils to increase infiltration, adding or replacing native plants in areas that receive runoff, and requiring infiltration BMPs to be designed to handle runoff in accordance with the most current National Pollutant Discharge Elimination System permit regulations.

The standards proposed in the TCWO serve to protect the quality of coastal waters and marine resources by preventing pollution and controlling runoff. Therefore, the Commission finds that proposed water quality standards within the TCWO described above are adequate to mitigate the adverse impacts on coastal waters that would result from implementation of the transportation project allowed under the subject LCP amendment, to the maximum extent feasible. In conclusion the LUP amendment as it relates to water quality will be adequate to carry out the provisions of Coastal Act Sections 30230 and 30231, and the IP amendment is consistent with, and adequate to carry out, the existing water quality policies of the LUP. The LUP Amendment is inconsistent with Coastal Act Section 30233; however, as described below, denial of the project would be inconsistent with Coastal Act policies related to maximizing public access and recreation, and approval of the project is, on balance, the most protective of significant coastal resources.

## D. CONFLICT RESOLUTION

Section 30007.5 of the Coastal Act states:

*The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.*

Section 30200(b) of the Coastal Act states:

*Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.*

As noted previously in this report, the proposed project is inconsistent with Section 30233 (fill of wetlands) of the Coastal Act. However, as explained below, denying or modifying the proposed project to eliminate these inconsistencies would lead to nonconformity with Section 30210 related to public access. In such a situation, when a proposed project is inconsistent with one or more Chapter 3 policies, but denial of the project or modification of the project to render it consistent with those Chapter 3 policies would be inconsistent with another policy, Section 30007.5 of the Coastal Act provides for resolution of such a policy conflict.

### Analysis

Determining whether the conflict resolution provisions apply and then resolving conflicts through application of Section 30007.5 involves assessing whether the following seven criteria are satisfied:

- 1) The project, as proposed, is inconsistent with at least one Chapter 3 policy;
- 2) Denial of the project or implementation of the project as modified to eliminate the inconsistency would affect some other coastal resource(s) in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires some protection or enhancement of those resources that the project would otherwise provide;
- 3) The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement;
- 4) The project, if approved, would result in tangible resource enhancement over existing conditions;
- 5) The benefits of the project are not independently required by some other body of law;

- 6) The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to “create a conflict”; and,
- 7) There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies.

The proposed development meets all of the above criteria for applying conflict resolution, as follows:

*Step 1*

First, for the Commission to apply Section 30007.5, a proposed project must be inconsistent with an applicable Chapter 3 policy. Approval of the subject LCP amendment, and subsequent construction of the subject transportation project, would be inconsistent with Coastal Act Section 30233, as indicated above, which limits the fill of wetlands to a specific list of allowable uses. The proposed LCP amendment is inconsistent with this section of the Coastal Act because it would allow for transportation and public access development that would include fill of wetlands, and transportation improvements are not a use for which fill in wetlands is allowable.

*Step 2*

Second, denial of the project, or modification of the project to eliminate the inconsistencies with one or more Chapter 3 policies, would affect coastal resources in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires protection or enhancement of a resource that the project would protect or enhance. A true conflict between Chapter 3 policies results from a proposed project that is inconsistent with one or more policies, and for which denial or modification of the project would be inconsistent with at least one other Chapter 3 policy. Further, the policy inconsistency that would be caused by denial or modification of a project must be with a policy that affirmatively mandates protection or enhancement of certain coastal resources. In most cases, denying a proposed project would not cause adverse effects on coastal resources for which the Coastal Act mandates protection or enhancement, but would simply maintain the status quo. However, where denial of a project would result in significant impacts, for example to public access and recreation, as is the case with the proposed transportation improvement project, a conflict between or among two or more Coastal Act policies is presented.

While denial of the subject transportation project would prevent fill, and therefore be consistent with Coastal Act Section 30233, it would also fail to maximize access to the coast, and would instead maintain the status quo, which includes traffic congestion during peak weekday and weekend periods and a longer indirect bicycle and pedestrian route between Santa Claus Lane and the City of Carpinteria. As previously discussed, without the subject transportation project, the existing Highway 101 between Carpinteria and Santa Barbara would continue to become even less effective over time and result in increased congestion and delays to motorists, including those seeking access to the coast. Additionally, the benefits of promoting carpooling would not be realized. Further, improved bike lanes and pedestrian access proposed throughout the project area, including along Santa Claus Lane and the railroad adjacent to the Carpinteria Salt Marsh, could not be completed. As such, public access would not be maximized, which

would therefore be inconsistent with Section 30210, which affirmatively requires the Commission to provide maximum public access.

Additionally, as stated above, Caltrans analyzed several alternatives for widening Highway 101 to relieve congestion on this section of the coast. However, Caltrans determined that there was no feasible alternative that would provide improved access while not resulting in fill of wetlands and therefore be consistent with Section 30233. The highway already exists, already crosses a number of drainages, and has already been widened both up-coast and downcoast of the subject area. Accordingly, it would not be feasible to provide equivalent access and transportation improvements in other locations, and widening the freeway in this location will necessarily result in some impacts to wetlands. Further, the Santa Claus Bikeway and Santa Claus Lane Streetscape and Improvements projects would also result in impacts to wetlands, and the only way to not impact wetlands associated with these projects would be to deny the projects. Therefore, only denial of the Highway 101 HOV: Carpinteria to Santa Barbara project would be consistent with Section 30233, which would thus be inconsistent with Section 30210.

### *Step 3*

The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement. For denial of a project to be inconsistent with a Chapter 3 policy, the proposed project would have to protect or enhance the resource values for which the applicable Coastal Act policy includes an affirmative mandate. That is, if denial of a project would conflict with an affirmatively mandated Coastal Act policy, approval of the project would have to conform to that policy. If the Commission were to interpret this conflict resolution provision otherwise, then any proposal, no matter how inconsistent with Chapter 3 that offered a slight incremental improvement over existing conditions could result in a conflict that would allow the use of Section 30007.5. The Commission concludes that the conflict resolution provisions were not intended to apply to such minor incremental improvements.

In this case, the proposed amendment would allow for a project that would provide safe and long-term public access to the coast along this portion of Highway 101 as well as enhance existing public access and recreation amenities in the region. The proposed amendment would also require that all non-vehicular public access and recreation projects associated with the Highway 101 project be completed no later than the completion of the adjacent phase of the highway. Therefore, by requiring the associated public access and recreation projects in the text of the proposed amendment, the LCP amendment would ensure that maximum public access and recreational opportunities are provided, which is fully consistent with the Coastal Act's public access and recreation policies.

### *Step 4*

The project, if approved, would result in tangible resource enhancement over existing conditions. Although the project that would be allowed by the subject LCP amendment would result in impacts to wetland habitats, all wetland and wetland buffer impacts would be fully mitigated, as discussed above. Further, the Highway 101 project would result in tangible resource enhancement over existing conditions for several reasons. First, the highway would have an increased capacity due to the addition of an extra lane in each direction for high occupancy vehicles during peak commute hours. The extra lanes would be available to all vehicles during

all other hours of the week, including for coastal visitors on the weekends and midday during the week. The addition of HOV lanes will promote carpooling during peak hours to reduce traffic as well as greenhouse gas emissions, and expansion of the highway will enable travelers, including those seeking access to the coast, to get to their destinations sooner. Additionally, the project would include construction of a separated bike and pedestrian trail, which would bypass the current route through Carpinteria to provide improved public access to and along the coast, as well as an enhanced public recreational experience as compared to the current bike and pedestrian access on this portion of the coast, which forces cyclists and pedestrians to travel inland between the City of Carpinteria and points north. The new bikeway would provide a separated path directly adjacent to the coastal Carpinteria Salt Marsh. This bikeway would also help to further reduce traffic on the highway by providing a faster and more direct bike route between Carpinteria and Santa Barbara. Further, the improvements along Santa Claus Lane and installation of an at-grade pedestrian railroad crossing at Santa Claus Lane beach would also provide improved public access to and along the coast by creating more parking and a safer way to cross the railroad tracks at the popular beach location. Finally, the Santa Claus Lane bikeway and streetscape improvements will complete a gap in the California Coastal Trail between Ventura and Santa Barbara.

*Step 5*

The benefits of the project are not independently required by some other body of law. The benefits that would cause denial of the project to be inconsistent with a Chapter 3 policy cannot be those that a project proponent is already being required to provide pursuant to another agency's directive under another body of law. In other words, if the benefits would be provided regardless of the Commission's action on the proposed project, the project proponent cannot seek approval of an otherwise un-approvable project on the basis that the project would produce those benefits – that is, the project proponent does not get credit for resource enhancements that it is already being compelled to provide. For the Highway 101 project, Caltrans has an obligation to keep the highway open but has no obligation from another agency to construct the subject transportation improvement project. Likewise, neither Caltrans nor the County are required by other laws to complete the various other access improvements. Therefore, the transportation project that would be allowed by the proposed amendment meets this step.

*Step 6*

The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to “create a conflict.” A project's benefits to coastal resources must be integral to the project purpose. If a project is inconsistent with a Chapter 3 policy, and the main elements of the project do not result in the cessation of ongoing degradation of a resource the Commission is charged with enhancing, the project proponent cannot “create a conflict” by adding to the project an independent component to remedy the resource degradation. The benefits of a project must be inherent in the purpose of the project; otherwise, project proponents could regularly “create conflicts” and then request that the Commission use Section 30007.5 to approve otherwise un-approvable projects. The balancing provisions of the Coastal Act could not have been intended to foster such an artificial and easily manipulated process, and were not designed to barter amenities in exchange for project approval.

In this case the benefits of the project result from its primary purpose – improved transportation for vehicles, bicyclists, and pedestrians along this portion of Highway 101. The bicycle and pedestrian improvements are integral parts of the project and were not simply added on in order to make the HOV lane portion of the project more palatable. The Santa Claus Bikeway is integrally related to the highway widening as it is not only adjacent to the widened freeway, but part of the freeway structure itself. Additionally, the bikeway, Santa Claus Lane streetscape improvements, California Coastal Trail enhancements and signage on Via Real, and several other public access components of the project are part of a long-term plan to create and upgrade the California Coastal Trail and provide a range of transportation options to and along the coast. Further, the proposed public access components are improvements that have been long planned by the County, including several that are proposed in the County's LUP (such as a bikeway along Santa Claus Lane).

#### *Step 7*

There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies, since all of the build alternatives would impact wetlands and the no build alternative would not achieve the project's goals. As discussed in Section C above, Alternative 1 would allow for the most flexibility in avoiding and minimizing impacts to wetlands while also maintaining and enhancing the scenic quality of the corridor. Although Alternative 3 has a smaller footprint and fewer wetland impacts than Alternative 1, the difference in wetland impacts between the two alternatives is minimal. The project's EIR showed that Alternatives 1 and 3 would have the same impact on natural wetlands and creeks. However, Alternative 3 would temporarily impact 0.004 fewer acres of human-made drainage features (considered wetlands under the Coastal Act) than Alternative 1 and permanently impact 0.02 fewer acres of human-made drainage features than Alternative 1. The analysis conducted by Caltrans determined that these differences were not significant to warrant implementation of Alternative 3 over Alternative 1, given that Alternative 1 would maintain and enhance the scenic quality of the highway corridor, while Alternative 3 would not. Further, most of the widening would occur within the existing right-of-way, and the new lanes would be added on the inside of the existing lanes, although some widening would occur on the outside of the existing lanes as well. In this case, given the location of wetlands next to the existing highway alignment and the fact that the existing highway already crosses several creeks, other alternatives would still present the same Coastal Act inconsistencies as the subject proposal, since the alternatives would also impact wetlands. The only alternative that would not impact wetlands would be the no build alternative, which would not achieve the objectives of the project or provide the public access benefits the subject transportation project would provide.

#### *Conclusion*

Based on the above, the Commission finds that the proposed project presents a conflict between Section 30233 and Section 30210 that must be resolved through application of Section 30007.5, as described below.

#### Conflict Resolution

With the conflict among two Coastal Act policies established, the Commission must resolve the conflict in a manner which on balance is the most protective of significant coastal resources. In

reaching this decision, the Commission evaluates the project's tangible, necessary resource enhancements over the current state and whether they are consistent with resource enhancements mandated in the Coastal Act. In the end, the Commission must determine whether its decision to either deny or approve a project is the decision that is most protective of significant coastal resources.

In other instances, including for other Highway 101 widening projects, the Commission has found that transportation improvements that provide improved vehicular, bicycle, and pedestrian access are, on balance, more protective of coastal resources than impacts to wetlands or other resources.<sup>3</sup> That is also the case here. Without the subject LCP Amendment that would allow these transportation projects, Highway 101 between Carpinteria and Santa Barbara would continue to become even less effective over time and result in increased congestion and delays to motorists, including those seeking access to the coast, as discussed on more detail above. Additionally, the Highway 101 HOV: Carpinteria to Santa Barbara project, which will promote carpooling, would not be realized. Finally, improved bike lanes and pedestrian access between Santa Claus Lane and Carpinteria Avenue, coastal access parking and pedestrian access improvements along Santa Claus Lane, an at-grade pedestrian railroad crossing from Santa Claus Lane to the beach, new restrooms at the Loon Point Beach Parking Area, California Coastal Trail enhancements along Via Real between Summerland and Padaro Lane, and the other public access and recreation projects included in the proposed LCP amendment would not be required to be completed at the same time that the adjacent phase of the Highway101 project is completed, and thus would not be available to provide improved and enhanced public access.

The test for approval is not for the project to be "more" protective of resources, it must be "most" protective. In order for that finding to be made, the adverse coastal resource impacts caused by the project have to be minimized and then mitigated to the maximum extent feasible. As discussed in detail in the above sections, the subject LCP amendment would require on-site and off-site restoration of wetlands and wetland buffers as mitigation for the project's wetland impacts with appropriate mitigation ratios. As described throughout the other sections of this report, the proposed LCP amendment, if modified as suggested, is consistent with all other applicable Coastal Act policies (Sections 30210, 30230, and 30231), since the proposed amendment includes standards to protect marine resources and coastal waters and provide maximum public access and recreation opportunities.

Approval of the proposed LCP Amendment is more protective of coastal resources than denial would be because it allows for improved motor vehicle, bicycle, and pedestrian access along and to the coast and would significantly enhance the user experience at several existing public access locations through the addition of signage, formalized parking, restrooms, sidewalks, landscaping and other features. Additionally, the impacts that are inconsistent with Section 30233 relating to wetland habitats are minimal, especially given the size of this project, and would be minimized and mitigated, as discussed in Section C above. In resolving the identified Coastal Act conflicts, the Commission finds that the impacts on coastal resources from not constructing the project will be more significant than the project's wetland impacts if these impacts are minimized and

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<sup>3</sup> See, e.g., CDPM 6-98-127 (City of San Diego) 2000. <https://documents.coastal.ca.gov/reports/2000/5/W14b-5-2000.pdf> and Local Coastal Program Amendment No. LCP-4-CPN-15-0018-1(City of Carpinteria) 2015. <https://documents.coastal.ca.gov/reports/2015/10/Tu9a-10-2015.pdf>

mitigated as proposed. Therefore, the Commission finds that approving the project, as proposed, is on balance most protective of coastal resources.

### **E. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission, and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Additionally, Caltrans prepared an EIR for the South Coast HOV Lanes project, dated August 2014 and revised October 2017.

Nevertheless, the Commission is required, in approving an LCP submittal to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13540(f) and 13555(b).

The County's LCP amendment consists of an LUP and an IP amendment. As discussed above, the LUP amendment, if modified as suggested, conforms with and is adequate to carry out most Chapter 3 policies of the Coastal Act, and the approval is, on balance, most protective of significant coastal resources. Further, the IP amendment, as submitted, conforms with and is adequate to carry out the policies of the LUP, as amended. As discussed in the preceding sections, the proposed amendment represents the most environmentally protective alternative consistent with the requirements of the Coastal Act.

Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts.