

CALIFORNIA COASTAL COMMISSION

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April 24, 2019

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TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
STEPHANIE LEACH, COASTAL PLANNER, SAN DIEGO COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF DEL MAR LOCAL COASTAL
PROGRAM AMENDMENT NO. LCP-6-DMR-18-0096-2 for Commission Meeting
of May 8-10, 2019**

SYNOPSIS

The subject Local Coastal Program (LCP) Land Use Plan and Implementation Plan amendment was submitted and filed as complete on December 21, 2018. Pursuant to Section 30512 of the Coastal Act, the Commission must act on combined Land Use Plan/Implementation Plan amendments within 90 days of filing (90 working days for submittals filed after January 1, 2019). A one-year time extension for this item was therefore sought and granted on March 7, 2019. Therefore, the Commission must take action on this LCP amendment by March 20, 2020.

SUMMARY OF AMENDMENT REQUEST

The subject submittal consists of changes to both the certified Land Use Plan (LUP) and the Implementation Plan (IP) for the City of Del Mar. The City proposes to redesignate and rezone two parcels of approximately a half-acre in size at the southeast corner of Camino del Mar and 10th Street in downtown Del Mar ([Exhibit 1](#)). The site is currently designated "Central Commercial" in the Village Center district and also zoned as Central Commercial (CC), which accommodates a mix of commercial uses. The proposed land use ([Exhibit 2](#)) and zoning designations ([Exhibit 3](#)) would be prescribed in the newly proposed 941 Camino del Mar Specific Plan, which also allows for a mix of commercial uses, including retail, restaurants and professional office space, and introduces residential/hospitality units as permitted uses.

SUMMARY OF STAFF RECOMMENDATION

In 2009, the City processed and the Commission approved with suggested modifications the Garden Del Mar Specific Plan for the subject site. However, that plan was never implemented and the City has now rescinded the plan ([Exhibit 4](#)); the 941 Camino del Mar Specific Plan would replace it and provide a new development plan for the site. The 941 Camino del Mar Specific Plan contains both land use and implementation plan

components, and the City seeks amendment of both components accordingly ([Exhibit 5](#)). Staff is recommending approval of the new Specific Plan ([Exhibit 6](#)) as submitted.

The land use component of the new Specific Plan conforms with Chapter 3 of the Coastal Act by providing for potential new visitor-serving opportunities in the coastal zone and maintaining public views towards the ocean, and is also proposed in a currently developed area that will not impede the public's access to the coast, while encouraging commercial activity in a pedestrian-friendly area adjacent to an existing residential zone.

The zoning element of the Specific Plan will ensure project design adheres to guidelines for architecture and streetscape improvements in keeping with Del Mar's small town atmosphere, and regulations on building height and off-street parking for the underlying CC zone will be maintained. Restrictions on the amount of office space will also conform to the goals of the Village Center District. Therefore, the zoning element of the Specific Plan conforms with and is adequate to carry out the City of Del Mar's certified Land Use Plan as amended.

The appropriate resolutions and motions begin on Page 4. The findings for approval of the land use plan amendment as submitted begin on Page 6. The findings for approval of the implementation plan amendment as submitted begin on Page 9.

ADDITIONAL INFORMATION

Further information on the City of Del Mar LCP Amendment No. LCP-6-DMR-18-0096-2 may be obtained from [Stephanie Leach](#), Coastal Planner, at (619) 767-2370.

EXHIBITS

- [Exhibit 1](#) – Project Location
- [Exhibit 2](#) – Land Use Map
- [Exhibit 3](#) – Zoning Map
- [Exhibit 4](#) – Ordinance No. 939
- [Exhibit 5](#) – Resolution No. 2018-37
- [Exhibit 6](#) – 941 Camino del Mar Specific Plan

PART I. OVERVIEW

A. LCP HISTORY

In May 1991, the City of Del Mar submitted its LUP for Commission action. The Commission denied the LUP as submitted, but approved it with suggested modifications in September 1991. The City did not accept the suggested modifications within six months, so the City resubmitted the same documents and the Commission again approved the LUP with suggested modifications in June 1992. This time, the City Council adopted the modifications within the prescribed time and the Commission effectively certified the LUP in March 1993. The IP was approved with suggested modifications on March 13,

2001. On September 11, 2001, the Commission concurred with the Executive Director's determination to effectively certify the City of Del Mar LCP.

The certified LCP was first amended (LCPA No. 1-2000) in 2002 to incorporate the City's Multiple Species Conservation Program Subarea Plan. A second LCP amendment (DMR-MAJ-1-08), referenced as Garden Del Mar, was approved with suggested modifications in March 2009 for the redesignation and rezoning of the property at the southeast corner of Camino del Mar and 10th Street. A third amendment (DMR-MAJ-1-09) was approved with suggested modifications in March 2010 to revise parking regulations to support revitalization of the City's downtown business district. A fourth amendment (DMR-MAJ-1-11) involved deleting a phrase regarding the processing for authorization of reductions in wetland setbacks so as to delete automatic deferral to California Department of Fish and Wildlife. A fifth amendment (LCP-6-DMR-16-0073-1) was approved with suggested modifications in May 2017 to add and update various sections related to off-street parking to more efficiently utilize existing spaces in commercial zones, change in-lieu fee parking program requirements, and incentivize alternative transportation options. A sixth amendment (LCP-6-DMR-17-0011-1) was approved with a suggested modification in September 2017 to add a new section to establish a process for approval of temporary uses on private property. In February 2018, the Commission approved a seventh amendment (LCP-6-DMR-17-0062-2) to revise the City's regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units to be consistent with state law. The City of Del Mar requested a time extension on November 7, 2018 to consider Commission modifications to LCP Amendment No. LCP-6-DMR-17-0083-3 (Short-term Rentals), which sought to modify the City's Implementation Plan to add language defining and regulating short-term vacation rentals, homesharing, and similar short-term visitor accommodations in legal dwelling units for less than 30 consecutive days. The one year extension was adopted by the Commission at its December 2018 meeting. At the March 2019 hearing, a one year time extension was requested by Commission staff for both this subject amendment as well as LCP-6-DMR-18-0082-1 (Sea Level Rise Planning), which includes updated policies and implementation measures to reflect recent vulnerability and hazard assessments regarding sea level rise. Most recently, at the April 2019 hearing, an eighth amendment (LCP-6-DMR-18-0097-3) was approved as submitted for the repeal of all references to the Downtown Initiative Overlay Zone within both the LUP and IP.

B. STANDARD OF REVIEW

The standard of review for land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, Section 30512 states:

(c) 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). Except as provided in

paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

In those cases when a local government approves implementing ordinances in association with a land use plan amendment and both are submitted to the Commission for certification as part of one LCP amendment, pursuant to Section 13542(c) of the Commission's regulations, the standard of review of the implementing actions shall be the land use plan most recently certified by the Commission.

C. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION:** *I move that the Commission certify the Land Use Plan Amendment No. LCP-6-DMR-18-0096-2 for the City of Del Mar certified LCP, as submitted.*

STAFF RECOMMENDATION TO CERTIFY:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Land Use Plan Amendment for the City of Del Mar LCP as submitted and adopts the findings set forth below on grounds that the land use plan will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan 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 plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan.

II. **MOTION:** *I move that the Commission reject the Implementation Program Amendment No. LCP-6-DMR-18-0096-2 for the City of Del Mar certified LCP, as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment 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 IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of Del Mar as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program will meet 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 Program 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 Implementation Program Amendment.

**PART III. FINDINGS FOR APPROVAL OF THE CITY OF DEL MAR LAND
USE PLAN AMENDMENT, AS SUBMITTED**

A. AMENDMENT DESCRIPTION

The City of Del Mar proposes to redesignate and rezone an approximately half-acre site at the southeast corner of Camino del Mar and 10th Street in downtown Del Mar. The site is currently designated and zoned as the Garden Del Mar Specific Plan, which was approved through an LCP Amendment (DMR-MAJ-1-08) by the Commission in March 2009 for a mix of commercial uses. The proposed land use designation and zone would be 941 Camino del Mar Specific Plan (941SP), which allows for both a mix of commercial uses as well as residential/hospitality units. Therefore, the new specific plan introduces residential use for the redevelopment of the property. Although both designations allow for a mix of uses, the 941SP places a greater emphasis on providing for flexible residential and visitor-serving uses along Camino del Mar, allowing for a combination of market price and affordable residential units, hospitality units (including nightly and short-term rentals for visitors), commercial, professional office, retail and restaurant uses.

The 941SP is located within the City's downtown area, as generally defined by the underlying Village Center District and Central Commercial Land Use designations. The Central Commercial (CC) portion of the Village Center District is meant to be the prime location for retail, restaurant, and personal service and office uses in the City for both residents and visitors. The CC land use district encourages retail uses over office uses for floor area located on the street level of buildings fronting Camino del Mar; accordingly, the 941SP requires a 20 ft. depth of commercial uses along the Camino del Mar frontage and limits the amount of office space on the ground level to forty percent. Camino del Mar itself is the major coastal access route through the City and follows the historic Highway 101 corridor. The specific plan designation is intended to accommodate a development that was approved by the City on October 15, 2018 pursuant to a non-appealable coastal development permit decision.

B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2(b) of the Coastal Act, that the Land Use Plan as set forth in the preceding resolutions, is in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act, which states:

The legislature further finds and declares that the basic goals of the state for the Coastal Zone are to:

a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.

- b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.
- (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.
- (e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan amendment submitted as LCP-6-DMR-18-0096-2 conforms with Chapter 3 of the Coastal Act to the extent necessary to achieve the goals of the state for the coastal zone.

C. CONFORMITY OF THE DEL MAR LAND USE PLAN AMENDMENT WITH CHAPTER 3

The certified Del Mar LCP Land Use Plan (LUP) is designed to primarily address those areas and policies of the City that most pertain to the Coastal Act. It includes chapters addressing natural resources, seawalls, floodplains, public access, hazards, etc., along with exhibits that include maps and a narrative description of each land use designation. Chapter II – Land Use Development describes the city as a group of districts, and includes descriptions of all land use designations and uses within each area. The 941 Camino del Mar Specific Plan site is located near the southern boundary of the Village Center District along Camino del Mar. Most of the district is designated as Central Commercial, allowing general commercial uses, but also includes three existing specific plan areas, one of which is the Garden Del Mar Specific Plan that is to be replaced by the 941 Camino del Mar Specific Plan. There are also some multi-family properties located within the District as well as several public buildings.

The proposed LUP amendment does not raise any significant coastal resource issues pursuant to Chapter 3 policies of the Coastal Act. Relevant Coastal Act policies include the following:

Section 30222 of the Coastal Act 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 30250 of the Coastal Act states, in relevant part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it...

Section 30251 of the Coastal Act states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Scenic 30252 of the Coastal Act states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...

The land use component of the new Specific Plan will conform with Chapter 3 of the Coastal Act by providing for potential new visitor-serving opportunities in the coastal zone and maintaining public views towards the ocean. The Specific Plan will apply to a property located in a currently developed area that will not impede the public's access to the coast while encouraging commercial activity in a pedestrian-friendly area adjacent to an existing residential zone.

The currently certified Del Mar LUP includes policies addressing allowed uses, public views, parking, and visitor-serving facilities. The subject property is located on the inland side of Camino del Mar at 10th Street, which increases significantly in elevation to the east, such that no public views of the sea are lost through implementation of the 941 Camino del Mar Specific Plan. Existing LUP policies addressing height limits and parking requirements are not changed in the specific plan, and overall land uses allowed pursuant to the Central Commercial land use designation remain in place under the specific plan. The proposed plan is more restrictive than the Central Commercial standards, however, by setting limits on the amount of restaurant and office spaces allowed along the Camino del Mar frontage and ground floor, requiring residential hospitality units on the second floor, and requiring that any residential use on the ground floor are designated affordable housing units only. Absent these ground floor restrictions, non-priority uses could infringe on the visitor orientation of Camino del Mar. All parking for the site uses shall be provided off-street and will be screened from public

view. The City wishes to develop pedestrian-oriented uses for both residents and visitors along this main street on two parcels that support revitalization efforts and connects to the City's businesses, restaurants, and recreational amenities, and as such the proposed specific plan serves to augment the visitor-commercial land inventory in the City. Therefore, the Commission finds the proposed 941SP consistent with the relevant Chapter 3 policies and the plan may be approved as submitted.

**PART IV. FINDINGS FOR APPROVAL OF THE CITY OF DEL MAR
IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

A. AMENDMENT DESCRIPTION

The City of Del Mar proposes to rezone an approximately half-acre site at the southeast corner of Camino del Mar and 10th Street in downtown Del Mar. The site is currently zoned as Garden Del Mar Specific Plan, which was approved through an LCP Amendment (DMR-MAJ-1-08) by the Commission in March 2009 for a mix of commercial uses. The envisioned project for the site was never completed and the site remains vacant. The proposed zone would be 941 Camino del Mar Specific Plan (941SP), which also allows for a mix of commercial uses on the site and introduces residential/hospitality uses as a permitted use. Although both designations generally allow the same uses, the 941SP places a greater emphasis on providing for flexible residential and visitor-serving uses along Camino del Mar, allowing for a combination of market price and affordable residential units, hospitality (including nightly and short-term rentals for visitors), commercial, professional office, retail and restaurant uses. The 941SP zone is intended to accommodate a development that has already been approved by the City pursuant to a non-appealable coastal development permit decision.

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

a) Purpose and Intent of the Ordinance. The purpose of the 941 Camino del Mar Specific Plan is to create a regulatory framework governing the development of the subject property.

b) Major Provisions of the Ordinance. The 941 Camino del Mar Specific Plan includes many detailed provisions, but the most significant are:

- Defines the project.
- Defines the project's intent and development parameters. Development on site will be defined by three zones. Zones 1 and 2 will be on the ground floor of the development, with Zone 1 allowing for commercial uses for a depth of 20 feet along Camino del Mar, and Zone 2 representing the remainder of the ground floor area that will include commercial and/or residential hospitality uses, with any

residential use to be designated as affordable housing units only. Zone 3 will take up the entirety of the second floor and will be reserved for residential hospitality uses. Restaurant space will be limited to more than 2,200 square feet within Zones 1 and 2, and no more than 40% of the maximum allowable square footage for commercial area shall be developed as offices. Basement areas allow for any use permissible in Zone 1 as well as subterranean parking.

- Demonstrates its conformance with the City's Community Plan and other policy and regulatory documents.
- Provides exceptional public benefits, including but not limited to 2 affordable housing units, streetscape improvements, redevelopment of a gas station, undergrounding of adjacent utilities, and visitor-serving opportunities and economic benefits (including a transient occupancy tax), that justify any development modification, in this case, additional floor area and lot coverage.
- Creates zoning and development regulations tailored specifically to the property.
- Prescribes infrastructure requirements, design criteria, and standards for plan implementation.
- Establishes the methods of adoption, amendment and enforcement of the Specific Plan.

c) **Adequacy of the Ordinance (Specific Plan) to Implement the Certified LUP.**

The standard of review for LCP implementation plan submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. In this particular case, the proposed changes have been reviewed for their consistency with the LUP as proposed to be amended. The relevant LUP policies to consider are:

Policy II-1 states:

Maintain the existing small-scale character of the community and permit only one- and two-story, low intensity development with a maximum allowable height of 26 ft

Policy II-2 states:

Insure that future development, whether commercial or residential, retains the aesthetic quality of the community by protecting and preserving public views to the ocean and other significant natural resources; and by minimizing the disturbance of natural topography and vegetation.

Policy II-3 states:

Establish controls to prevent office development which is incompatible with the existing residential and visitor-serving character of the community

Policy II-B states:

Focus major retail and office activity into an economically viable, pedestrian oriented area that serves the needs of both residents and visitors.

Policy II-6 states:

Encourage visitor-serving and recreation-oriented businesses that blend harmoniously with the traditional small-town character of the community.

Policy II-7 states:

Locate visitor-serving facilities, including public and private developments that provide food, services, shopping and amusement, within easy walking distance of visitor lodging.

Policy 9.e states:

In the Central Commercial portion of the Village Center District, retail uses shall be encouraged over office uses for floor area located at the street level of structures fronting Camino del Mar.

Goal IV-C states:

Preserve existing views and view corridors from public vantage points to the maximum extent possible without preventing reasonable use of private property.

Policy IV-30 states:

The City shall apply the following Off-Street Parking Regulations to new projects and redevelopment projects to assure that the parking needs generated by new development are provided on site.

The IP consists of those zones that regulate each chapter in the LUP. These include zones addressing seawalls, bluff, slope and canyon development, floodplain development, wetlands and other sensitive habitat areas, public access and parking, etc., along with an ordinance governing the processing of coastal development permits. The LCP is based on protection of the City's resources through overlay zones, and the IP zones apply within all base zones, depending on the resources found within each zone.

The IP does include a list of all city zones as an exhibit, along with the zoning maps. The list identifies allowed uses for each zone, and includes those specific development standards of most concern to the Coastal Commission, such as density allowances, height limits, allowed development area, etc.

As noted above, the 941SP promotes a concentration of development within the downtown core of the City, prioritizes visitor-oriented uses along the ground floor and

street frontages, ensures adequate offstreet parking will be provided and promotes activation of the streetscape along Camino del Mar. The Commission therefore finds the proposed implementing provisions of the Specific Plan consistent with, and adequate to carry out, the policies of the certified LUP. The Commission further finds that the IP amendment can be approved as submitted.

PART V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. 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.

At the local level, the City of Del Mar prepared a Supplemental Environmental Impact Report (EIR) for the 941 Camino del Mar Specific Plan to address potential environmental effects and to update the findings of the Garden Del Mar Specific Plan EIR. A Statement of Overriding Considerations was subsequently adopted by the City on June 18, 2018 to address noise and traffic impacts. The Supplemental EIR states that significant impacts due to noise will be associated with project construction and are therefore considered short-term in nature. The City also found that traffic impacts at Camino del Mar and 11th Street will be an issue; however, the current Level of Service (LOS) is already rated an F without the project and will remain at that LOS with or without the project. Accordingly, any unmitigated impacts do not significantly affect coastal resources or public access.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. The LCP amendment will not have any significant adverse effects on the environment and there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. The proposed amendment represents a visitor-serving use of mixed uses, and the development incorporates streetscape improvements to activate use of the street by residents and visitors alike. Additionally, as an exceptional public benefit, the project will make an annual contribution towards the implementation of the City's shuttle system program. Therefore, the Commission finds the subject LCP land use and implementation plans, as amended, conform with CEQA provisions.