Section 3.7
Hazards and Hazardous Materials

This section evaluates potential hazards and hazardous materials impacts that may result from construction and/or operation of the proposed project. The following discussion addresses the existing hazards and hazardous materials conditions of the affected environment, considers relevant goals and policies, identifies and analyzes environmental impacts, and recommends measures to reduce or avoid adverse impacts anticipated from implementation of the project, as applicable.

The analysis in this section is based on the *Phase I Environmental Site Assessment Report* (*Phase I ESA*) (2022; Appendix H-1) and the *Phase I and II ESA Site Assessment Report* (2021; Appendix H-2), both prepared by Geocon, Inc., as well as review of available hazardous materials databases. Third party technical reports were peer-reviewed by Michael Baker International and the City of Encinitas.

ENVIRONMENTAL SETTING

Hazardous Materials and Waste Defined

Under Title 22 of the California Code of Regulations (CCR), the term *hazardous substance* refers to both hazardous materials and hazardous wastes, and both are classified according to four properties: toxicity, ignitability, corrosiveness, and reactivity (22 CCR Section 66261.30). A hazardous material is defined as a substance or combination of substances that may cause or significantly contribute to an increase in serious, irreversible, or incapacitating illness or may pose a substantial presence or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

Public health is potentially at risk whenever hazardous materials are or will be used. It is necessary to differentiate between the hazard of these materials and the acceptability of the risk they pose to human health and the environment. A hazard is any situation that has the potential to cause damage to human health and the environment. The risk to health and public safety is determined by the probability of exposure and the inherent toxicity of a material.

Factors that can influence health effects when human beings are exposed to hazardous materials include the dose to which the person is exposed, the frequency of exposure, the duration of exposure, the exposure pathway (route by which a chemical enters a person's body), and the individual's unique biological susceptibility.

Hazardous wastes are hazardous substances that no longer have practical use, such as materials that have been discarded, discharged, spilled, or contaminated or are being stored until they can

be disposed of properly (22 CCR Section 66261.10). Soil that is excavated from a site containing hazardous materials is a hazardous waste if it exceeds specific CCR Title 22 criteria. Various agencies maintain hazardous waste and substance lists in planning documents used by state and local agencies to comply with California Environmental Quality Act (CEQA) requirements in providing information about the location of hazardous materials sites. While hazardous substances are regulated by multiple agencies, as described under the Regulatory Framework subsection below, cleanup requirements for hazardous wastes are determined on a case-by-case basis according to the agency with lead jurisdiction over a project.

Existing Conditions

The project site is located in the City of Encinitas and is bordered to the west by Piraeus Street and to the south by Plato Place. Land uses in the project vicinity include undeveloped land and single-family residences. Interstate 5 is located to the west of the project site and Batiquitos Lagoon to the north.

The project site consists of undeveloped land and appears to have been previously disturbed with some native vegetation communities present. Scattered trash, several dirt roads, and off-road vehicle tracks are present on-site. A concrete brow ditch is present in the northwestern portion.

On-site topography of the site is relatively flat with slopes present along the western and northern edges. Geology underlying the site consists of surficial soil deposits, Very Old Paralic Deposits, and the Santiago Formation (Geocon 2022).

The dominant vegetation community present is coastal scrub and disturbed land cover, with limited Diegan coastal sage scrub along the slopes to the northwest and south. Southern mixed chaparral occupies the northern area of the project site and transitions into the off-site preserve area. The majority of the off-site preserve area supports Diegan coastal sage scrub with limited portions of non-native riparian and non-native grassland communities (ECORP 2022).

The project site appears to have been primarily vacant land from approximately 1928 to present day. However, the property was formerly used for agricultural purposes (Geocon 2022).

Environmental Site Assessment

A Phase I ESA is a report that identifies existing and potential environmental contamination liabilities. The analysis in a Phase I ESA typically addresses both the underlying land and physical improvements to the property and includes examination of potential soil contamination, groundwater quality, surface water quality, and indoor air quality. The examination of a site may include a survey of past uses of the property, definition of any chemical residues in structures, identification of possible asbestos-containing building materials and lead paints, inventory of

hazardous substances stored or used on the site, assessment of mold and mildew, and evaluation of other indoor air quality parameters. A Phase I ESA is generally considered the first step in the process of environmental due diligence and does not include sampling of soil, air, groundwater, or building materials.

The objective of a Phase I ESA is to evaluate whether recognized environmental conditions (RECs) are present at a property. RECs are defined in ASTM International E1527-13 as "the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment." According to the ASTM Phase I ESA standard, the term *recognized environmental condition* is not intended to include de minimis conditions (minor things) that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate government authorities.

If the Phase I ESA determines that a site may be contaminated, a Phase II ESA may be conducted. A Phase II ESA is a more intensive and detailed investigation involving chemical analysis for hazardous substances and/or petroleum hydrocarbons and may include recommendations for remediation, if necessary.

The Phase I ESA conducted for the project site consisted of: (1) a reconnaissance of the subject property; (2) a search of regulatory agency records; (3) review of available historical aerial photographs, topographic maps, and City Directory listings; (4) interviews with property owners; and (5) preparation of the Phase I ESA report detailing the findings of the investigation.

Geocon conducted a site reconnaissance visit on February 7, 2022. Various debris was observed in the central portion of the project site, and Geocon opined that the debris observed constituted a de minimis condition. Conditions indicative of RECs were not observed at the project site or adjacent properties. The key findings of the Phase I ESA are summarized below.

Hazardous Waste Site Database Results

According to the regulatory database search, two facilities in the project vicinity were identified pursuant to Government Code Section 65962.5 (Cortese List). However, analysis in the Phase I ESA determined that these sites do not represent an environmental concern due to the non-release nature of the listings, status of the cases, distance from the project site, and/or location relative to the project site (i.e., based on being hydrogeologically down- or cross-gradient) (Geocon 2022). Refer to Table 3.7-1, Environmental Database Records Search Results, and the discussion below for a brief summary of the identified sites.

Table 3.7-1: Environmental Database Records Search Results

Environmental Database	Search Distance	On-site	Total Listed
Leaking Underground Storage Tanks (LUST)	0.5 miles	0	2
Spills, Leaks, Investigation, and Cleanup Program (CA SLIC)	0.5 miles	0	6
Cortese	0.5 miles	0	2
San Diego County Site Assessment and Mitigation Program (SAM)	0.5 miles	0	4
Other Databases	Up to 0.5 miles	0	10

Source: Geocon 2022 (see Appendix H-1).

Leaking Underground Storage Tanks (LUST)

Leaking underground storage tanks (LUST) are a significant source of petroleum impacts to groundwater and can also result in the following potential threats to health and safety (SWRCB 2019):

- Exposure from impacts to soil and/or groundwater
- Contamination of drinking water aquifers
- Contamination of public or private drinking water wells
- Inhalation of vapors

The State Water Resources Control Board (SWRCB) records soil and/or groundwater contamination caused by LUSTs in its GeoTracker database. Based on a review of the regulatory database report (see Appendix H-1 for details), there are two facilities listed in the LUST release database within 0.5 miles of the project site: La Costa Chevron at 540 La Costa Avenue, located approximately 0.27 miles to the northwest of the project site, and Barrett American, located at 236 Andrew Avenue, approximately 0.45 miles to the west-northwest of the project site.[1] Specific details of these unauthorized releases are not discussed in the Phase I ESA; however, a review of the GeoTracker database for these unauthorized release cases indicated the following:

La Costa Chevron

The facility at 540 La Costa Avenue is a currently operating gasoline station and was listed in the LUST release database, as well as the Cortese and San Diego County SAM release databases. According to the case closure summary provided in the GeoTracker database, a release was

[1] Note that based on a review of Google Earth, the distances provided in the regulatory database report for these facilities do not appear to be accurate.

discovered beneath a gasoline underground storage tank (UST) at the facility. Following soil and groundwater sampling, a soil vapor extraction system operated at the facility from March to September 1999. Groundwater is reported to flow north at the facility (downgradient with respect to the project site). The case was closed under County of San Diego Department of Environmental Health (DEH) oversight in 2001 (SWRCB 2022a). Therefore, the site does not represent a REC relative to the project site.

Barrett American

The facility at 236 Andrew Avenue in Encinitas was listed in the LUST release database as well as the San Diego County SAM and Cortese release databases. According to the case closure summary provided in the GeoTracker database, a release of diesel to soil was discovered at the facility during the removal of three USTs. Results of groundwater sampling indicated that contaminants of concern were not detected in groundwater above the analytical laboratory's reporting limits. The case was closed under DEH oversight in 2006 following soil excavation at the facility (SWRCB 2022b). Therefore, the site does not represent a REC relative to the project site.

Spills, Leaks, Investigation, and Cleanup (CA SLIC)

The project site was not listed on the CA SLIC database. Two facilities were identified within 0.25 miles of the project site, as summarized below.

1540 Caudor Street

This facility is located approximately 0.17 miles to the southeast and upgradient of the project site.[2] Results of a 2014 investigation conducted at the facility reportedly indicated that organochlorine pesticides were detected in soil below California Human Health Screening Levels for residential use soils. The case was closed under DEH oversight in 2014 (Geocon 2022). Therefore, the site does not represent a REC relative to the project site.

Proposed 19 Unit Subdivision

This facility is located at 1492 Hymettus Avenue in Encinitas, approximately 0.24 miles to the southwest and downgradient of the project site.[3] Note that according to the GeoTracker database, this facility is associated with an additional release case under the name Hymettus Estate, closed prior to the Proposed 19 Unit Subdivision case. According to the Phase I ESA, soil excavation was conducted at the facility and dieldrin-impacted soil was placed at the bottom of the excavated area. Additional remediation work was conducted to ensure that dieldrin-impacted soil was covered with 7 feet of non-impacted soil. The Proposed 19 Unit Subdivision

[2] Ibid.

[3] Ibid.

case was closed under DEH oversight in October 2011 (Geocon 2022). Therefore, the site does not represent a REC relative to the project site.

Other Databases

As determined in the Phase I ESA, the project site is not listed in the databases searched in the regulatory database report. Several facilities within 0.5 miles of the project site were listed in various non-release databases (not indicative of a release of hazardous materials to the environment). These listings do not represent an environmental concern to the project site; refer to Appendix H-1 for additional discussion.

REGULATORY FRAMEWORK

Federal

Emergency Planning Community Right-to-Know Act

The Emergency Planning Community Right-to-Know Act requires infrastructure at the state or local level to plan for emergencies resulting from potential release of chemical materials. Any documented information pertaining to a specific release at a site is required to be made publicly available so that interested parties may become informed about potentially dangerous chemicals released in their community. Sections 301 through 312 of the act are administered by the US Environmental Protection Agency's Office of Emergency Management.

Hazardous Materials Transportation Act

Under Title 49 of the Code of Federal Regulations, the US Department of Transportation is responsible for regulating the transport of hazardous materials. The California Highway Patrol and the California Department of Transportation are primarily responsible for enforcing federal and state regulations pertaining to such activities and for responding to any related emergencies. These agencies are also responsible for necessary permitting for the transport of hazardous materials.

Resource Conservation and Recovery Act (as Amended by the Hazardous and Solid Waste Amendments of 1984)

The Resource Conservation and Recovery Act (RCRA) generally communicates federal laws pertaining to hazardous waste management and provides for a "cradle to grave" approach to the regulation of hazardous wastes. The RCRA requires any entity generating hazardous waste to identify and track such substances from generation to recycling, reuse, or disposal. The

Department of Toxic Substances Control (DTSC) implements the RCRA program in combination with other state hazardous waste laws, collectively known as the Hazardous Waste Control Law.

State

California Environmental Protection Agency

The California Environmental Protection Agency (CalEPA) was created in 1991 by Governor's Executive Order. The six boards, departments, and office were placed under the CalEPA "umbrella" to create a cabinet-level voice for the protection of human health and the environment and to ensure the coordinated deployment of state resources. The mission of CalEPA is to restore, protect, and enhance the environment to ensure public health, environmental quality, and economic vitality (CalEPA 2022). CalEPA and the SWRCB establish rules governing the use of hazardous materials and the management of hazardous waste. Applicable state and local laws include the following:

- Public Safety/Fire Regulations/Building Codes
- Hazardous Waste Control Law
- Hazardous Substances Information and Training Act
- Air Toxics Hot Spots and Emissions Inventory Law
- Underground Storage of Hazardous Substances Act
- Porter-Cologne Water Quality Control Act

As required by Government Code Section 65962.5, CalEPA develops an annual update to the Hazardous Waste and Substances Sites (Cortese) List (discussed in detail below).

California Fire Code

The California Fire Code, which is updated every three years, is included in California Code of Regulations Title 24, Part 9 and was created by the California Building Standards Commission. Based on the International Fire Code, the California Fire Code serves as the primary means for authorizing and enforcing procedures and methods to ensure the safe handling and storage of hazardous substances that pose potential public health and safety hazards. The code regulates the use, handling, and storage requirements for hazardous materials at certain facilities. The California Fire Code and the California Building Code apply a classification system in identifying appropriate protective measures relative to fire protection and public safety. Such measures may

include identification and use of proper construction standards, setbacks from property lines, and/or installation of specialized equipment.

State Fire Regulations

Fire regulations for California are established in Sections 13000 et seq. of the California Health and Safety Code, which includes regulations for structural standards (similar to those identified in the California Building Code), fire protection and public notification systems, fire protection devices such as extinguishers and smoke alarms, standards for high-rise structures and childcare facilities, and fire suppression training. The state Fire Marshal is responsible for enforcement of these established regulations and building standards for all state-owned buildings, state-occupied buildings, and state institutions in California.

Government Code Section 65962.5(a), Cortese List

The California Hazardous Waste and Substances Site List (also known as the Cortese List) is a planning document used by state and local agencies and by private developers to comply with CEQA requirements in providing information about the location of hazardous materials sites. California Government Code Section 65962.5 requires CalEPA to annually update the Cortese List. The DTSC is responsible for preparing a portion of the information that comprises the Cortese List. Other state and local government agencies are required to provide additional hazardous material release information that is part of the complete list.

The EnviroStor database constitutes the DTSC's component of Cortese List data by identifying state response sites, federal Superfund sites, school cleanup sites, and voluntary cleanup sites. EnviroStor identifies sites that have known contamination or sites for which further investigation is warranted. It also identifies facilities that are authorized to treat, store, dispose, or transfer hazardous waste (DTSC 2020).

Strategic Fire Plan for California

The 2018 Strategic Fire Plan was prepared by the California Board of Forestry and Fire Protection and the California Department of Forestry and Fire Protection (Cal Fire) for the purpose of statewide fire protection. The plan is aimed at improving the availability and application of data on fire hazards and risk assessment; land use planning relative to fire prevention and safety; facilitating cooperation and planning between communities and the multiple fire protection jurisdictions, including county- and community-based wildfire protection plans; establishing fire resistance in assets at risk; shared visioning among multiple fire protection jurisdictions and agencies; assessment of levels of fire suppression and related services; and appropriate recovery efforts following the event of a fire.

Federal/State Occupational Safety and Health Act

Federal and State Occupational Safety and Health Act laws provide for the education of handlers of hazardous materials; employee notification for those working with or in proximity to hazardous materials; acquisition of product safety data sheets and manufacturing data for proper use and handling of hazardous materials; and remediation training for employees for accidental release of hazardous materials. The act requires preparation of an Injury and Illness Prevention Program, which outlines measures to ensure employee safety such as inspections, how to address unsafe conditions, employee training, and communication protocols.

Regional

San Diego County, Site Assessment, and Mitigation Program

The San Diego County DEH maintains the SAM list of contaminated sites that have previously or are currently undergoing environmental investigations and/or remedial actions. The primary purpose of the county's SAM program is to protect human health, water resources, and the environment in the county by providing oversight of assessments and cleanups in accordance with the California Health and Safety Code and the California Code of Regulations. The Voluntary Assistance Program also includes information on staff consultation, project oversight, and technical or environmental report evaluation and concurrence (when appropriate) on projects pertaining to properties contaminated with hazardous substances.

Certified Unified Program Agency

The County of San Diego is the Certified Unified Program Agency (CUPA) for the project site. The Unified Program's goal is to achieve consistency, consolidation, and coordination in the regulation of six state-regulated environmental programs through education, community and industry outreach, inspections, and enforcement.

A CUPA is the agency responsible for the implementation and regulation of the Unified Program. The County DEH, Hazardous Materials Division, has been the CUPA for San Diego County since 1996. All inspectors in the CUPA program are trained environmental health specialists who take part in a continuous education program to ensure consistency and uniformity during inspections.

San Diego County Multi-Jurisdictional Hazard Mitigation Plan

The purpose of the County's Multi-Jurisdictional Hazard Mitigation Plan is to identify the county's hazards, review and assess past disaster occurrences, estimate the probability of future occurrences, and set goals to mitigate potential risks to reduce or eliminate long-term risk to people and property from natural and man-made hazards. The City of Encinitas participates in

the Multi-Jurisdictional Hazard Mitigation Plan. An important component of the plan is the Community Emergency Response Team, which educates community members about disaster preparedness and trains them in basic response skills, such as fire safety, light search and rescue, and disaster medical operations. The City is one of 20 jurisdictions that support and participate on the team.

San Diego County Department of Environmental Health

The DEH is responsible for protecting and maintaining public health and environmental quality. The department provides public education and outreach programs to promote environmental awareness of potentially hazardous issues while ensuring the implementation and enforcement of local, state, and federal environmental laws, as appropriate. The DEH is generally responsible for ongoing oversight and regulation of food safety, public housing, public swimming pools, small-scale public drinking water systems, mobile home parks, on-site wastewater systems, recreational water, storage tanks and related remediation activities, and proper handling and disposal of medical and hazardous materials and waste.

Local

City of Encinitas General Plan

The City of Encinitas General Plan (1991) is the primary source of long-range planning and policy direction used to guide growth and preserve the quality of life within the City of Encinitas. The Encinitas General Plan states that a goal of the City is to analyze proposed land uses to ensure that the designations would contribute to a proper balance of land uses within the community. The relevant goals and policies for the project include:

Resource Management Element

GOAL 13: **Create a desirable, healthful, and comfortable environment for living while preserving Encinitas' unique natural resources by encouraging land use policies that will preserve the environment. (Coastal Act/30250/30251)**

Policy 13.1: The City shall plan for types and patterns of development which minimize water pollution, air pollution, fire hazard, soil erosion, silting, slide damage, flooding and severe hillside cutting and scarring.

Public Safety Element

GOAL 1: **Public health and safety will be considered in future land use planning. (Coastal Act/30253).**

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

Policy 2.4: Setbacks, easements, and accesses, necessary to assure that emergency services can function with available equipment, shall be required and maintained.

Policy 3.6: The City shall cooperate with the efforts of the County Department of Health, Hazardous Waste Management Division to inventory and properly regulate land uses involving hazardous wastes and materials.

Housing Element

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

City of Encinitas Municipal Code

Toxic Materials, Fire, and Explosion Hazards

Section 30.40.010 of the City of Encinitas Municipal Code states: "All storage, use, transportation and disposal of toxic, flammable, or explosive materials shall be performed in compliance with the California Hazardous Substance Act and in accordance with guidelines issued by the County of San Diego Department of Health Services, Hazardous Materials Division on Hazardous Waste Requirements. All activities involving toxic, flammable, or explosive materials shall be provided and conducted with adequate safety and fire suppression devices as specified by the Fire District and per the City's adopted fire code."

Fire Code

Title 10 of the Municipal Code provides regulations regarding fire prevention in the city and adopts the California Fire Code. The Fire Hazard Severity Zone map is adopted through City Code Chapter 10.02 – Fire Map and is used by several City departments for hazard planning, mitigation and response, land use planning, and in the development review process.

Landscape/Brush Management Regulations

The California Fire Code Title 19, Division 1, Section 3.07(b) requires that a distance of not less than 30 feet be kept clear of all flammable vegetation or combustible growth around all buildings and structures. If conditions are considered a high fire danger, a distance of 30 feet to 100 feet should be kept clear of all bush, flammable vegetation, or combustible growth around all buildings and structures.

The City of Encinitas Design Guidelines (2005) contain landscape guidelines intended to maintain the landscape character of the City. Guideline 7.3.17 indicates that fire retardant/resistant plants shall be used when consistent with fire standards in areas adjacent to natural open space areas and/or fire sensitive areas.

STANDARDS OF SIGNIFICANCE

Thresholds of Significance

In accordance with the State CEQA Guidelines, the effects of a project are evaluated to determine whether they would result in a significant adverse impact on the environment. An EIR is required to focus on these effects and offer mitigation measures to reduce or avoid any significant impacts that are identified. The criteria used to determine the significance of impacts may vary depending on the nature of the project. According to Appendix G of the State CEQA Guidelines, the proposed project would have a significant impact related to hazards and hazardous materials if it would:

1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment.

5. Result in a safety hazard or excessive noise for people residing or working in the project area for a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport.

6. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

7. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.

PROJECT IMPACTS AND MITIGATION

Impacts related to hazards and hazardous materials are analyzed below according to topic. Mitigation measures directly correspond with an identified impact, where applicable.

HAZARDS RELATED TO THE TRANSPORT, USE, OR DISPOSAL OF HAZARDOUS MATERIALS

Impact 3.7-1	**The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. Impacts would be less than significant.**

Construction

Project construction may result in temporary hazards related to the transport and use of hazardous materials, including those used for construction vehicle use and maintenance (e.g., diesel fuel, motor oil). The Storm Water Pollution Prevention Plan (SWPPP) prepared for the project would include standard provisions to avoid significant effects associated with the use of such materials. With implementation of a SWPPP, impacts would be **less than significant**.

Operations

The routine transport, use, and disposal of hazardous materials can result in potential hazards to the public through accidental release. However, these hazards are typically associated with certain types of land uses, such as chemical manufacturing facilities, industrial processes, waste disposal, and storage and distribution facilities. None of these uses are proposed by the project; rather, the project would consist of 149 residential townhomes and associated amenities including a pool, spa, pool house, fire pit with seating, and lounge seating.

Once the project is operational, hazardous material use associated with the residences, including landscaping and maintenance activities, would be limited to private use of commercially available cleaning products, landscaping chemicals and fertilizers, and use of various other commercially available substances. However, the on-site pool would require application of common pool chemicals that may be hazardous. Development of the project site is therefore anticipated to result in use of commercially available potentially hazardous materials or chemicals.

Proposition 65 requires businesses to provide warnings to Californians about significant exposures to chemicals that cause cancer, birth defects or other reproductive harm. These chemicals can be in the products that Californians purchase, in their homes or workplaces, or released into the environment. As such, Proposition 65 warning stickers would be placed in areas where on-site hazardous materials are stored. Chemicals stored on-site for routine pool and landscaping maintenance would be below the 55-gallon threshold set by California Governor's Office of Emergency Services (CalOES), and therefore, the project is not required to prepare a Hazardous Materials Business Plan (CalOES 2022).

The project would be subject to applicable federal, state, and local health and safety laws and regulations intended to minimize health risk to the public associated with hazardous materials. With adherence to such laws and regulations, the project would not result in the routine transport, use, or disposal of hazardous materials. Impacts would be **less than significant**.

Mitigation Measures: None required.

Level of Significance: Less than significant.

HAZARDS RELATED TO THE ACCIDENTAL RELEASE OF HAZARDOUS MATERIALS

Impact 3.7-2	**The project would have the potential to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Impacts would be less than significant.**

Short-Term Impacts

Project construction activities could result in the transport, use, and disposal of hazardous materials such as gasoline fuels, asphalt, lubricants, paint, and solvents. Although care will be taken to transport, use, and dispose of small quantities of these materials by licensed professionals, there is a possibility that upset or accidental conditions may arise which could release hazardous materials into the environment. Accidental releases of hazardous materials are those releases that are unforeseen or that result from unforeseen circumstances, while reasonably foreseeable upset conditions are those release or exposure events that can be anticipated and planned for.

Project construction activities would occur in accordance with all applicable local standards adopted by the City of Encinitas, as well as state and federal health and safety requirements intended to minimize hazardous materials risk to the public, such as Cal/OSHA requirements, the Hazardous Waste Control Act, the California Accidental Release Protection Program, and the California Health and Safety Code.

Stormwater runoff from the site, under both construction and post-construction development conditions, would be avoided through compliance with National Pollutant Discharge Elimination System (NPDES) regulations administered by the San Diego Regional Water Quality Control Board (RWQCB). The project is required to prepare and implement a Construction General Storm Water Permit (Order 2012-0006-DWQ) and SWPPP (refer to Section 3.8, Hydrology and Water Quality). The SWPPP is also required as part of the grading permit submittal package. The contractor would be required to implement such regulations related to the transport, handling, and disposal of any hazardous materials, including the use of standard construction controls and safety procedures that would avoid or minimize the potential for accidental release of such substances into the environment. Standard construction practices would be observed such that any materials released are appropriately contained and remediated as required by local and state laws.

Based on the results of the Phase I ESA, there are no RECs associated with the project site. Additionally, a Phase II investigation was performed to determine whether pesticides and/or arsenic related to past prior agricultural use of the site were present in on-site soils. No evidence of any RECs in connection with the site was identified during the soil testing (Geocon 2021). Additionally, as the site is presently undeveloped, the potential for hazards such as lead-based paint or asbestos to be exposed or encountered during site development does not exist. Based on the findings of the Phase I and II assessments, it was concluded that no additional environmental assessment of the site or surrounding properties was warranted (Geocon 2021).

Project compliance with applicable federal, state, and local regulations would ensure that the project does not have the potential to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Impacts would be **less than significant.**

Long-Term Impacts

The project proposes a mixture of residential uses, passive and active recreational uses, sewer/water connections, and access/circulation improvements typical of residential development. Due to their nature, these uses are not generally expected to involve the routine transport, use, or disposal of hazardous materials in substantial quantities.

Once the proposed project is operational, hazardous material use associated with the residences, recreational uses, landscaping, and maintenance would be limited to private use of commercially available cleaning products, landscaping chemicals and fertilizers, and various other commercially available substances. Development of the site is therefore anticipated to result in use of commercially available potentially hazardous materials or chemicals. The use of these substances, expected to be in relatively small quantities, would be typical for residential uses and landscape maintenance, and would be subject to applicable federal, state, and local health and

safety laws and regulations intended to minimize health risk to the public associated with hazardous materials.

Adherence to existing regulations would ensure compliance with safety standards related to the use and storage of hazardous materials and with the safety procedures mandated by applicable federal, state, and local laws and regulations. Project conformance with existing local, state, and federal regulations pertaining to the routine transport, use, storage, or disposal of hazardous materials or hazardous wastes would ensure that potential adverse effects are minimized and that such substances are handled appropriately in the event of accidental release. Therefore, operational impacts would be **less than significant.**

Mitigation Measures: None required.

Level of Significance: Less than significant.

EMIT HAZARDOUS EMISSIONS OR HANDLE HAZARDOUS MATERIALS NEAR AN EXISTING OR PROPOSED SCHOOL

Impact 3.7-3	**The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. Impacts would be less than significant.**

The nearest school to the project site is the Capri Elementary School located at 941 Capri Road, approximately 0.4 miles southeast of the project site in Encinitas. The project proposes future residential development of the site, with supporting amenities; no land uses with operations that would generate substantial hazardous emissions or the need to handle hazardous or acutely hazardous materials, substances, or waste are anticipated to occur.

Therefore, the project would not result in a significant impact relative to hazardous emissions or the handling of hazardous materials within the vicinity of area schools. Impacts would be **less than significant.**

Mitigation Measures: None required.

Level of Significance: Less than significant.

BE LOCATED ON A HAZARDOUS MATERIALS SITE

Impact 3.7-4	**The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code**

	Section 65962.5 and, as a result, it would not create significant hazard to the public or the environment. Impacts would be less than significant.

As mentioned above, a search of government hazardous materials databases (GeoTracker, EnviroStor) identified two facilities in the project vicinity that were identified pursuant to Government Code Section 65962.5; refer to Table 3.7-1, Environmental Database Records Search Results. However, analysis in the Phase I ESA and review of the GeoTracker and EnviroStor databases concluded that these sites do not represent an environmental concern to the project site or surrounding properties due to the status of the cases, distance from the project site, and/or location relative to the project site (i.e., based on being hydrogeologically down- or cross-gradient) (Geocon 2022).

The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and would not create a significant hazard to the public or the environment in this regard. Impacts would be **less than significant**.

Mitigation Measures: None required.

Level of Significance: Less than significant.

Safety Hazard Related to a Public Airport or Private Airstrip

Impact 3.7-5	**The project is not located within an airport land use plan and is not located within 2 miles of a public airport or public use airport. The project would not result in a safety hazard or excessive noise for people residing or working in the project area. No impact would occur.**

There are no public or private airports located within 2 miles of the project site and the project site is not within the boundaries of an airport land use plan. The closest (public) airport is McClellan-Palomar Airport, located approximately 3.1 miles northeast in the City of Carlsbad. No private airstrips are located in the project vicinity. As such, the project would not result in a safety hazard or excessive noise for people residing or working in the project area. **No impact** would occur.

Mitigation Measures: None required.

Level of Significance: No impact.

INTERFERE WITH AN ADOPTED EMERGENCY RESPONSE PLAN OR EMERGENCY EVACUATION PLAN

Impact 3.7-6	**The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Impacts would be less than significant.**

The project site is located in a developed urban area surrounded by residential uses and open space. According to the Cal Fire Encinitas Fire Hazard Severity Zone Map, the entire proposed off-site preserve area and the northern portion of the project site are identified as being in a Very High Fire Hazard Severity Zone in a Local Responsibility Area, and therefore, the site is considered to have an increased potential for the occurrence of wildfire events (CalFire n.d.).

Emergency response and evacuation within Encinitas is the responsibility of the City of Encinitas Fire Department. The Disaster Preparedness Division of the Fire Department develops emergency procedures, activities, and disaster operation plans to be implemented in the event of a natural or man-made emergency (City of Encinitas 2016). Additionally, the County of San Diego maintains the San Diego County Emergency Operations Plan, which was approved in 2018 (San Diego County 2018). The Emergency Operations Plan is used by agencies that respond to major emergencies and disasters, including those related to environmental health.

Emergency access to the project site would be provided from Piraeus Street and Plato Place. The project does not propose ingress/egress at Plato Drive; the access drive would be gated at its intersection with Plato Place and would be restricted to use by emergency vehicles only via a Knox Box. No project traffic would leave or enter the site at this point.

Improvements are proposed to provide adequate ingress/egress to/from the site and to ensure that activities associated with the project do not impede the free movement of emergency response vehicles, as well as other vehicles, along local roadways. The project site is not identified as being located along an established route for wildfire evacuation (City of Encinitas n.d.), and therefore, would not be anticipated to interfere with emergency response in this regard.

During construction, materials would be placed within the project boundaries adjacent to the current phase of construction to avoid any access conflicts in case of emergency evacuations. Project construction would not result in closures along local roadways that may have an effect on emergency response or evacuation plans in the vicinity of the site. It is anticipated that all local roadways would remain open during project construction and operation. Construction activities occurring within the project site would comply with all adopted conditions, including grading permit conditions regarding lay-down and fire access, and would not restrict access for emergency vehicles responding to incidents on-site or in the surrounding area. It is anticipated that all vehicles and construction equipment would be staged on-site, off of adjacent public roadways, and would therefore not block any established emergency access routes.

During project operations, existing off-site roadways would be adequate to serve the development for purposes of emergency evacuation in the event of a wildfire. Further, the project would not interfere with the ability of the San Diego County Sheriff's Department, which serves the project site, to safely evacuate the area in the event of an emergency (see Section 3.11, Public Services and Recreation, and Section 3.12, Transportation). The project has been designed in conformance with City Fire Department access and roadway design requirements related to fire prevention and is subject to approval by the City's Planning Division to ensure that public safety and adequate vehicular circulation can be maintained over the long term.

Therefore, the project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Impacts would be **less than significant**.

Mitigation Measures: None required.

Level of Significance: Less than significant.

WILDLAND FIRE

Impact 3.7-7	**The project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. Impacts would be less than significant.**

The project site is located in a developed urbanized area generally surrounded by existing residential uses, undeveloped land, Batiquitos Lagoon, and infrastructure improvements (e.g., Interstate 5). According to the Cal Fire Encinitas Very High Fire Hazard Severity Zones in Local Responsibility Area Map (Cal Fire n.d.), the northern portion of the project site is located in a designated Very High Fire Hazard Severity Zone (VHFHSZ). Similarly, the proposed off-site preserve land, which adjoins the project site to the north, is identified as being within a designated VHFHSZ (Cal Fire n.d.).

As discussed in Section 3.15, Wildfire, a Fire Protection Plan was prepared by FIREWISE (2022) for the project to evaluate the potential risk of wildfire relative to the project setting and design. As determined, the proposed fuel modification treatments; irrigated landscaping; use of ignition-resistant building materials; and additional required construction features recommended in the Fire Protection Plan would mitigate the potential loss of any structures due to direct fire impingement or radiant heat around the perimeter of the residential uses to a level of less than significant (FIREWISE 2022); refer to Section 3.15, Wildfire, and Appendix O for discussion.

Additionally, the proposed structures would be required to meet applicable wildland/interface standards to the satisfaction of the Encinitas Fire Department and would be designed consistent

with ignition-resistant building construction requirements. All construction and ignition-resistant requirements would meet the current International Wildland-Urban Interface Code and amendments; City of Encinitas Ordinances 2019-27 and 2021-08; and the California Fire and Building Codes. Additionally, all on-site structures, including garages, would be required to incorporate automatic fire sprinkler systems and all accessory structures such as decks, balconies, patios, covers, gazebos, and fences would be constructed from non-combustible or ignition-resistant materials.

During occupancy and operations, the project may introduce potential ignition sources including vehicles, gas- or electric-powered small hand tools (i.e., for maintenance), and standard substances used for routine household cleaning and landscaping maintenance. Such conditions are not anticipated to substantially exacerbate wildfire risks or increase the risk of exposure of residents to associated pollutant concentrations.

The project would be constructed in compliance with access and design requirements of the City of Encinitas Fire Department (conditions of approval) and recommendations of the Fire Protection Plan. Further, the project would be subject to payment of public safety services impact fees (refer to Section 3.11, Public Services and Recreation) to ensure that risks from wildfire are minimized.

Comprehensive safety measures that comply with federal, state, and local worker safety and fire protection codes and regulations would also be implemented for the proposed project; refer to Section 3.15, Wildfire. Incorporation of such measures would minimize the occurrence of fire during construction and for the life of the proposed project.

The project would be designed in compliance with recommendations of the City Fire Department related to fire prevention and subject to approval by the City's Planning Division. For the reasons above, the project would not expose people or structures to a significant risk of loss, injury, or death from wildfires. Impacts would be **less than significant**.

Mitigation Measures: None required.

Level of Significance: Less than significant.

CUMULATIVE IMPACTS

Impact 3.3-8	**The project would not result in a significant cumulative impact related to hazards and hazardous materials. Impacts would be less than cumulatively considerable.**

Geographic Scope

Similar to other potential impacts, such as those related to geology and soils, risks related to hazards and hazardous materials are typically localized or site-specific in nature because they tend to be related to on-site existing hazardous conditions and/or hazards related to a project's construction or operational activities. The geographic scope when considering cumulative impacts from hazards and hazardous materials includes specific projects identified in Tables 3.0-1 and 3.0-2, as well as Figure 3.0-1, in Section 3.0 of this EIR. The cumulative setting for hazards associated with the proposed project generally consists of existing and future land uses in Encinitas in proximity to the project site.

Potential Cumulative Impacts

Impacts associated with hazardous materials are generally site-specific. As mentioned above, the proposed project would be required to comply with all applicable federal, state, and local regulations pertaining to the transport, handling, and disposal of hazardous materials and substances. Construction activities occurring within the project site would not restrict access for emergency vehicles that would respond to incidents on the site or in surrounding areas.

The City of Encinitas Fire Department would review proposed development plans prior to project approval to ensure adequate emergency access and circulation. Additionally, any subsequent projects would be required to coordinate with the City of Encinitas and the City Fire Department to ensure that they do not impede the implementation of an emergency plan or prevent emergency access in the affected area.

As mentioned under Impact 3.7-7, a portion of the project site is located in a zone designated as a VHFHSZ (Cal Fire n.d.). The proposed project would not expose people or structures to a significant risk of loss, injury, or death from wildfires as the project would be designed to reduce the risk of hazards from a wildfire event through establishment and ongoing maintenance of fuel modification zones and other building design measures. Measures as recommended in the Fire Protection Plan prepared for the project would be implemented to reduce the potential for wildfire risk or spread; refer to Section 3.15, Wildfire, and Appendix O for additional discussion. Additionally, the project would be designed in compliance with guidelines from the City Fire Department related to fire prevention and subject to approval by the City's Planning Division. While other areas in the City are designated as VHFHSZs, cumulative projects located in such

areas would similarly be required to implement mitigation (or design) measures to reduce the risk of wildfire occurrence and spread, such as buffering on-site uses and establishment of fuel modification zones, and would be subject to Fire Department and City review relative to conformance with applicable regulations.

As with the proposed project, the cumulative projects listed in Tables 3.0-1 and 3.0-2 would be required to avoid and/or mitigate impacts relative to hazards and hazardous materials. The project would involve the storage, use, disposal, and transport of limited amounts of hazardous materials to varying degrees during construction and operation/occupancy. Impacts from these activities are anticipated to be less than significant, and similar development projects would also be required to comply with applicable federal, state, and local regulations and policies to avoid or minimize any such potential hazards.

Further, the potential for any future development within the cumulative study area to be located on a known (listed) hazardous materials site, or that would result in hazardous emissions or require the handling of hazardous materials or waste in proximity to local schools, would be evaluated on a project-specific basis. Any such impacts determined to be significant would be reduced to the extent feasible via incorporation of appropriate design or mitigation measures.

For the reasons above, the proposed project, in combination with other reasonably foreseeable development projects in the surrounding area, would not result in a significant impact relative to hazards and hazardous materials. The project's contribution to a significant cumulative impact would be **less than cumulatively considerable**.

Mitigation Measures: None required.

Level of Significance: Less than cumulatively considerable.