

September 30, 2022

Carol Lazier & Bill Stensrud
Stensrud-Lazier Holding Trust
418 Third Avenue
San Diego, CA 92101

Subject: Multi-Dwelling Unit Development Project – Biological Impact Assessment

Dear Ms. Lazier and Mr. Stensrud:

This letter report describes the existing biological resources for the multi-dwelling unit development project and evaluates the potential impacts to those resources that may occur as a result of project implementation. This report is intended to provide the City of Del Mar (City) with information necessary to assess significant impacts to biological resources under the California Environmental Quality Act (CEQA). The approximately 6.3 acre study area is located at 929 Border Avenue in the City (Figures 1 and 2).

PROJECT DESCRIPTION

The proposed project involves a high density multi-family residential development project on the West side of Camino Del Mar. Site access would be gained from the Camino Del Mar in the northeast corner of the site.

METHODS

Vegetation Mapping

Prior to visiting the site, available maps, air photos, and existing conditions material for the site were reviewed. A California Native Diversity Database (CNDDDB) search also was conducted to identify previously mapped resources on the site and in the vicinity. Biologist Greg Mason then conducted a site visit on September 18, 2022 to identify and map existing biological resources and Environmentally Sensitive Habitat Area (ESHA) that may occur on the site. Representative photographs are included as Attachment A.

The entire site was walked and observed plant and animal species were recorded. Plant species names followed the Jepson Manual (Baldwin 2012). Vegetation communities were mapped according to Holland's Preliminary Descriptions of the Terrestrial Natural Communities of California (Holland 1986) as updated (Oberbauer 2008).

Jurisdictional Delineation

A formal jurisdictional delineation was not conducted on the site; however, the site was assessed for features that could be considered jurisdictional by the U.S. Army Corps of Engineers (Corps), California Department of Fish & Wildlife (CDFW), Regional Water Quality Control Board (RWQCB), California Coastal Commission (Commission), and the City.

Sensitive Plant Survey

A focused sensitive plant survey was not conducted; however, sensitive plants were searched for opportunistically during the vegetation mapping effort.

Sensitive Animal Species

No focused sensitive animal species were conducted; however, sensitive animal species were searched for opportunistically during the field visit.

Protected Tree Mapping

The site is subject to the City Tree Protection Ordinance. Protected trees in City include the Torrey Pine (*Pinus torreyana*) and the Monterey Cypress (*Cupressus macrocarpa*), along with all tree species located within the Central Commercial (CC) Zone and the environmentally sensitive Open Space (OS) Overlay Zone, provided they are over a certain size. The project site is not within the CC or OS zones; therefore, the only protected trees are the Torrey Pine and the Monterey Cypress. These trees were identified, quantified, and mapped during the field visit.

RESULTS

Environmental Setting

The proposed development area consists of a relatively flat disturbed/developed area located east of the beach bluff, west of Highway 101/Camino Del Mar. Elevations within the study area range between approximately 90 feet above mean sea level (AMSL) on the coastal bluff and 50 feet AMSL at the connection to Camino Del Mar. Soil on site is mapped as Marina loamy coarse sand (2 to 9 percent slopes), coastal beaches, and Terrace escarpments (Bowman 1973).

The study area was previously developed with numerous buildings, paved areas, out buildings, and ornamental landscaping. Most of the buildings on the site have been removed, but the site is still heavily disturbed with the remnants of the prior development. Border Avenue and residential development bound the site to the north. Highway 101/Camino Del Mar and commercial development are adjacent to the east. To the west are coastal bluffs and the Pacific Ocean.

Regulatory Context

Federal Government

Administered by the USFWS, the federal Endangered Species Act (ESA) provides the legal framework for the listing and protection of species (and their habitats) that are identified as being endangered or threatened with extinction. Actions that jeopardize endangered or threatened species and the habitats upon which they rely are considered take under the ESA. Section 9(a) of the ESA defines take as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.” “Harm” and “harass” are further defined in federal regulations and case law to include actions that adversely impair or disrupt a listed species’ behavioral patterns.

All migratory bird species that are native to the U.S. or its territories are protected under the federal Migratory Bird Treaty Act (MBTA), as amended under the Migratory Bird Treaty Reform Act of 2004 (FR Doc. 05-5127). The MBTA is intended to protect migratory birds but it does not mandate specific protections. Typically, protection of migratory birds through the MBTA is provided through restrictions on disturbance of active bird nests during the nesting season. In addition, the USFWS commonly places restrictions on disturbances allowed near active raptor nests.

Federal wetland regulation (non-marine issues) is guided by the Rivers and Harbors Act of 1899 and the Clean Water Act. The Rivers and Harbors Act deals primarily with discharges into navigable waters, while the purpose of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of all Waters of the U.S. Permitting for projects filling Waters of the U.S. (including wetlands) is overseen by the Corps under Section 404 of the Clean Water Act. Projects could be permitted on an individual basis or be covered under one of several approved nationwide permits. Individual permits are assessed individually based on the type of action, amount of fill, etc. Individual permits typically require substantial time (often longer than 6 months) to review and approve, while nationwide permits are pre-approved if a project meets appropriate conditions. A Section 404 Permit would be required for the proposed project if impacts occur to Corps jurisdictional areas.

State of California

Primary environmental legislation in California is found in CEQA and its implementing guidelines (State CEQA Guidelines), which require that projects with potential adverse effects (or impacts) on the environment undergo environmental review. Adverse environmental impacts are typically mitigated as a result of the environmental review process in accordance with existing laws and regulations.

The California ESA is similar to the federal ESA in that it contains a process for listing of species and regulating potential impacts to listed species. Section 2081 of the California ESA authorizes CDFW to enter into a memorandum of agreement for take of listed species for scientific, educational, or management purposes.

The California Fish and Game Code (Sections 1600 through 1603) requires a CDFW agreement for projects affecting riparian and wetland habitats through issuance of a Streambed Alteration Agreement. A 1602 Streambed Alteration Agreement would be required for the proposed project if impacts occur to CDFW jurisdictional areas. In addition, any project that requires a Section 404 Permit also would require a Water Quality Certification by the California Regional Water Quality Control Board (RWQCB) under Section 401 of the Clean Water Act. CEQA and its implementing guidelines (CEQA Guidelines) require discretionary projects with potentially significant effects (or impacts) on the environment to be submitted for environmental review. Mitigation for significant impacts to the environment is determined through the environmental review process in accordance with existing laws and regulations.

Vegetation Communities

Three vegetation communities were mapped within the study area: beach/bluff, developed/ornamental, and developed (Figure 3; Table 1). Of these, only the beach/bluff is a native community. The remaining habitats are non-native, heavily disturbed, and/or developed.

Community	Area (acres)
Beach/Bluff	0.5
Developed/Ornamental	0.5
Disturbed Habitat	5.3
TOTAL	6.3

Sensitive Plant Species

No sensitive plant species were observed on the site or are anticipated to occur. The CNDDDB search identified several low sensitivity plant species that have been known to occur within the project vicinity. These species include Orcutt’s pincushion (*Chaenactis glabriuscula* var. *orcuttiana*), coastal woolly heads (*Nemacaulis denudata* var. *denudate*), aphanisma (*Aphanisma blitoides*), Nuttall’s lotus (*Acmispon prostratus*), Coulter’s goldfields (*Lasthenia glabrata* ssp. *coulteri*), and sea dahlia (*Leptosyne maritima*). None of these species are state or federal listed as threatened or endangered. These species all occur on coastal dune and coastal bluff scrub habitat, which does not occur within the proposed project footprint.

The study area is a heavily disturbed and supports areas that are developed or were developed in the past and then demolished. This disturbance precludes the establishment of sensitive plant species. Given the lack of suitable habitat and heavy disturbance, these and other sensitive plant species are not anticipated to occur on site.

Sensitive Animal Species

Focused sensitive animal species were not conducted in the study area and none were observed during the site visit. The federal and state listed as endangered California least tern (*Sternula antillarum browni*), light-footed clapper rail (*Rallus longirostris levipes*), and the state listed as endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingi*) are known to occur within the San Dieguito Lagoon, to the east of the study area, on the opposite side of Camino Del Mar. These species nest on the ground on beaches, coastal sand dunes, river mouths, and in lagoons and estuaries. There is no potential for these species to occur within the study area given that coastal salt marsh habitat does not occur within the study area.

Nesting Birds

The federal Migratory Bird Treaty Act (MBTA), which restricts the killing, taking, collecting, selling, or purchasing of native bird species or their parts, nests, or eggs, also provides legal protection for almost all breeding bird species occurring in the United States. The site supports numerous tree species with the potential to support nesting birds protected by the MBTA.

Jurisdictional Features

During the visit the site was assessed for features that could be considered jurisdictional by the Corps, CDFW, and the RWQCB. Features searched for included wetland vegetation, drainages, bed and bank, tidal evidence (rack lines), soils, and other features indicative of the presence of jurisdictional (wetland) features. No jurisdictional features occur with the study area.

Protected Trees

A single Torrey pine and 13 Monterey cypress trees were identified on site that met the conditions for protection under the City’s Tree Protection Ordinance.

PROJECT IMPACTS

Vegetation Communities

The project would impact approximately 5.6 acres on non-sensitive area within the study area (Table 2; Figure 4). The project would not impact any sensitive vegetation community or ESHA. The coastal beach bluff is entirely avoided, along with a 50-foot buffer.

Table 2 Project Impacts	
Vegetation Community	Acres
Developed/Ornamental	0.8
Disturbed Habitat	4.8
TOTAL	5.6

Sensitive Plant Species

No sensitive plant species were observed on site and none are anticipated; therefore, impacts to sensitive plant species are not anticipated.

Sensitive Animal Species

No sensitive animal species were observed within the proposed project development area and none are anticipated given its disturbed/developed nature.

Jurisdictional Features

The project would not impact any area that would be considered jurisdictional by the Corps, CDFW, and RWQCB and therefore no permits would be required.

Protected Trees

Based on the field mapping conducted, the proposed project would impact 1 Torrey pine tree and 13 Monterey cypress trees. These are protected tree species under the City's Tree Protection Ordinance.

Wildlife Corridors

The project would not impact any local or regional wildlife corridors; therefore, no permanent or temporary direct impacts to wildlife corridors are anticipated.

Nesting Birds

The project would result in the removal of vegetation (ornamental trees) with the potential to support nesting migratory birds if conducted during the avian nesting season (February 1 through September 1). Impacts to such species are prohibited under the MBTA and would be considered significant, should they occur. Compliance with the nesting season restrictions of the MBTA, California Fish and Game Code, and the City would preclude this impact from occurring.

MITIGATION MEASURES

Protected Trees

In order to remove protected trees from the site, a Tree Removal Permit would be required from the City. Mitigation for the removal of the trees may take place through replacement of the removed trees or payment of funds in-lieu of replacing the removed trees. Typically, the City prefers tree replacement; however, if the planting of new trees is deemed infeasible by the City, then a payment equal to the cost of buying, transporting and planting the required number of replacement trees may be remitted to the City. The money would be placed into the Tree Mitigation Fund and used to pay for the planting of trees elsewhere in the City or any other Community Forest-related need deemed appropriate by resolution of the City Council (educational materials, etc.). The type and extent of required mitigation would be determined through consultation with the City.

Nesting Birds

To avoid direct impacts to nesting raptors and/or any migratory birds, removal of habitat that supports active nests on the proposed area of disturbance should occur outside of the breeding season for these species (January 15 to August 31) as a compliance measure with the MBTA and California Fish and Game Code. If removal of habitat on the proposed area of disturbance must occur during the breeding season, the applicant shall conduct a pre-construction survey to determine the presence or absence of nesting birds on the proposed area of disturbance. The pre-construction survey must be conducted within 30 calendar days prior to the start of construction activities (including removal of vegetation). The applicant shall submit the results of the pre-construction survey to the City for review and approval prior to initiating any construction activities. If nesting birds are detected, construction shall not occur within 300 feet of the nest(s) until fledglings have left or until after August 31.

CONCLUSION

The site is developed, heavily disturbed, and surrounded by development. The biological resources on site are of low quality and limited to the coastal beach bluff. The project would not impact any sensitive vegetation community and entirely avoids the coastal beach bluff, with an additional 50-foot buffer. In addition, no sensitive plant or animal species were observed or are expected to occur on site based on the site visits, historical mapping, and the surrounding land uses. Pre-construction nesting bird surveys are recommended as a MBTA and California Fish and Game Code compliance measure to ensure impacts to nesting bird species do not occur during the breeding season. Finally, the type and amount of mitigation required for tree removal (Torrey pine and Monterey cypress) would be determined through the Tree Removal permit process with the City.

Please contact me if you have any questions regarding this letter report.

Sincerely,



Greg Mason
Senior Biologist

Enclosures:

Figure 1 – Regional Location
Figure 2 – Project Locations
Figure 3 – Biological Resources
Figure 4 – Project Impacts
Attachment A: Representative Photographs

References:

Baldwin, B. G., et al. 2012. *The Jepson Manual: Vascular Plants of California, Second Edition*. University of California Press, Berkeley.

Bowman, R. 1973. *Soil Survey of the San Diego Area*. USDA in cooperation with the USDI, UC Agricultural Experiment Station, Bureau of Indian Affairs, Department of the Navy, and the U.S. Marine Corps.

Holland, R.F. 1986. *Preliminary descriptions of the terrestrial natural communities of California*. State of California, The Resources Agency. 156 pp.

Oberbauer, T. 2008. *Terrestrial vegetation communities in San Diego County based on Holland's Descriptions*. San Diego Association of Governments, San Diego, California. 6 pp.

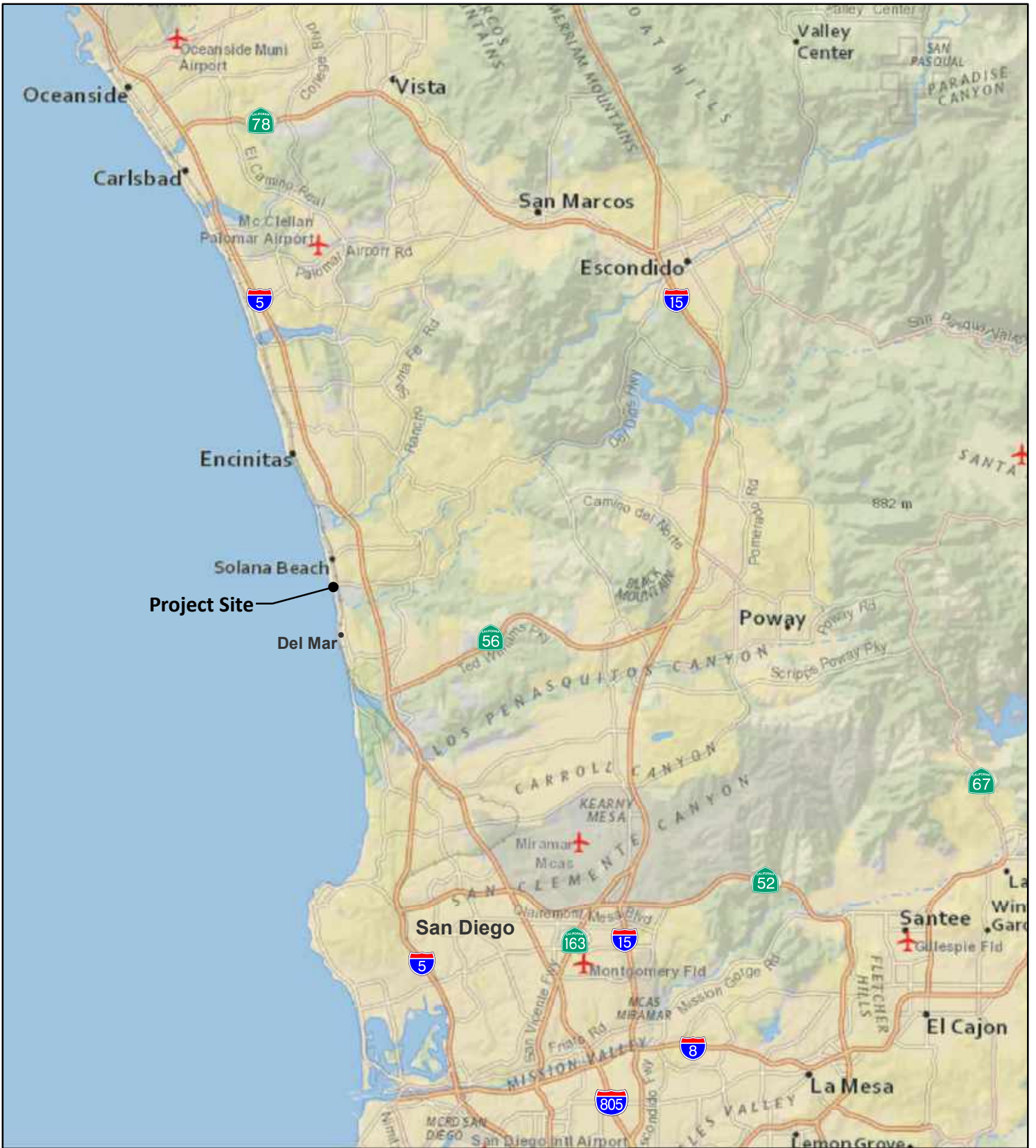
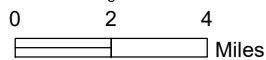
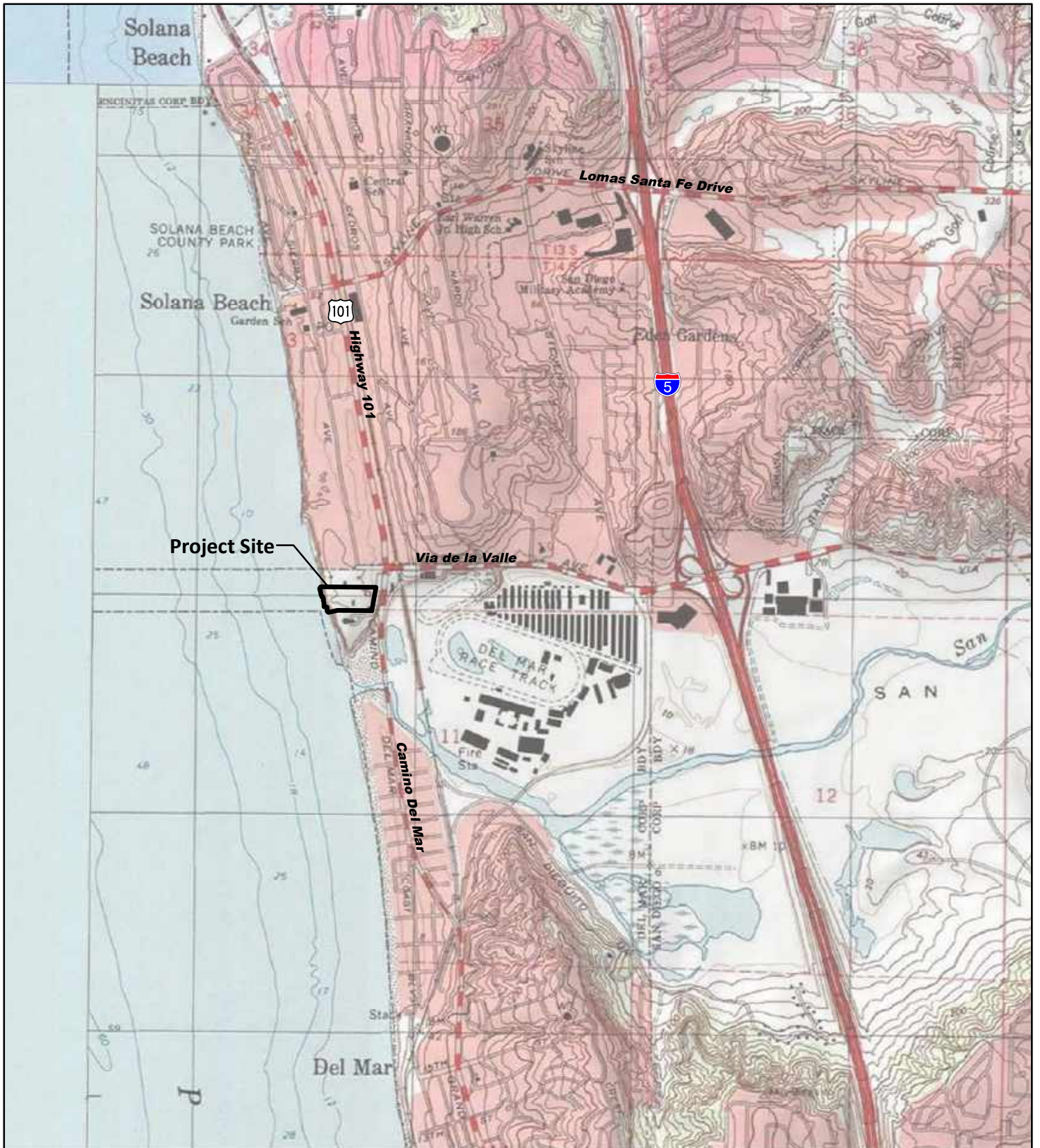


Figure 1

Regional Location

THE BLUFFS AT DEL MAR



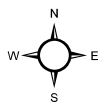


Source: USGS Quads (Del Mar, Encinitas, Rancho Santa Fe)
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Figure 2

Project Location

THE BLUFFS AT DEL MAR



0 1,000 2,000
 Feet





Property Limits

Vegetation





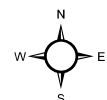
-  Beach/Bluff
-  Ornamental
-  Disturbed Habitat
-  Developed

Photo Location

City of Del Mar Protected Trees

-  Torrey Pine
(*Pinus torreyana*)
-  Monterey Cypress
(*Cupressus macrocarpa*)



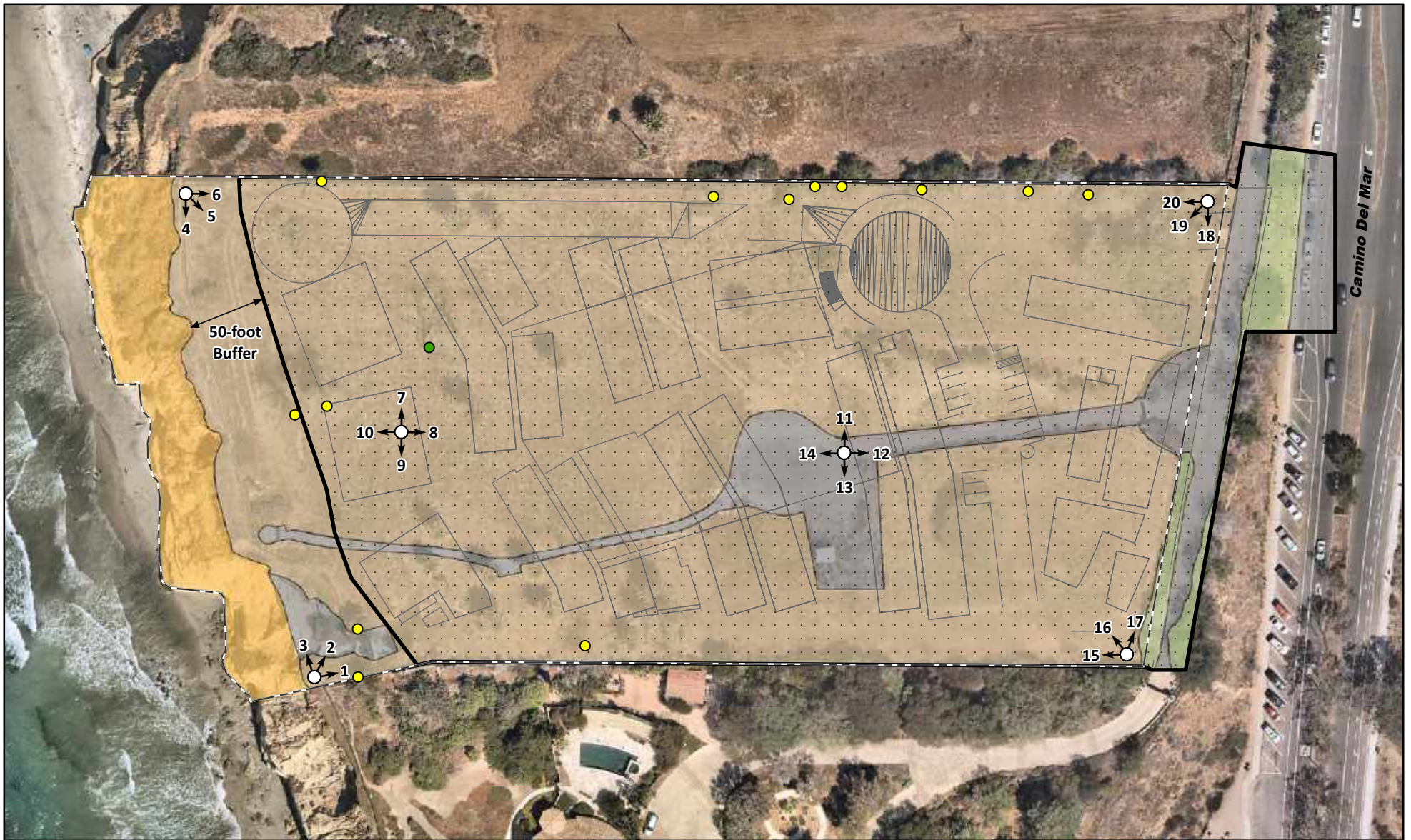
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Figure 3

Biological Resources

THE BLUFFS AT DEL MAR



Property Limits

Project Impacts

Vegetation

Beach/Bluff

Ornamental

Disturbed Habitat

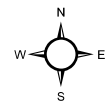
Developed

Photo Location

City of Del Mar Protected Trees

Torrey Pine
(*Pinus torreyana*)

Monterey Cypress
(*Cupressus macrocarpa*)



0 50 100
Feet



Figure 4

Project Impacts

THE BLUFFS AT DEL MAR

Attachment A

Representative Photographs

Representative Photographs



Photo Point 1. 9/18/22



Photo Point 2. 9/18/22



Photo Point 3. 9/18/22



Photo Point 4. 9/18/22



Photo Point 5. 9/18/22



Photo Point 6. 9/18/22



Photo Point 7. 9/18/22



Photo Point 8. 9/18/22



Photo Point 9. 9/18/22



Photo Point 10. 9/18/22



Photo Point 11. 9/18/22



Photo Point 12. 9/18/22



Photo Point 13. 9/18/22



Photo Point 14. 9/18/22



Photo Point 15. 9/18/22



Photo Point 16. 9/18/22



Photo Point 17. 9/18/22



Photo Point 18. 9/18/22



Photo Point 19. 9/18/22



Photo Point 20. 9/18/22