

CHAPTER 3.0 INTRODUCTION TO THE ANALYSIS

3.0.1 SCOPE AND FORMAT OF THE EIR

This chapter of the Draft Environmental Impact Report (Draft EIR) discusses the environmental and regulatory setting, impacts, and mitigation measures for each of the following technical issue areas (Sections 3.1 through 3.12):

- 3.1 Aesthetics
- 3.2 Agricultural Resources
- 3.3 Air Quality
- 3.4 Biological Resources
- 3.5 Cultural Resources and Tribal Cultural Resources
- 3.6 Energy
- 3.7 Greenhouse Gas Emissions
- 3.8 Hydrology, Drainage, and Water Quality
- 3.9 Land Use and Planning
- 3.10 Noise
- 3.11 Public Services and Utilities
- 3.12 Transportation and Circulation

In determining the scope of the Draft EIR, the City of Merced (City) prepared an Initial Study to provide a preliminary analysis of potential project impacts. The analysis in the Initial Study, which is provided in Appendix B, demonstrates that the project would have no impacts or less than significant impacts in several resource areas, such as geology and soils, and hazards and hazardous materials. Thus, as provided for in California Environmental Quality Act (CEQA) Guidelines Sections 15006, 15063(c)(3)(a), and 15128 this EIR is focused on those topics where a potentially significant impact could occur and does not address the issues where the Initial Study determined the project would have no impacts or less than significant impacts. The anticipated scope of the EIR was documented in the Notice of Preparation (NOP) prepared for this EIR and circulated for public review, as required by CEQA Guidelines Section 15082.

It is important to note impacts of the environment on a project or plan (as opposed to impacts of a project or plan on the environment) are beyond the scope of required California Environmental Quality Act (CEQA) review. “[T]he purpose of an EIR is to identify the significant effects of a project on the environment, not the significant effects of the environment on the project” (*Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 473 and *California Building Industry Association v. Bay area Air Quality Management District* (2015) Cal.App 4th.). However, in some instances the analysis does address existing effects of the environment on the project.

Technical Studies Overview

A number of technical studies were prepared as part of this Draft EIR and are included in the technical appendices. Studies prepared include modeling of air pollution and greenhouse gas emissions (Appendix D) a Biological Field Survey (Appendix E), a Cultural Resources Report (Appendix F), a Flood Study Report (Appendix G), a Storm Drainage Report (Appendix H), a Phase I Environmental Site Assessment (Appendix I), a Noise Assessment (Appendix J), a Sewer Master Plan (Appendix K), a Water Supply Assessment (Appendix L), and a Transportation Impact Study (Appendix M). The applicable technical studies are summarized in each of the environmental analysis sections.

Environmental Setting

According to subdivision (a) of Section 15125 of the CEQA Guidelines, an EIR must include a description of the existing physical environmental condition in the vicinity of the project as they exist at the time when the NOP is published. This description is provided in each of the impact analysis sections under the heading Existing Conditions. CEQA provides that the existing conditions will normally constitute the baseline condition against which project-related impacts are compared.

For this project, an NOP was initially published in December 2016 based on the original project applications. In 2019, the project applicant, University Village Merced, LLC, on behalf of Cliff Caton, property owner, submitted revised applications and site plans, increasing the number of residential units from 330 to 540 and increasing the associated parking. The City issued a revised NOP in May 2020. Thus, the baseline conditions for this EIR are generally based on conditions that existed in 2020.

For analytical purposes, impacts associated with implementation of the proposed Yosemite Avenue – Gardner Avenue to Hatch Road Annexation Project (proposed project) are assessed against existing conditions at the time the NOP was published; and cumulative effects are assessed against future, or “cumulative,” conditions, generally defined as buildout of the City of Merced Vision 2030 General Plan. Existing conditions and the cumulative baseline can differ by issue area. Each technical section defines the existing conditions and cumulative baseline for the impacts being analyzed.

In determining the level of significance of environmental impacts associated with the proposed project, the analysis in this Draft EIR assumes that the proposed project would comply with relevant federal and state laws and regulations, City General Plan policies, ordinances, and other adopted City documents, unless otherwise noted. Therefore, such mandatory policies, ordinances, and standards are not identified as mitigation measures, but rather are discussed as

part of the “Regulatory Setting” governing the proposed project and their influence on the significance of potential project impacts is explained.

Section Format

Each technical section in this chapter begins with an **introduction** that explains the issues to be evaluated, provides a general summary of any comments received in response to the NOP relevant to the environmental resource being evaluated in that section, and identifies the primary information sources that were reviewed to prepare the analysis. The introduction is followed by a description of the project’s **environmental setting** and **regulatory setting** as it pertains to the environmental resources evaluated in that technical section.

The environmental setting describes the current existing conditions relative to the environmental resource, while the regulatory setting provides a summary of applicable federal, state, and local regulations, plans, policies, and laws that are relevant to the analysis of potential environmental impacts. The regulatory setting description in each section is followed by a discussion of **potential project impacts**. As discussed in Chapter 1, Introduction, the project impacts analysis for the Crossings component of the project (which includes a mixture of residential and commercial space on approximately 28.4 acres proposed to be annexed to the City) is presented at a “project” level of detail as defined in CEQA Guidelines Section 15162, while the impacts analysis for the Remainder Area component (an additional 40.2 acres included in the proposed area to be annexed to the City but where no development is proposed) is presented at a “program” level of detail as defined in CEQA Guidelines Section 15168.

The project-level and program-level impact analysis is followed by an analysis of the **cumulative impacts** of the proposed project. As defined in CEQA Guidelines Section 15355, cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. In other words, the cumulative impact is the change in the environment which results from the incremental impact of the proposed project combined with other past, present, and reasonably foreseeable projects causing related impacts. In some instances, a project-specific impact may be considered less than significant but could still have a considerable contribution to a cumulative impact when evaluated in the context of other development in the surrounding area. Or, in some instances, a potentially significant impact could result on a project level but would not result in a cumulatively considerable impact. To address cumulative impacts, each technical section identifies the cumulative impacts anticipated in the project region, addresses the project’s incremental contribution to any cumulatively significant impact, determines whether that incremental contribution is cumulatively considerable and therefore significant, and identifies mitigation measures, if required. The cumulative impacts analysis considers both the Crossings component and the Remainder Area.

In both the project-specific and cumulative impact analyses, each impact statement is prefaced by a number for ease of identification. An explanation of each impact is presented in paragraphs and supported by data, tables, figures and other evidence where appropriate. The explanation includes a determination of the impact significance before implementation of any mitigation measures. Where an impact is identified as significant or potentially significant, the impact analysis is immediately followed by a discussion of potential **mitigation measures** as well as identification of any specific mitigation measures applied to that impacts. An example of this formatting is provided in Exhibit 3.0-1 below.

Exhibit 3.0-1
Sample Impact and Mitigation Measure Format

Impact 3.4-3: Implementation of the proposed project may result in placement of fill into potential jurisdictional waters of the U.S and State. This would be a potentially significant impact.

The Crossings
[impact analysis discussion]

Remainder Area
[impact analysis discussion]

Mitigation Measures

The following mitigation measure would reduce potential impacts to wetland habitat less than significant by requiring the loss of aquatic habitat be replaced at a 1:1 ratio.

The Crossings

3.4g *[mitigation measure text]*

Remainder Area

3.4h *[mitigation measure text]*

Where mitigation measures are required, the text specifies whether each measure applies to both or either project component. The degree to which the identified mitigation measure(s) would reduce the impact is also described. Compliance with applicable laws, policies, and City regulations is assumed and will be identified in the impact analysis. In many cases, compliance with applicable laws, policies, or regulations would ensure that a potential impact remains less than significant. As noted above, compliance with mandatory policies, ordinances, and standards is assumed and thus is not identified as mitigation measures even when such compliance is necessary to ensure impacts remain less than significant.

Note that CEQA Guidelines, Section 15370, defines mitigation as:

- Avoiding the impact altogether by not taking a certain action or parts of an action;
- Minimizing impacts by limiting the degree of magnitude of the action and its implementation;
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
- Compensating for the impact by replacing or providing substitute resources or environments.

In addition, provided there is a “reasonable plan for mitigation” and contributions are “sufficiently tied to the actual mitigation” of the project’s impacts, a commitment to contribute a fair share to such a program discharges an agency’s mitigation duty under CEQA (*Save Our Peninsula Com. v. Monterey County Bd. of Supervisors* 2001) 87 Cal.App.4th 99, 141); see also CEQA Guidelines, Section 15130, subd. (a)(3) [recognizing that a project’s contribution to a cumulative impact may be less than cumulatively considerable where “the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact”] see also *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173).

3.0.2 TERMINOLOGY USED IN THE EIR

This Draft EIR uses the following terminology to describe the environmental effects of the proposed project:

- **Thresholds of Significance:** A set of criteria used by the lead agency to determine at what level or “threshold” an impact would be considered significant. Standards of significance used in this Draft EIR include those set forth in CEQA Guidelines Section 15065 (Mandatory Findings of Significance) and those derived from questions set forth in Appendix G to the CEQA Guidelines; criteria based on regulatory standards of local, state, and federal agencies; and criteria based on goals and policies identified in the City of Merced 2030 General Plan. In fashioning criteria based on these sources, City staff has also relied on its own professional judgment and experience in some instances. In determining the level of significance, the analysis assumes that the proposed project would comply with relevant federal, state, and local regulations and ordinances.
- **Less-than-Significant Impact:** A project impact is considered less than significant when it does not reach the standard of significance, indicating that there would be no substantial change in the environment. No mitigation is required for less-than-significant impacts.
- **Potentially Significant Impact:** A potentially significant impact is an environmental effect that could cause a substantial adverse change in the environment; however, additional

information is needed regarding the extent of the impact to make the determination of significance. For CEQA purposes, a potentially significant impact is treated as if it were a significant impact.

- **Significant Impact:** A project impact is considered significant if it results in a substantial adverse change in the physical conditions of the environment. Significant impacts are identified by the evaluation of project effects in the context of specified significance criteria. When available, potentially feasible mitigation measures and/or project alternatives are identified to reduce these effects to the environment.
- **Cumulative Impact:** According to CEQA, “cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts” (CEQA Guidelines, Section 15355). CEQA requires that cumulative impacts be discussed when the “project’s incremental effect is cumulatively considerable” (CEQA Guidelines, Section 15130 (a)).