



February 27, 2025

San Diego Association of Governments (SANDAG)
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clerkoftheboard@sandag.org
ATTN: Clerk of the Board

Re: City of Del Mar Comments on the San Diego LOSSAN Rail Realignment Project Objectives and Alternative Alignments

Honorable Members of the SANDAG Board,

This letter is respectfully being submitted on behalf of the City of Del Mar as approved by the Del Mar City Council on February 27, 2025.

On February 28, 2025, you will be asked to provide feedback on the project goals and objectives for the San Diego LOSSAN Rail Realignment Project (Realignment Project) and provide direction on the alternative alignments to be analyzed in the Draft Environmental Impact Report (DEIR).

Given the significant long-term impacts of the LOSSAN project, the City of Del Mar (City) has closely monitored the Realignment Project since public outreach first began in 2020. Most recently, the City Council received an informational presentation on the Value Analysis (VA) process and the additional alternative alignments identified by SANDAG staff post-VA process at our Council meeting on February 18, 2025. **No other city or stakeholder will be more adversely impacted by the project than the City of Del Mar.**

At the meeting, the City Council did not ask questions or make comments regarding the alternative alignments now being considered based on the City's role as a California Environmental Quality Act (CEQA) "responsible agency." It is the City's intent to keep all options open to preserve any future challenges that we may later make in protecting the City's interest. **The City will be the only jurisdiction having to amend its Local Coastal Program, issue Coastal Development Permits, and consider a host of other approvals.**

The City appreciates the opportunity to formally submit the following comments and concerns regarding the Board's consideration of the Realignment Project's goals, objectives and alternative alignments to analyze in the DEIR.

These comments reflect the grave concerns that our community members have expressed in public hearings to the City Council. **The Realignment Project and its alternatives have the potential to disproportionately and adversely impact the Del Mar community's quality of life, tourism, local businesses, tax revenue, property values, and significantly impact our unique and sensitive coastal resources.** Further, the Realignment Project's expansive environmental impacts have potential to forever alter the community character of our City, its history, and adversely impact citizens' health and wellbeing.

I. Application of Project Objectives is Unclear and Incomplete.

The project goal and objectives included in the VA Study Report, which are now presented to the SANDAG Board for consideration, include refinements from the objectives included in the previously issued Notice of Preparation (NOP). As noted in the report, these refinements were not universally agreed upon by the VA participant stakeholder agencies. The City remains concerned that the objectives referencing that the Realignment Project “...consider existing and ongoing investments” along the LOSSAN rail corridor unfairly limit and unduly constrain the alternative alignments that will be considered in the DEIR. In sum, this objective predetermines the outcome of the DEIR.

Further, the identified objectives provide no definitive method of comparing the environmental impacts of the Realignment Project alternatives with one another, nor do they provide a means to fairly weigh which objectives have precedence over another. Other objectives should be included when evaluating the relative benefits of the Realignment Project to its alternatives, such as quantifying the impacts from condemnation, including its costs, the number of properties affected, impacts on residents and businesses, property value impacts, and timing considerations. Also missing in the objectives are the avoidance and/or minimization of negative impacts on air quality and public health and safety. Nowhere in the objectives is public health considered. Yet, the project objectives state that expanded rail service is a goal of the project. This translates to greater and more significant public health impacts and the objectives should account for these detrimental impacts.

And, while some of the project objectives broadly mention the avoidance/minimization of potential negative environmental impacts, the weighting of those objectives compared to other objectives (such as improved rail service or reducing travel times) has not been provided. For example, if one alternative impacts a wetland resource while another alternative does not, how are these objectives reconciled, what objective wins out, does a wetland suffer because a particular route provides greater rail efficiency? Determining the relative weight of an objective from the onset of the EIR process is foundational to transparency. Not providing this decision-making framework – before the DEIR is released for public review – obscures the value of the objectives and leaves these decisions to staff alone.

The objectives should also include the relative impacts to the character of the coastal communities. At present, only the City of Del Mar is being asked to bear all the adverse impacts of the Realignment Project when compared to other coastal communities. The objectives fail to take into consideration the impacts on each coastal community or city and should recognize the historic and unique character of each impacted coastal community.

II. City of Del Mar is a “Responsible Agency” Under CEQA

The City is a “Responsible Agency” under CEQA and maintains all review and adoption rights granted under CEQA. CEQA defines a “Responsible Agency” as “an agency other than the lead agency with a legal responsibility for carrying out or approving a project” and mandates that “a responsible agency... be involved during the project scoping, planning and CEQA document preparation stages.” (CEQA Guidelines, Sections 15096 and 15381). Here, the City will be required to amend its Local Coastal Program (LCP) that must then be approved and certified by the California Coastal Commission. Only with an LCP amendment will the City have the ability

and the discretion to issue Coastal Development Permits, consider encroachment permits, agree to leases for construction staging areas, consider building permits for construction activities, and a host of other discretionary actions that will be required for the project. As a Responsible Agency, the City must consider the adequacy of the Environmental Impact Report (EIR) when considering its approval actions. If the EIR fails to meet the requirements of CEQA, the City may challenge it, prepare a subsequent EIR, or in some cases assume the role of Lead Agency. Accordingly, it is important that the objectives be weighed and aligned with the reality of the long-term impacts to the City of Del Mar.

III. Concerns with Proposed Alternative Alignments

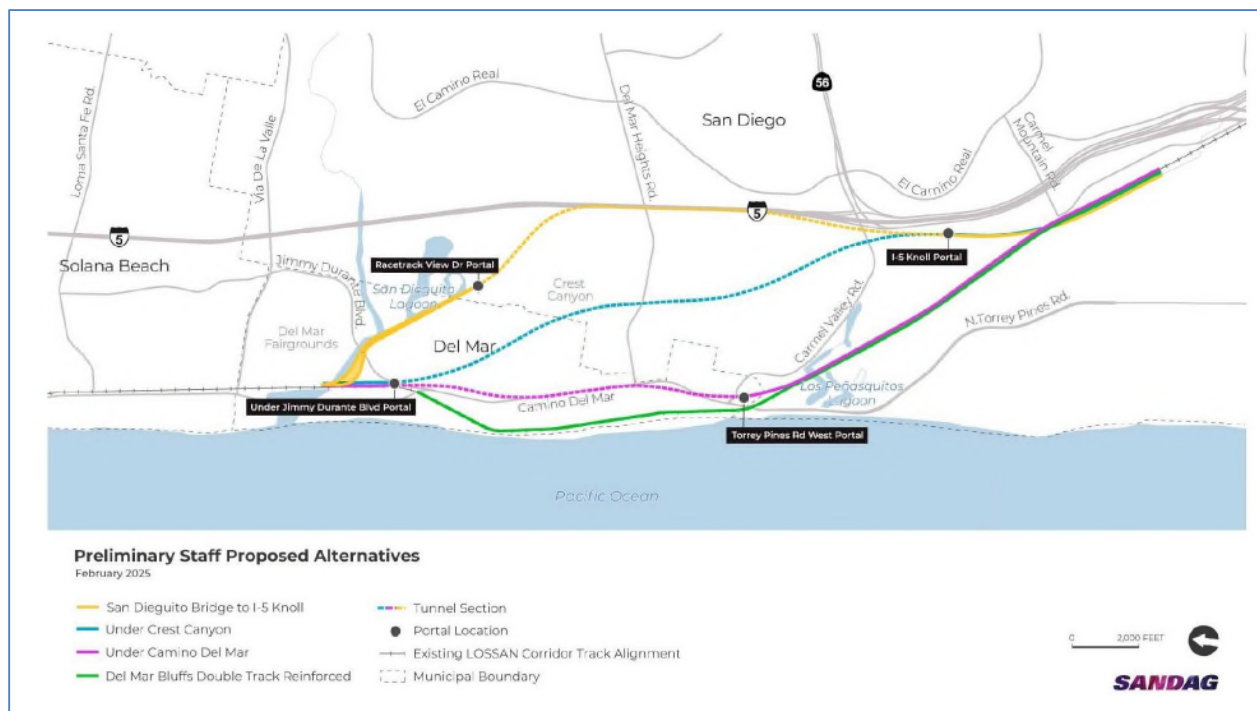
The VA process resulted in the development of 16 alternative alignments that include the three NOP alternative alignments and 13 new concepts. After the VA process was completed, SANDAG evaluated these alternative alignments and reviewed prior project studies and is now recommending that four alignment options, in addition to a “no build” alternative, be included for analysis in the DEIR.

It is important to note that CEQA requires the evaluation of all reasonably feasible alternatives that can reduce impacts below a level of significance. In short, the EIR would be defective if only the chosen four alternatives are evaluated. All feasible alternatives that reasonably meet the objectives should be considered. This includes routes that avoid impacts to wetlands and the community. Moreover, from a National Environmental Policy Act (NEPA) perspective, alternatives that go beyond SANDAG’s jurisdiction should be considered because bluff failure is not endemic to San Diego County alone. Below are the City’s comments and concerns regarding the four alignment options as currently proposed by SANDAG staff:

- San Dieguito Bridge to I-5 Knoll (yellow line on map): This alignment places the project’s impacts solely within the cities of Del Mar and San Diego and would result in significant and adverse environmental impacts to highly productive wetland habitat in the San Dieguito Lagoon. Based on the limited information provided, it appears this alignment would result in the need for both public and private property acquisition (eminent domain) within the City of Del Mar. Further, a majority of this route is located within a floodplain. Moreover, it is worth noting that this alignment was evaluated in the VA process but was ultimately dismissed as infeasible and not advanced as one of the 16 concepts.
- Under Crest Canyon (Under Jimmy Durante to I-5 Knoll) (blue line on map): This alignment includes a north portal location that would require acquisition (eminent domain) of private property and would result in significant short and long-term impacts to Jimmy Durante Boulevard, including elevating the roadway adjacent to residential homes. This is one of the City’s main arterial roadways and would cause major disruption to the entire City’s roadway system. This alternative also continues to require private property subsurface easements. This alignment would put freight trains under residential homes, and places a portal that will emit toxic air pollutants next to homes.
- Under Camino Del Mar (Under Jimmy Durante to Torrey Pines Road West) (pink line on map): This alignment includes north and south portal locations in the City of Del Mar that require acquisition (eminent domain) of private property. Like the “Under Crest Canyon” alternative, this alignment would result in significant short and long-term impacts to Jimmy Durante Boulevard, including reconfiguration of one of the City’s largest intersections.

Private property subsurface easements would also be required. This alignment would also put freight trains under residential homes, and places two portals that will emit toxic air pollutants next to homes.

- Del Mar Bluffs Double Track Reinforced (green line on map): This concept would result in significant and permanent impacts to protected and sensitive coastal resources, and the removal of permitted private encroachments in North County Transit District (NCTD) right-of-way. Double tracking in this area would increase train volume, resulting in increased air quality impacts. Environmental permitting of this alignment would face significant challenges, including the processing of Coastal Development Permits. Importantly, it must be noted that this alternative was previously studied in the 2007 LOSSAN Program EIR and eliminated for the reasons described above.



IV. The Project Description and Descriptions of Project Alternatives are Vague and Incomplete

The City remains concerned with SANDAG's approach of advancing multiple concepts (in this case, four alternative alignment options plus a "no build" option) for analysis in the DEIR without a clearly defined "Project Description" and with insufficient detail of the alternatives, particularly the San Dieguito Bridge to I-5 Knoll alignment, for the public to determine the scope and level of environmental impacts.

CEQA requires a "proposed project" to be identified along with a "range of reasonable alternatives" to that proposed project. The EIR's "bona fide subject" must be "[t]he defined project and not some different project." (*Concerned Citizens of Costa Mesa v. 32nd Dist. Agric. Assn.* (1986) 42 Cal.3d 929, 938.) Further, inadequate or unstable descriptions of the Realignment

Project may mislead the public and thwart the EIR process. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 656.)

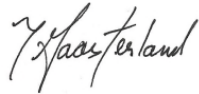
Without a clear identification of the proposed project, members of the public cannot comment meaningfully on the potential impacts. (*Save Our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655, 676.) “A project description that gives conflicting signals to decision makers and the public about the nature of the project is fundamentally inadequate and misleading.” (*South of Market Community Action Network v. City and County of San Francisco* (2019) 33 Cal.App.5th 321, 332.) Here, the public is asked to conjure what a reasonable range of alternatives might be to each of the four proposed alignments, and to numerous options for portal locations. SANDAG staff’s recommendations to the Board of Directors identifies alternatives, but not the required proposed “bona fide” project. (CEQA Guidelines Sections 15378 and Section 15126.6).

V. The Project and Each Alternative Should Be Fully Analyzed

The alternatives analysis is the “core of the EIR.” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal 3d 553, 564.) “One of [an EIR’s] major functions . . . is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.” (*Laurel Heights Improvement Ass’n. v. Regents of the University of California* (1988) 47 Cal. 3d 376, 400.) Accordingly, the Realignment Project and all alternatives should be reviewed in the DEIR at the same thorough level of analysis. Given the expansive scope and complexity of the Realignment Project, each alternative should be evaluated at the same level as the Project Description. Full analysis of each alternative is the only transparent method of insuring that the decision makers understand the full range of impacts of each alternative. The fundamental purpose of CEQA is to ensure informed decision-making. (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 515.) This includes socioeconomic impacts, condemnation impacts, and resource protection issues, which are required under NEPA. Because the EIR will be a combined EIR/EIS that must satisfy federal NEPA requirements, the level of detail of alternatives must be similar to the level of detail of the project itself. An EIS must “[d]evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.” (40 C.F.R. section 1502.14, subdivision (b).)

We appreciate the opportunity to comment on SANDAG staff’s recommendations to the Board of Directors on the Realignment Project and anticipate working with SANDAG to address the many important and substantial concerns being raised by the public and various stakeholders.

Sincerely,



Terry Gaasterland
Mayor

cc: Del Mar City Council
Ashley Jones, Del Mar City Manager
Mario Orso, SANDAG Chief Executive Officer

Maria Rodriguez Molina, SANDAG Director of Mega Projects, Border, and Goods Movement