



C A L I F O R N I A

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Via E-Mail

Lotusland Investment Holdings, Inc.
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Attn: Alex J. Yu, Chief Executive Officer
via email: lotusland@lotuslandinvestment.com

Jonathan Bass
Attorney for Lotusland Investment Holdings, Inc.
via email: jbass@coblentzlaw.com

RE: *Guenoc Valley Mixed-Use Planned Development*
Draft Partially Revised Environmental Impact Report

Dear Mr. Bass and Mr. Yu:

We write regarding the Draft Partially Revised EIR (DPREIR) for the Guenoc Valley Mixed-Use Planned Development Project (Project) that was released on March 18, 2025. Specifically, we want to ensure that the terms in our January 2023 Settlement Agreement with Lotusland Investment Holdings, Inc. (Lotusland) (DPREIR, Att. C, Settlement Agreement) are properly addressed and reflected in the Project as described in the DPREIR or otherwise as the Project moves forward through the County of Lake's administrative process.¹

As you are aware, and as is described in the DPREIR, the Attorney General participated in prior litigation challenging the adequacy of the wildfire and greenhouse gas (GHG) emissions analysis for the Project under the California Environmental Quality Act (CEQA). The Attorney General and Lotusland entered into a Settlement Agreement addressing many of the Attorney General's concerns regarding the Project's wildfire impacts and GHG impacts.

¹ We are copying the County on this letter and requesting that the County treat it as a public comment letter on the DPREIR. We are aware that the public comment period closed on May 2, 2025, but we note that the Attorney General is not required to present its concerns during the public comment period in order to later pursue litigation. (Pub. Res. Code, §21177, subd. (d).)

At a macro level, the Settlement Agreement requires the project applicant, Lotusland, to make certain modifications to the Project and implement additional mitigation measures to reduce the Project's wildfire risks and GHG impacts. Lotusland also agreed to a meet-and-confer process with the Attorney General to ensure adequate analysis and mitigation, as needed, of the Project's impacts to community evacuation. The meet-and-confer process occurred between May and December of 2023. Our comments today relate only to implementation of these commitments in the DPREIR and do not address new information that has been included in the DPREIR beyond the requirements of the Settlement Agreement or any other aspects of the DPREIR's disclosure, analysis, and mitigation of the Project's environmental impacts.²

Project Modifications to Reduce Wildfire Risk and GHG Impacts

In the Settlement Agreement, Lotusland committed to incorporating into future Project approvals numerous additional mitigation measures and design features to reduce wildfire risk and GHG impacts. The Settlement Agreement specifically requires that these commitments be included in the EIR and Mitigation Monitoring and Reporting Program (MMRP). (See Settlement Agreement, Att. C. to DPREIR, ¶ 4.) These measures are included in the DPREIR's MMRP chapter (DPREIR, pp. 308-315), but are described in such a way that it is not clear that they are part of the enforceable "MMRP" for the Project.

The introduction to the MMRP chapter describes the commitments required by the Settlement Agreement (set forth in Table 5.3) as being separate from the mitigation measures listed in the MMRP. It indicates:

In addition to mitigation responsibilities listed in Table 5.1 and project commitments in Table 5.2, the applicant voluntarily entered into a Settlement Agreement with the State to resolve the States' petition and appeal (**Appendix C**). The Settlement Agreement stipulated several Project Modifications that the Applicant has agreed to incorporate into the Project ... which are listed in Table 5.3.

(DPREIR, p. 234.) In the tables, set forth later in the MMRP chapter, the Settlement Agreement commitments are listed separately in Table 5.3 from the "Mitigation Monitoring and Reporting Plan" set forth in Table 5.1 and the Project Commitments listed in Table 5.2. We request that the final PREIR clarify that the measures included in Tables 5.1, 5.2, and 5.3 are all components of the enforceable MMRP for the Project.

² We are not commenting today on new analysis in the DPREIR that was not made in response to the Settlement Agreement. For example, the DPREIR and its appendices set forth new analyses regarding wildfire risk including purported compliance with the Attorney General's "Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act." (Available at <https://oag.ca.gov/system/files/attachments/pressdocs/Wildfire%20guidance%20final%20%283%29.pdf>.) Our comments do not address the adequacy or inadequacy of that analysis for purposes of complying with CEQA or properly disclosing impacts to the public and decision makers.

We also note that several of the measures that resulted from the Settlement Agreement seem to be included for implementation only at *future* stages of project development and approval. For example, many of the measures that result in changes to building sites or roads indicate that these modifications will be included in updated tentative subdivision maps. (Table 5.3, Measures 5-3(a)(ii) through (iv), DPREIR, p. 308.) Please clarify that these changes are reflected in the Specific Plan of Development and the maps presently being contemplated for approval by the County, and will also be included on future subdivision maps and plans for the Project.³ Table 5.3 also refers to measures that “shall” be included in the updated Wildfire Protection Plan. (DPREIR, pp. 308-309.) Please confirm that these measures are included in the current draft of the Wildfire Prevention Plan (WPP) for the Project presently before the County for consideration (Appendix F).

Analysis and Mitigation of Wildfire Evacuation Impacts

We are pleased to see that the DPREIR includes a discussion of community evacuation impacts. During the meet-and-confer process, Lotusland worked cooperatively with us, through several iterations, to improve the analysis. As a result, we only have a few remaining concerns with the DPREIR’s analysis and mitigation measures related to community evacuation, set forth below.

Insufficient analysis of potential wildfire scenarios.

The original EIR did not analyze community evacuation, which is required by the Lake County Superior Court’s judgment and the Settlement Agreement. Community evacuation can be influenced by a number of variables, including perhaps most importantly which way a wildfire is moving and at what speed. The DPREIR includes a discussion of community evacuation, but this discussion is premised on the consideration of only two wildfire scenarios—a fire moving north to south and one moving south to north. (DPREIR, pp. 48-49.) During the meet-and-confer process, which occurred between May and December 2023, we requested that additional fire scenarios be considered, specifically east to west and west to east. Lotusland declined to agree with our request and the DPREIR still lacks this information.

As can be seen with the fire scenarios evaluated and the mitigation measures developed to address some of the evacuation issues that could arise in the two fire scenarios analyzed (e.g., DPREIR, pp. 87-88), considering fires moving in other directions would be important to inform a full understanding of community evacuation risks and measures that could be developed to address those risks. For example, looking at a project map for the site (2020 EIR Figure 3.13-1), a fire moving west to east could close off all evacuation routes to the west of the project, pushing all evacuation traffic to the east. All of the primary evacuation routes in the area—SR 29 and 175

³ It is worth noting that Table 5.3 indicates that the commitment to preserve the recreation and camping area for recreation and camping uses only, with fires strictly prohibited, will be reflected in the current Specific Plan of Development. (DPREIR, p. 308.) This should also be indicated for the other measures. In addition, the recreation and camping commitment should not only be reflected on the current Specific Plan of Development, but should also be included on other future maps related to the Project.

(DPREIR, p. 48)—are located to the west of the Project. If all evacuation traffic were pushed to the east, which it likely would be in a west to east moving fire, that could be problematic for community evacuation.

The DPREIR acknowledges dangerous regional north and east and local wind patterns and local wind patterns that could blow a fire in any direction:

During the fire season, hot and dry weather dries out vegetation and increases potential for wildfire ignition, particularly during windy days. The fall months (September and October) also support Konocti and Diablo wind events, when strong foehn winds move warm, dry air masses from the north and east into the region, exacerbating fire risk.

(DPREIR, p. 37.) These wind patterns were also described in the original EIR. For example, “[t]he Guenoc Valley Site is also subject to the Diablo Winds in the spring and the fall, which flow westward from hotter, drier, and higher pressure areas in Nevada and Utah towards lower pressure coastal zones.” (2020 EIR, p. 3.16-1.) In addition to these more regional wind patterns, the DPREIR indicates that local wind patterns are highly variable and can experience winds in all directions during the July through November fire seasons. (DPREIR, App. F, p. 10.)

Unsubstantiated standards of significance and resulting findings.

For the two wildfire scenarios it analyzed, the DPREIR concludes that phase 1 of the Project will increase community evacuation time by 30 minutes, which it identifies as a significant impact. It then relies on several mitigation measures to reduce the increase in community evacuation time to 15 minutes, which it identifies as a less than significant impact. No explanation is provided for these conclusions nor is any significance threshold identified or explained. Pursuant to CEQA, agencies are required to identify thresholds of significance, as a general matter or for use in a particular project, and to explain the basis for the threshold along with supporting factual evidence. (See Cal. Code Regs., tit. 14, § 15064, subs. (b)(1) and 15064.7; *League to Save Lake Tahoe Mountain v. County of Placer* (2022) 75 Cal.App.5th 63, 102-106.) Here, the EIR fails to explain why a 30-minute increase in community evacuation time is a significant impact, while an increase of 15 minutes is not.

Inadequate mitigation measures.

In addition, the mitigation measures relied upon to reduce the community evacuation impacts of the Project are not sufficient. The DPREIR relies upon mitigation measures (MM) 3.16-3 through 3.16-6 (DPREIR, pp. 63-64) to reduce community evacuation impacts; these measures were identified in the original EIR as MM 5.1- through 5.4. Although renumbered, the mitigation measures themselves have not changed from the previous EIR. These measures are inadequate because their development and implementation are improperly deferred.

MM 3.16-3 would require Lotusland to fund the administrative costs for preparation and adoption of a traffic management plan that would be adopted prior to issuance of the first

certificate of occupancy. (DPREIR, p. 63.) This plan should be prepared and adopted prior to Project approval and certainly prior to Project construction (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 860, as modified on denial of reh'g (Mar. 20, 2020 [distinguishing delayed implementation from deferred formulation and finding that the mitigation plan relied upon would need to be in place prior to the issuance of oil and gas permits and the commencement of drilling].)⁴ No justification is provided in the DPREIR for why this plan cannot be developed now or prior to construction. Thus deferral of this mitigation measure is inappropriate. (See, e.g., *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670-671.) MM 3.16-4 (requiring that Lotusland will install variable message signs at different locations along SR 29) and MM 3.16-5 (requiring the design, permitting, and installation of improvements to certain signalized intersections) (DPREIR, pp. 88-90) are also required to be implemented prior to project occupancy, with no explanation as to why these measures cannot be implemented prior to construction. Because the mitigation measures rely upon coordination with other entities including the Lake County Office of Emergency Services, the Lake County Sheriff, the South Lake County Fire Protection District, Caltrans, and the California Highway Patrol (CHP), reliance on these deferred measures is particularly concerning.

MM 3.16-6 requires Lotusland to provide storage for evacuation shuttles on site starting with the issuance of the first occupancy permit and continuing from there—increasing the number of shuttles in tandem with the construction of hotel units. (DPREIR, p. 90.) The DPREIR acknowledges that 45 percent of hotel guests will arrive by shuttle. (See *id.*) The shuttle busses stored on site will be for evacuation of these guest during a wildfire. This will amount to a fair number of shuttle busses; the storage of which should be accounted for in the Project design and the environmental review now pending for the County's approval. (Cal. Code Regs., tit. 14, § 15126.4, subd. (a)(1)(D).) In addition, there is no explanation provided for why design of the measures needs to be deferred beyond this stage of review. (See, e.g., *San Joaquin Raptor Rescue Center v. County of Merced*, supra, 149 Cal.App.4th at 670-671.)

In addition, the DPREIR discloses that at full buildout the Project will add 2 to 2.5 hours of time for the community to evacuate, which it identifies as a significant impact. (DPREIR, p. 65.) The DPREIR discusses a couple of mitigation measures that could be implemented to reduce this impact to less than significant. (*Id.*) As with phase one impacts, the DPREIR does not identify a threshold of significance nor are the mitigation measures relied upon adequate. However, the DPREIR indicates that “[a] subsequent project-level CEQA assessment of full build-out

⁴ Also explaining in dicta:

For example, when a proposed project involves a large development, mitigation measures not finalized at the environmental review stage might be in place before ground is broken and construction begins. In such a case, only the formulation of the mitigation measure was delayed as the final measure would be applied to the construction. In contrast, if the construction activity began before the measure was finalized, there would be no measure restricting the activity and its impacts. This would be a case of delayed implementation.

evacuation impacts will be required prior to implementation of development beyond the Phase 1 land use program.” (*Id.* .) Based on this representation, it is our expectation that our concerns about the impacts and mitigation for full build-out will need to be addressed in future environmental review and it is our expectation that we will remain engaged accordingly.⁵

Inadequate consideration of emergency access as it relates to community evacuation.

Throughout the process, we have also requested that adequate analysis of emergency access be provided, including for the emergency access that is likely to occur simultaneously with evacuation. The DPREIR only includes a brief discussion of emergency access (see DPREIR, pp. 60-61) and only addresses simultaneous access by stating “First responders and evacuees usually travel in opposite directions and thus use opposing travel lanes, and first responders will typically arrive at the scene of an emergency or wildfire before evacuation orders are issued and congestion levels build on local roadways.” (DPREIR, p. 61.) These assertions are conclusory and not supported with any evidence. Thus, the DPREIR’s conclusion that these impacts are less than significant are unsubstantiated and invalid.⁶ (See, e.g., Cal. Code Regs., tit. 14, § 15064, subd. (f)(5) [“Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts”; *Sierra Watch v. County of Placer* (2021) 69 Cal.App.5th 86, 101-102 [“Under CEQA, an agency’s conclusion as to whether a given impact is significant is not enough; there must [also] be a disclosure of the ‘analytic route the ... agency traveled from evidence to action—something that never occurred in the EIR here.’” (internal quotes omitted); *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1390 [“The EIR must contain facts and analysis, not just the bare conclusions of the agency.”].)

Mitigation of the Project’s GHG Impacts

The DPREIR misstates the timing and implementation of many of the Settlement Agreement mitigation measures.

Our review of Table 5-3 of the DPREIR reveals several issues relating to the mitigation measures and/or design features to reduce GHG impacts agreed to in the Settlement Agreement,

⁵ We request notice when an application for permitting of these future phases is submitted and additional review conducted.

⁶ The DPREIR also suggests that the project’s roadways comply with the Board of Forestry’s (BOF) firesafe standards regarding limits on the length of dead end roads. It states, “Project modifications also include new internal connector roadways to ensure there are no dead-ends, no-looped road segments that exceed one mile in length.” (DPREIR, p. 60 [“The modified Project meets and exceeds state minimum requirements for wildfire safety...”]; see also, DPREIR, p. 28 [“The modified roadway network that now complies with the state’s minimum firesafe regulations.”].) The BOF’s standards limit the length of dead end roads and length of looped roads to one mile. (See Cal. Code Regs., tit. 14 § 1270.01 (defining dead-end road as “a road that has only one point of vehicular ingress/egress, including cul-de-sacs and looped roads”).) Thus, the conversion of some of the Project’s internal roadways to looped roads does not render them compliant with the Board of Forestry’s standards, unless they are also less than one mile in length.

which should be addressed before the DPREIR is finalized. As written, Table 5-3 fails to provide complete and accurate information about timing and implementation of the GHG impact mitigation measures, and therefore is misleading to the public and decisionmakers.

First, we note that the “timing and implementation” of the GHG impact mitigation measures included in Table 5.3 (“Required Project Modifications”) generally contains less detail than that is included in Table 5.1 (“Mitigation Measures”). For informational purposes and to ensure clarity and transparency, the “timing and implementation” of the measures in Table 5.3 should be equally as detailed as for those contained in Table 5.1.⁷

Second, the “timing and implementation” of several of the measures, listed below, are inaccurate. The DPREIR is misleading and confusing, and the mitigation measures must be revised to be consistent with the Settlement Agreement. Specifically:

1. GHG Emissions Reduction Measure B.1.a. relates to the installation of solar photovoltaic systems (PV) on residential buildings. The DPREIR states that “timing and implementation” of this measure are “[a]t time of first occupancy” and that “Applicant shall include in CC&Rs and is the responsibility of the HOA.” (DPREIR, p. 309.) However, to the extent that the PV systems will be installed at the time of construction of the residential buildings, the timing of implementation of this measure should be tied to construction, not occupancy. Moreover, compliance with this requirement, including responsibility for future maintenance and repair of the systems installed pursuant to this term for at least 30 years, lies squarely with Lotusland, *not with* the HOA.
2. GHG Emissions Reduction Measure B.1.b, requires the installation of battery energy storage systems on residential buildings that meet certain requirements set forth in the measure and in the Settlement Agreement. The measure and Settlement Agreement also require that the systems shall meet certain energy savings benefits for at least 30 years from the date of initial installation. However, the DPREIR again states that the timing and implementation of this measure is “at time of first occupancy.” This is inaccurate and potentially misleading to the extent that the systems are installed during project construction. Indeed, as noted below, GHG Emissions Reduction Measure B.1.c. specifies that implementation of that measure—which requires that all battery energy storage systems comply with applicable law—is at time of construction.
3. GHG Emissions Reduction Measure B.1.d, relates to the installation of electric vehicle (EV) supply equipment for residential land uses. The Settlement Agreement states that Lotusland must inform residents at the time of initial sale that Lotusland is responsible

⁷ As noted above, it is unclear from the DPREIR whether Lotusland has requested, or intends to request, that the County include the Settlement Agreement measures listed in Table 5.3 in the Modified Project’s MMRP. To comply with the Settlement Agreement, Lotusland must do so. The Attorney General’s request that the “timing and implementation” of the measures in Table 5.3 contain as much detail as those in Table 5.1 will ensure consistency throughout the entire MMRP if the County approves such request.

for maintaining the EV charging systems. The DPREIR, however, again states that “timing and implementation is: “[a]t time of first occupancy. Applicant shall include in CC&Rs and is the responsibility of the HOA.” It is misleading to suggest that the construction of EV charging systems will occur “at time of first occupancy” as the systems likely will be completed prior to that time. It also is misleading for the DPREIR to state that implementation of this measure is “the responsibility of the HOA” as the Settlement Agreement expressly contemplates that it is Lotusland’s responsibility to repair and maintain all equipment installed pursuant to the Settlement Agreement, or any cleaner or technologically superior EV system that is subsequently installed, for at least 30 years.

4. GHG Emissions Reduction Measure B.1.e. requires Lotusland to “prohibit the use and extension of all natural gas infrastructure within the Project site.” Further, “the CC&Rs and/or other enforceable obligations” must include “a prohibition on the installation or operation of natural gas infrastructure within the Project site for residential land use structures. Pre-existing natural gas infrastructure at the Project site, if any, shall be capped or removed.” Despite the clear requirements in this measure that relate to removal of existing equipment (which should be done pre-construction) and a long-term obligation that Lotusland ensure no such infrastructure is installed, the “timing and implementation” merely states that “Applicant shall include in Updated Wildfire Prevention Plan (WPP).” This is insufficient and misleading. The Settlement Agreement expressly contemplates that this measure shall be included in the CC&Rs; while Lotusland certainly may also include it in the WPP, it must at minimum comply with the clear terms of the Settlement Agreement.
5. GHG Emissions Reduction Measure B.1.f. requires that all appliances in residential land uses operate on energy sources other than natural gas and that appliances, other than those used for stovetop cooking, shall operate on electricity. For “timing and implementation” of this measure, the DPREIR says: “Applicant shall include in Updated Wildfire Prevention Plan (WPP).” For the reasons set forth in paragraph 4, above, this is deficient and misleading.
6. GHG Emissions Reduction Measure B.2.a contains several separate measures relating to installation of PV systems and battery energy storage systems on non-residential land use structures and construction of solar energy farms. Timing and implementation of these measures are listed as “At time of first occupancy. Ongoing.” Our concerns regarding the reference to “first occupancy” rather than construction are highlighted above and apply equally here to render the DPREIR misleading.
7. GHG Emissions Reduction Measure B.2.b describes EV requirements for installation of EV charges for non-residential land uses. However, for “timing and implementation” the DPREIR states: “At time of first occupancy. Applicant shall include in CC&Rs and is the

responsibility of the HOA.” As with measure B.1.d, above, it is misleading to suggest that the construction of EV charging systems will occur “at time of first occupancy,” as the systems will likely be completed prior to that time. It also is misleading for the DPREIR to state that implementation of this measure is “the responsibility of the HOA” as the Settlement Agreement expressly contemplates that it is Lotusland’s responsibility to repair and maintain all equipment installed pursuant to the Settlement Agreement, or any cleaner or technologically superior system that is subsequently installed, for at least 30 years.

8. GHG Emissions Reduction Measure B.2.c. states that “the Project shall include in the CC&Rs and/or other enforceable obligations a prohibition on the installation or operation of natural gas infrastructure within the Project site for non-residential land use structures.” Measure B.2.d. contains requirements for electric appliances and an allowance for certain non-residential structures to utilize propane or natural gas cooktops and fire pits. For “timing and implementation” of both of these measures, the DPREIR states: “Applicant shall include in Updated Wildfire Prevention Plan (WPP).” As noted with regard to Measures B.1.e and B.1.f., above, this statement is insufficient and misleading. Where the Settlement Agreement expressly requires that the CC&Rs include certain terms, Lotusland must ensure that they do so. It is insufficient to simply state that the measure will be implemented via the WPP. Moreover, for those mitigation measures that will be incorporated into the WPP set forth in Table 5.1, the measure also states that the WPP “shall be issued to every contractor and construction crew.” Terms included in Table 5.3 should be treated the same as those in Table 5.1, and should also make clear that the WPP will be provided to every contractor and crew.
9. Several GHG Emissions Reduction Measures, including measures B.1.c., B.1.g., and B.2.e., include only the term “construction” under timing and implementation. However, the term “construction” is vague and does not provide the level of detail typically included in a MMRP under CEQA. The PREIR should provide more detail and clarity regarding the timing and implementation of all such measures.

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We appreciate your consideration of these comments. Please do not hesitate to contact us if you would like to discuss any of the issues raised above.

Sincerely,

Nicole Rinke

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