

APPENDIX C

BIOLOGICAL ASSESSMENT UPDATE MEMORANDUM



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HAMILTON BIOLOGICAL

November 5, 2024

Mr. Anthony Wrzosek, Vice President, Planning & Development
R. D. Olson Development
520 Newport Center Drive, Suite 600
Newport Beach, California 92660

**SUBJECT: BIOLOGICAL ASSESSMENT UPDATE MEMORANDUM
DANA POINT HOTELS DEVELOPMENT PROJECT**

Dear Mr. Wrzosek,

In support for the proposed Dana Point Hotels Development Project, Hamilton Biological prepared a report entitled, *Biological Assessment, Dana Point Harbor Hotels Project, Dana Point, CA*, dated November 16, 2020. That report was included in the EIR for the original project, which involved demolishing the existing Dana Point Marina Inn, two boater service buildings, and parking areas and constructing two hotels on a 10.7-acre project site located in the northern central part of Dana Point Harbor in the City of Dana Point (the City). On June 14, 2024, the Coastal Commission approved a Local Coastal Program Amendment with suggested modifications for a 130-room market rate hotel (Dana House) and 169-room affordable room hotel (Surf Lodge); see Figure 1 on the following page. An EIR will be recirculated with the updated project description. The original report remains valid, but is now four years old. This memorandum provides updated information that supplements Hamilton Biological's original Biological Assessment.

METHODS

To supplement the field work conducted for the 2020 Biological Assessment, I conducted field surveys on October 23, 2024, from 7:00 to 7:30 a.m. and from 2:05 to 2:45 p.m. Temperatures were 54 to 73 °F; skies were clear; and wind was 1–4 miles per hour. I recorded all vertebrate wildlife detected, evaluated the potential for special-status species to occur, and checked the site for any potential changes to the conditions recorded during Hamilton Biological's four field visits in 2020.

On October 25, 2024, I reviewed the California Natural Diversity Data Base (2024a, 2024b, 2024c) to update the list of special-status plant and wildlife species with potential to occur on the project site contained in the 2020 Biological Assessment.

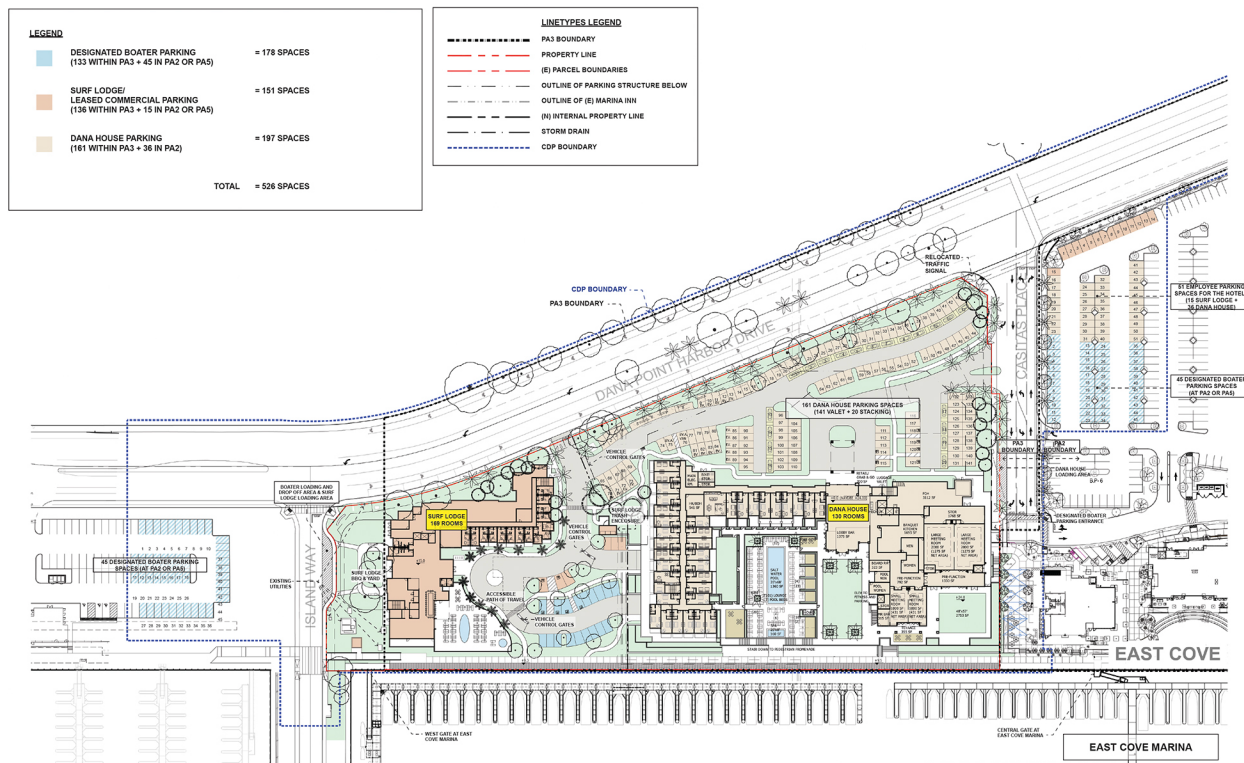


Figure 1. Showing the current project plans.

RESULTS

During the field visit on October 23, 2024, I detected 19 bird species on or adjacent to the project site:

- Rock Pigeon, *Columba livia* (40)
- Allen's Hummingbird, *Selasphorus sasin* (4)
- Western Gull, *Larus occidentalis* (2)
- Red-shouldered Hawk, *Buteo lineatus* (1)
- Red-tailed Hawk, *Buteo jamaicensis* (1)
- Nuttall's Woodpecker, *Dryobates nuttallii* (1)
- Black Phoebe, *Sayornis nigricans* (2)
- American Crow, *Corvus brachyrhynchos* (6)
- Swinhoe's White-eye, *Zosterops simplex* (20)
- Northern Mockingbird, *Mimus polyglottos* (2)
- Western Bluebird, *Sialia mexicana* (2)
- House Finch, *Haemorhous mexicanus* (8)
- Dark-eyed Junco, *Junco hyemalis* (2)
- White-crowned Sparrow, *Zonotrichia leucophrys* (2)
- Song Sparrow, *Melospiza melodia* (1)
- Orange-crowned Warbler, *Leiothlypis celata* (2)
- Yellow-rumped Warbler, *Setophaga coronata* (25)
- Townsend's Warbler, *Setophaga townsendi* (1)

I did not observe any special-status species during the supplemental survey. My review of the California Natural Diversity Data Base (2024a, 2024b, 2024c) did not identify any additional special-status plant and wildlife species with potential to occur on the project site, beyond those identified in the 2020 Biological Assessment.

CONCLUSIONS

My supplemental field visit and review of current information from the California Natural Diversity Data Base confirmed that the information contained in the 2020 Biological Assessment for the proposed Dana Point Hotels Development Project remains valid.

I have not identified any additional biological impacts of the revised plans that would be considered potentially significant under CEQA that would require any additional mitigation beyond Standard Condition BIO-1 (avoidance of impacts to actively nesting birds) and Standard Condition BIO-2 (Minimization of Window-strikes by Migratory Birds), which were identified in the 2020 Biological Assessment. Implementation of the identified standard conditions would preclude any and all potentially significant project impacts upon biological resources.

Thank you for the opportunity to provide this updated biological evaluation. Please call me at 562-477-2181 if you have questions or wish to further discuss any matters; you may send e-mail to robb@hamiltonbiological.com.

Sincerely,



Robert A. Hamilton
President, Hamilton Biological, Inc.

LITERATURE CITED

California Natural Diversity Database. 2024a. Special Animals List. Current list of wildlife taxa considered to be rare, threatened, endangered, or otherwise "sensitive" by the State of California. List dated October 2024.

California Natural Diversity Database. 2020b. Special Vascular Plants, Bryophytes, and Lichens List. Current list of vegetative taxa considered to be rare, threatened, endangered, or otherwise "sensitive" by the State of California. List dated October 2024.

California Natural Diversity Data Base. 2020c. Rarefind data accessed online on October 25, 2024, for the U.S. Geologic Survey's Dana Point 7.5' topographic quadrangle.

ATTACHMENT A TO APPENDIX C

BIOLOGICAL RESOURCES MEMORANDUM (2020)



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**Biological Assessment
Dana Point Harbor Hotels Project
Dana Point, CA**

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November 23, 2020

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INTRODUCTION

Hamilton Biological, Inc., was retained by R.D. Olson Development to conduct a Biological Assessment for the Dana Point Harbor Hotels Project on a 10.7-acre project site located in the northern central part of Dana Point Harbor in the City of Dana Point (the City). See Figures 1 and 2, below and on the next page.

PROJECT DESCRIPTION

The proposed project involves demolishing the existing Dana Point Marina Inn, two boater service buildings, and parking areas and constructing two hotels near the intersection of Island Way and Dana Point Harbor Drive in the City of Dana Point (City). In their place, two hotels will be constructed, one of which will include space for boater services, associated ancillary uses, and replacement of parking areas, including designated boater and hotel parking. Also included in the proposed project are associated infrastructure improvements necessary to facilitate pedestrian and vehicular access to and from the project site, landscaping improvements, and utility upgrades necessary to implement the proposed project.

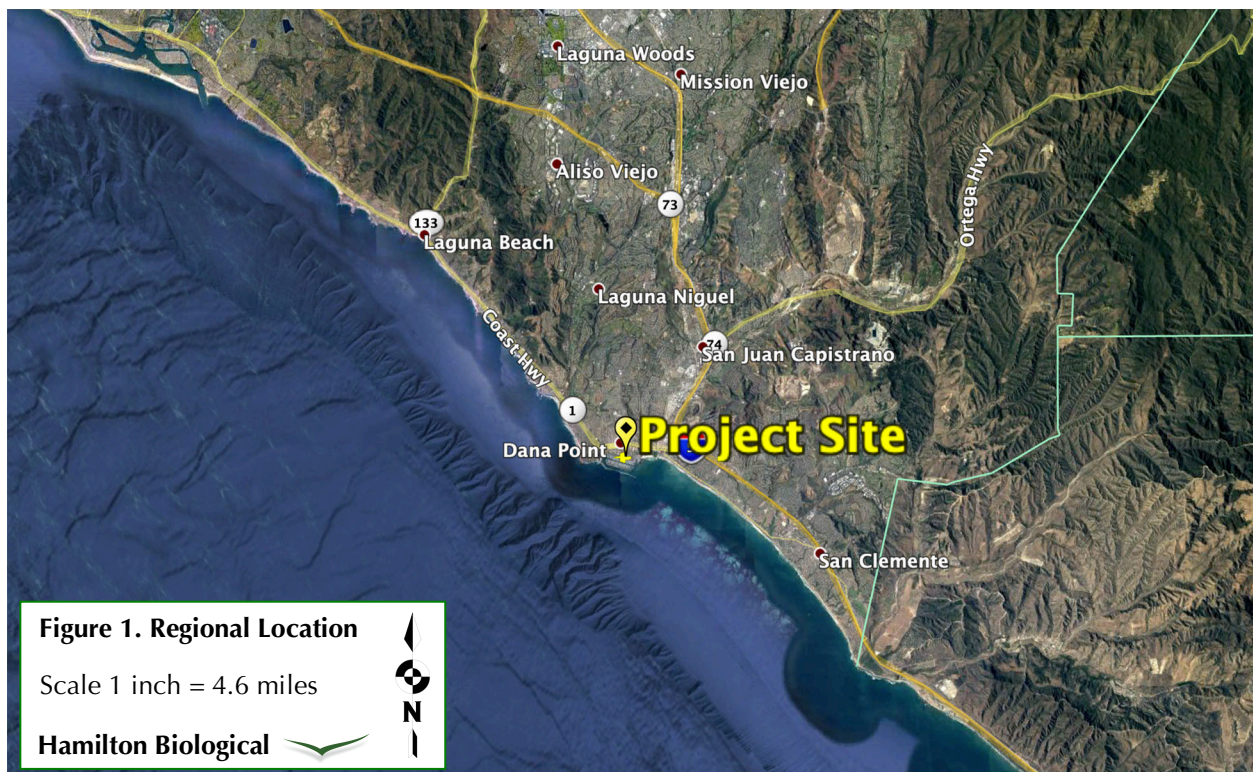


Figure 1. The project site is located in Dana Point Harbor, in southern Orange County. Aerial Source: Google Earth Pro.

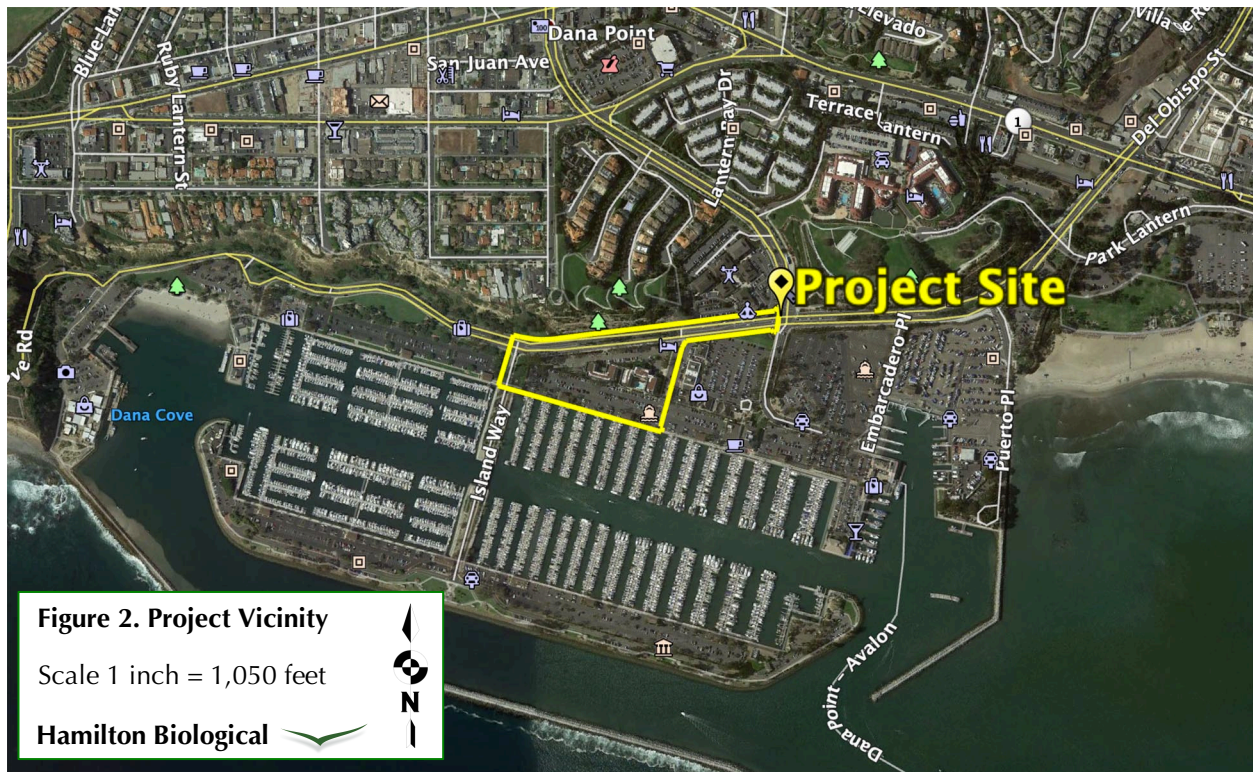


Figure 2. The project site occupies approximately 10.7 acres in the northern central part of Dana Point Harbor. The site is generally bounded by Dana Point Harbor Drive on the north, Casitas Place on the east, Island Way on the west, and the harbor and boat slips on the south. Aerial Source: Google Earth Pro.

GOALS OF THE BIOLOGICAL ASSESSMENT

The goals of the biological assessment were: (1) to characterize the site's existing biological resources, including the plant and wildlife species present, or potentially occurring, on the site; (2) to evaluate the potential for listed and otherwise sensitive species to occur on the site; and (3) to evaluate the potential biological impacts of the proposed project in the context of the applicable local, state, and federal planning regulations and policies. This letter report describes the study's methods, reports my observations, and specifies my recommendations and conclusions.

METHODS

On October 28, 2020, I accessed Calflora (www.calflora.org) and the California Native Plant Society's Online Inventory (www.rareplants.cnps.org) and searched for sensitive plant species known from the coastal strand in Orange County.

On October 28, 2020, I reviewed the California Natural Diversity Data Base (2020a, 2020b, 2020c) to develop a list of a list of sensitive plant and wildlife species recorded in the U.S. Geologic Survey's Dana Point 7.5' topographic quadrangle.

I reviewed relevant portions of the Dana Point Harbor Revitalization Plan and District Regulations (Local Coastal Program for the harbor certified by the California Coastal Commission on October 6, 2011); Final Program EIR No. 591 for the Dana Point Harbor Revitalization Project (RBF Consulting 2006); the Draft Addendum to Final EIR No. 591 (LSA Associates 2011); the Subsequent EIR for the Dana Point Harbor Revitalization Project (LSA Associates 2011); the Coastal Commission Staff Report for the Dana Point Harbor Revitalization Project, for hearing date September 9, 2020 (Application No. 5-19-0971); and the Initial Study prepared for the current project (LSA Associates 2020).

On October 29, 2020, I visited the project site and adjacent areas. The site visit lasted from 3:00 to 4:00 p.m. Temperature was 68°F; skies were clear; wind was 2–5 mph. I recorded all plant and wildlife species detected during this site visit.

On November 5, 2020, botanist James Bailey and I visited the project site and adjacent areas. The site visit lasted from 10:45 a.m. to 12:25 p.m. Temperature was 72°F; skies were clear; wind was 1–4 mph. We recorded all plant and wildlife species detected during this site visit.

To update my familiarity with the current state of knowledge of bird-strike issues, I reviewed “Bird Collisions with Windows: An Annotated Bibliography,” a comprehensive online resource last updated in October 2019¹. I obtained information on various bird-strike mitigation methods by reviewing extensive information that the American Bird Conservancy makes available online^{2,3}.

RESULTS

Please refer to the attached species lists for the scientific names of all species recorded during the surveys. In the following discussions, scientific names are provided only for plant species, and for and wildlife species not recorded during the surveys.

Topography and Surrounding Land Uses

The property occupies part of the northern central shore of Dana Point Harbor, and is fully developed in the existing condition. Elevation ranges from approximately 10 feet along the southern site boundary to 25 feet in the northeastern corner of the site. No streambeds or seasonal drainage courses occur on the project site. See Figure 3, on the following page.

¹ https://abcbirds.org/wp-content/uploads/2019/10/Glass-Collisions_Bibliography-October-2019.pdf

² <http://collisions.abcbirds.org/research.html#>

³ <https://abcbirds.org/threat/bird-strikes/>

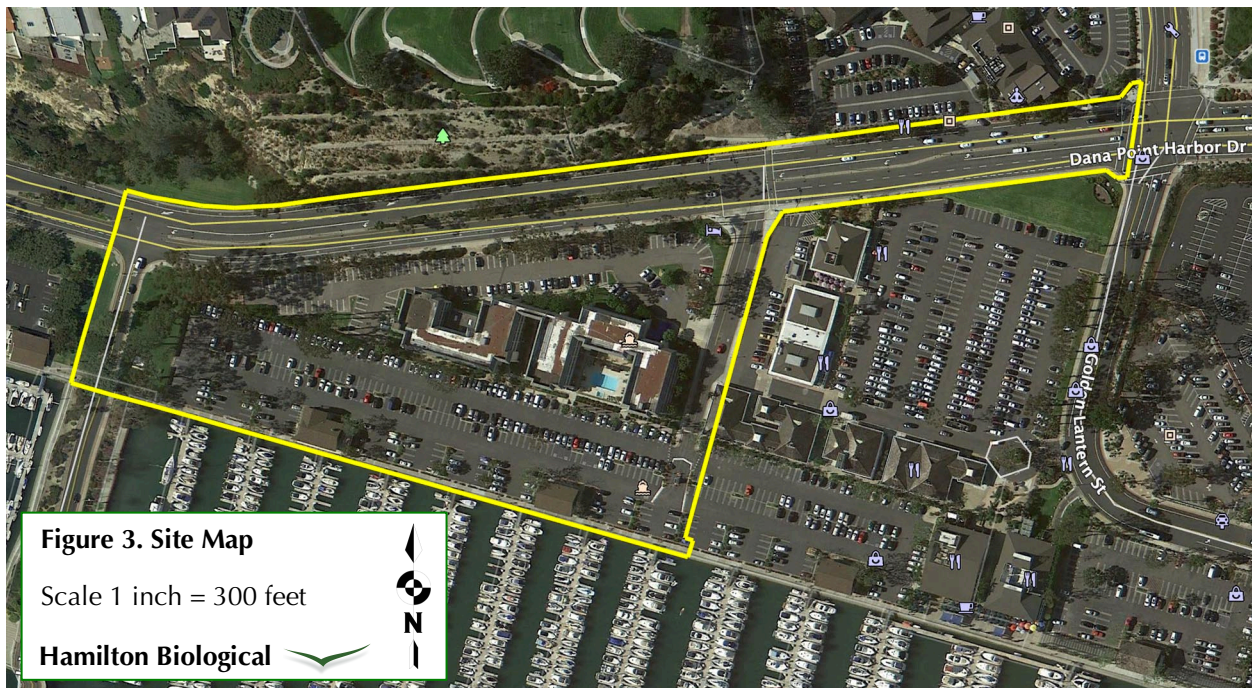


Figure 3. The project site is fully developed in the existing condition, consisting of buildings, roads, parking areas, and exotic landscaping. Aerial Source: Google Earth Pro.

Soils

The project site is completely developed in the existing condition, with exposed native soils occurring only along Dana Point Harbor Drive (median and northern shoulder). According to Web Soil Survey (<https://websoilsurvey.sc.egov.usda.gov>), soils on the project site consist of the following:

- **Cieneba sandy loam, 30 to 75 percent slopes, eroded.** The Cieneba series consists of very shallow and shallow, somewhat excessively drained soils that formed in material weathered from granitic rock.
- **Myford sandy loam, 2 to 9 percent slopes.** The soils of the Myford Series are deep, moderately well drained soils formed on terraces.

Plant Communities

The property does not support any natural plant communities. Vegetation on the project site consists of exotic landscaping with scattered weedy native plants that occur as volunteers (no native plant communities are present). Please refer to the attached Plant Species List for a list of the plant species observed on the project site.

Wildlife

As specified in the attached Wildlife Species List, nine bird species were observed on the site: Rock Pigeon, Allen's Hummingbird, Black-crowned Night-Heron, Western Gull, American Crow, House Finch, White-crowned Sparrow, Orange-crowned Warbler, and Yellow-rumped Warbler. One species of mammal was observed, the Fox Squirrel.

Wildlife Migration Corridors and Habitat Linkages

The project site and immediately surrounding areas are fully developed in the existing condition, and no migratory corridors or habitat linkages exist on or near the site.

SPECIAL-STATUS SPECIES

Special-status species are listed as threatened or endangered by state or federal governments, or are of current local, regional or state concern (see California Natural Diversity Database 2020a, 2020b, 2020c). Legal protection for special-status species varies widely, from the relatively comprehensive protection extended to listed threatened/endangered species to no legal status at present.

The California Natural Diversity Data Base (2020c) lists a total of 25 sensitive plant species, one sensitive mollusk species, two sensitive amphibian species, eight sensitive reptile species, 38 sensitive bird species, and five sensitive mammal species that have been recorded within the Dana Point USGS topographic quadrangle. No listed or otherwise sensitive plant or wildlife species were observed on the site during the field visits.

The Final Program EIR (RBF Consulting 2006) identified 69 sensitive wildlife species that could potentially occur in the vicinity of the Harbor or Off-Site areas, and stated, "Four Federal-listed endangered or threatened species were either present or have a moderate to high potential to occur on-site." The four federally-listed species (two of which are no longer listed) are:

- **Brown Pelican (*Pelecanus occidentalis californicus*)**. This species, which has since been de-listed, occurs commonly throughout the harbor area as a non-breeder. Only the nesting colonies are considered sensitive for this species.
- **Western Snowy Plover (*Charadrius alexandrinus nivosus*)**. This small shorebird, federally listed as Threatened, occurs rarely and sporadically in the harbor as a non-breeding species (eBird data).

- **California Least Tern (*Sternula antillarum browni*)**. This species, listed as endangered by State and federal governments, forages within the harbor between mid-April and mid-August (eBird data).
- **Peregrine Falcon (*Falcon peregrinus anatum*)**. This species, which has since been de-listed, forages regularly in the harbor area but does not breed there.

In addition to the four listed species discussed in the Final Program EIR:

- The **Green Sea Turtle (*Chelonia mydas*)**, federally listed as threatened, occurs rarely and sporadically within the harbor, outside of the project site.
- The federally threatened **Coastal California Gnatcatcher (*Polioptila californica californica*)** is resident on bluffs surrounding the harbor, where intact coastal bluff scrub habitat is still present. No suitable habitat for the gnatcatcher exists on the project site, but potentially suitable habitat occurs within 500 feet of the site, on bluffs to the northwest.

Please refer to Figure 4 on the following page, which is a reproduction of Exhibit 13 in the Coastal Commission staff report for the Coastal Development Permit⁴ — a print-out from the California Natural Diversity Data Base showing the putative distribution of the **Coastal California Gnatcatcher** and **Coastal Cactus Wren (*Campylorhynchus brunneicapillus*)** in the vicinity of Dana Point Harbor. The mapped extent of gnatcatcher habitat shown north of the project site, and extending onto the site itself, does not correlate with conditions on the ground. Most of the eastern polygon on Exhibit 13 (Figure 4 in this report) consists of urban development, and no eBird reports of either sensitive bird species exist from the landscaped open space areas on the north side of Dana Point Harbor Drive (i.e., Heritage Park and Bay Lantern Park).

⁴ <https://documents.coastal.ca.gov/reports/2020/9/W13c/W13c-9-2020-exhibits.pdf>



California Coastal Commission
5-19-0971
Exhibit 13 – CNDBB for Cactus Wren and Gnatcatcher
Page 1 of 1

Figure 5. Reproduction of Exhibit 13 from the CDP showing the putative extent of potential habitat for the Coastal California Gnatcatcher and Coastal Cactus Wren in and around Dana Point Harbor, according to the California Natural Diversity Data Base (CNDBB). Potential habitat for both of these bird species is erroneously shown as existing north of the project site, and extending south across Dana Point Harbor Drive and into the existing parking lot of the Dana Point Inn, on the project site.

During the field visits, we observed that highly disturbed coastal bluff scrub habitat, consisting of widely spaced shrubs of such native species as Deer Weed (*Acmispon glaber*), Coast Goldenbush (*Isocoma menziesii*), and California Buckwheat (*Eriogonum fasciculatum*), occurs on the slope north of Dana Point Harbor Drive, immediately north of the project site. The disturbed coastal bluff scrub north of the project site is very unlikely to be used by either California Gnatcatchers or Cactus Wrens during the nesting season. More intact coastal bluff scrub exists on the bluffs to the northwest, however, and potentially suitable habitat for these species occurs extends to within approximately 100 feet of the site.

A special-status butterfly species, the **Monarch (*Danaus plexippus*)**, overwinters at dense groves of trees – mainly eucalyptus, pine, and Monterey Cypress – along the Pacific coast from Mendocino County to Baja California among wind-protected tree groves with nearby sources of nectar and water sources nearby. The eucalyptus trees on the project site are not planted in the types of dense stands that Monarchs require for overwintering, but the species has overwintered approximately 0.3 mile east of the project site at Doheny State Beach (RBF Consulting 2006).

At least three species of wading bird – **Great Blue Heron (*Ardea herodias*)**, **Black-crowned Night-Heron (*Nycticorax nycticorax*)**, **Snowy Egret (*Egretta thula*)** – nest in parts of Dana Point Harbor, and the Dana Point Harbor Revitalization Plan and District Regulations (Local Coastal Program) contain special conditions intended to protect nesting colonies of these species. Herons and egrets have never been recorded nesting on the project site, however, and during the site survey we observed no evidence of them having done so in 2020.

Eelgrass (*Zostera Marina*) is a marine-flowering plant that grows in soft sediments in coastal bays and estuaries and occasionally offshore to depths of 50 feet. Eelgrass canopy (consisting of shoots and leaves) enhances the abundance and the diversity of otherwise barren sediments. Many species of invertebrates (i.e., clams, crabs, and worms) live either on eelgrass or within the soft sediments that cover the root and rhizome mass system. Eelgrass is a nursery habitat for many juvenile fishes, including species of commercial and/or sports fish value (California Halibut and Barred Sand Bass). They are also foraging centers for seabirds such as the endangered California Least Tern that seek out juvenile Topsmelt that are attracted to the eelgrass cover. Lastly, Eelgrass is an important contributor to the detrital (decaying organic) food web of bays as the decaying plant material is consumed by many benthic invertebrates (such as polychaete worms) and reduced to primary nutrients by bacteria. Exhibit 12 in the Coastal Commission staff report for the Coastal Development Permit is a map showing the results of 2018 harbor-wide surveys for Eelgrass, which found the only extant stands off Baby Beach, approximately 0.35 mile west of the project site. No Eelgrass beds have been found near the project site.

OVERVIEW OF BIRD-STRIKE ISSUES

A recent comprehensive study concluded that collisions with windows or other structures results in mortality of between 100 million and one billion migratory songbirds each year in the United States (Loss et al. 2014). Daytime bird collisions typically occur either because (a) glass reflects the surrounding habitat, or (b) glass is transparent, and birds see through it to appealing objects on the other side. To reduce this important source of migratory songbird mortality, the California Coastal Commission now routinely requires projects proposing installation of glass or plexiglass to take appropriate measures to reduce the incidence of bird-strikes.

Making Glass “Bird Safe”

The American Bird Conservancy conducts specialized field research at Powdermill Nature Reserve⁵ to evaluate and analyze threats posed by different type of glass (including plexiglass and similar materials). The most commonly used methods for increasing the visibility of glass to birds include the following:

- Incorporating ultraviolet patterns into the glass, which are visible to birds but nearly undetectable to people.
- Frosting or etching the glass.
- Using tapes or decals to establish bird-safe patterns on the material.

Information on various architectural products designed to reduce the potential for bird strikes is provided at <https://abcbirds.org/get-involved/bird-smart-glass/#2>.

PROTECTIVE MEASURES INCORPORATED FROM THE PROGRAM EIR

As a component of the overall Dana Point Harbor Revitalization Project, the Dana Point Harbor Hotels Project is subject to several relevant Project Design Features (PDFs), Standard Conditions of Approval (SCAs), and Mitigation Measures (MMs) contained in the Program EIR for the revitalization project (RBF Consulting 2006). The 2006 Program EIR, and subsequent Addendum (LSA Associates 2011), identified the following PDFs, SCAs, and MMs that are deemed relevant to the Dana Point Harbor Hotels Project. During the subsequent approval process for the Land Use Plan (LUP), several PDFs, SCAs, and MMs were clarified and became LUP Policies within the 2011 Dana Point Harbor Revitalization Plan LUP. Where applicable, the wording has been revised to be consistent with the approved LUP Policy, which is indicated in parenthesis. The following table is adapted from the “Project Requirement and Monitoring Program Table” (LSA Associates 2011, Appendix A).

No.	Reference	Requirements/Conditions/Mitigation Measures LCPA LUP Policies/IP Provisions
344	PDF 4.7-1	The Landscape Concept Plan provides a design to minimize the loss of native trees within the Harbor. Trees that are removed during construction will be replanted on at least a 1:1 ratio. The landscape replanting program provides a preferential use of native species and vegetation.

⁵ <https://powdermillarc.org/research/flight-tunnel-at-powdermill-avian-research-center-parc/>

No.	Reference	Requirements/Conditions/Mitigation Measures LCPA LUP Policies/IP Provisions
346	MM 4.7-1	<p>If project construction activities within Planning Areas 3 and 5 are anticipated during the breeding season of the California gnatcatcher (March 1 to August 15), surveys of the area within 500 feet of the site by a qualified biologist shall be required prior to start of Project construction activities. If nesting gnatcatchers are identified, project construction activities must cease for the remainder of the breeding season unless a qualified acoustician can demonstrate that, with or without noise attenuation measures project activity noise levels would not exceed 60 decibels (dB) (hourly average) within gnatcatcher-occupied portions of the surveyed area. The qualified biologist shall monitor active nest sites. If the biologist notes that the nest fails, or the young fledge from the nest, then the noise restriction near the nest is no longer required.</p>
347	MM 4.7-2	<p>If an active nest of any bird species listed pursuant to the federal or California Endangered Species Act, California Bird Species of Special Concern, or a wading bird (herons or egrets) as well as owls or raptors is found, construction activities within 300 feet (500 feet from any identified raptor nest) shall not exceed noise levels of 65 dB peak until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Surveys for the above bird species during their breeding season shall be conducted by a qualified biologist prior to commencement of construction.</p>
350	MM 4.7-4	<p>In order to minimize indirect impacts on biological resources that may be related to noise and construction activity, OC Dana Point Harbor shall implement the following Best Management Practices (BMPs) prior to or during construction activities.</p> <ul style="list-style-type: none"> • Limit construction and all project activities to a well-defined area; and • Construction limits shall be fenced or flagged adjacent to preserved trees and/or sensitive habitats to avoid direct impacts.
352	MM 4.7-6	<p>The County of Orange – OC Dana Point Harbor shall require that standard BMPs be utilized in order to ensure impacts to water quality or the marine environment are minimized. Standard BMPs include:</p> <ul style="list-style-type: none"> • Erosion to be controlled by landscaping (leave existing vegetation in place where possible), paving and drainage structures; • Berms (sand bags) around all construction sites to catch

No.	Reference	Requirements/Conditions/Mitigation Measures LCPA LUP Policies/IP Provisions
		runoff; <ul style="list-style-type: none"> • Roads of gravel to minimize dirt being tracked into and out of the project site; • During wet weather, Harbor basin inlets shall be protected by placing a wire mesh and gravel filter to intercept debris and soil runoff; and • Appropriate housekeeping activities to minimize the potential for pollutants-from material storage or construction activities.
359	LUP Policy I-7.1.2-3	OC Dana Point Harbor shall prepare Tree Maintenance Procedures for the trimming and/or removal of trees consistent with Policy 7.1.2-2 above. The procedures shall include, but not be limited to, the following provisions: <ul style="list-style-type: none"> • Tree trimming, or tree removal when necessary, shall be conducted only during the non-breeding and non-nesting season (October through December) of the identified bird species unless the County of Orange in consultation with a qualified arborist and with review and comment from the Audubon Society determines that a tree causes danger to public health and safety. A health and safety danger shall be considered to exist if a qualified arborist determines that a tree or branch is dead, diseased, dying or injured and said tree or branch is in imminent danger of collapse or breaking away. The County shall be proactive in identifying and addressing diseased, dying or injured trees as soon as possible in order to avoid habitat disturbances during the nesting season. • Trees or branches with a nest of a state or federal listed species, a California bird species of special concern or a wading bird (heron or egret) as well as owls or raptors that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists. • The removal of any tree shall require mitigation at a 1:1 ratio. A tree replacement planting plan for each tree replacement shall be developed to specify replacement tree location, tree type, tree size (no less than 36 inch box size), planting specifications, and a five (5) year monitoring program with specific performance standards.
434	SCA 4.9-3	Prior to approval of the project plans and specifications the Director, OC Dana Point Harbor, or his designee shall confirm that the plans and specifications stipulate that stockpiling and vehicle staging areas

No.	Reference	Requirements/Conditions/Mitigation Measures LCPA LUP Policies/IP Provisions
		shall be located as far as practical from noise-sensitive sensitive receptors during construction activities.
435	MM 4.9-3	For projects within 1,000 feet of sensitive receptors, sonic or vibratory pile drivers shall be used instead of impact pile drivers (sonic pile drivers are only effective in some soils) whenever possible. If sonic or vibratory pile drivers are not feasible, acoustical enclosures shall be provided as necessary to ensure that pile-driving noise does not exceed speech interference criterion at the closest sensitive receptor. Engine and pneumatic exhaust controls on pile drivers shall be required as necessary to ensure that exhaust noise from pile driver engines is minimized to the extent feasible. Where feasible, pile holes shall be predrilled to reduce potential noise and vibration impacts.
439	LUP Policy I-8.1.1-24	Prior to the issuance of any Grading or Building Permits, OC Dana Point Harbor shall prepare or obtain an acoustical analysis report and appropriate plans which demonstrate that the noise levels generated by Harbor land uses during their operation shall be controlled in compliance with the Orange County Codified Ordinance, Division 6 (Noise Control). The report shall be prepared under the supervision of a County-certified acoustical consultant and shall describe the noise generation potential of the use during its operation and the noise mitigation measures, if needed which shall be included in the plans and specifications for the project to assure compliance with the Orange County Codified Ordinance, Division 6 (Noise Control). Noise impacting underwater marine life shall be minimized to the greatest extent feasible during construction activities and be conducted in accordance with all applicable requirements of the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.) and any state or local regulations protecting marine life in effect at the time of construction.
440	LUP Policy I-8.1.1-25	Prior to approval of project plans, OC Dana Point Harbor shall confirm that the plans and specifications stipulate that stockpiling and vehicle staging areas shall be located as far as practical from noise-sensitive receptors during construction activities.
441	PDF 4.10-3	Interior and exterior water conservation measures will be incorporated into all projects as development occurs. Measures will include (but not be limited to) low-flush toilets, low-flow faucets, planting of native or non-invasive and drought tolerant plant species as identified by California Department of Water Resources that are also non-problematic/non-invasive plant species as defined by the California Native Plant Society, the California Invasive Plant Council

No.	Reference	Requirements/Conditions/Mitigation Measures LCPA LUP Policies/IP Provisions
		or as may be identified from time to time by the State of California and the installation of efficient irrigation systems to minimize runoff and evaporation.

IMPACTS AND MITIGATION

This impact analysis takes into account the protective measures, listed in the preceding section, incorporated from the certified Program EIR (RBF Consulting 2006) and the subsequent Addendum (LSA Associates 2011). In September 2020, the Coastal Commission issued a Coastal Development Permit (CDP) for waterside portions of the Dana Point Harbor Revitalization Project. The Dana Point Harbor Hotels project is not covered under that CDP, but it is expected that the City of Dana Point, which has jurisdiction over landside portions of the harbor, will issue a CDP for this project, and that the CDP may include Special Conditions in addition to the mitigation measures and other permit conditions identified herein.

The project site is fully developed in the existing condition, and is not known or expected to support special-status plant or wildlife species. The Program EIR identified measures that will be implemented to avoid construction-related disruption of nesting activities by any special-status bird species that potentially occur in the vicinity of the project site.

The proposed project would not involve any marina or slip improvements and, therefore, would not have the potential to impact marine mammals or other marine biota.

Surveys have determined that exotic landscaping on the project site does not support nesting by herons, egrets, or other colonial waterbirds, but vegetation on the project site could potentially support other types of nesting birds. State and federal laws prohibit disruption of the nesting of any bird species, and thus removal of vegetation during the nesting bird season (January 1 through September 30) would represent a potentially significant impact to nesting birds. Implementation of Standard Condition BIO-1, below, ensures that project implementation will not impact actively nesting birds.

Standard Condition BIO-1 Avoidance of impacts to actively nesting birds. Project construction activities shall avoid any trees that are identified as supporting active nests. If it is determined that it is not possible to relocate these trees within the site, then these trees shall be replaced with species as determined appropriate by the City of Dana Point. If vegetation removal were to occur during the nesting bird season (January 1

through September 30), a pre-construction survey would be required prior to the start of construction activities to ensure that any active nests are identified and appropriate measures taken to ensure that impacts to nesting species are in compliance with applicable state and federal regulations.

With implementation of Standard Condition BIO-1, project implementation will not entail any significant impacts to actively nesting birds.

Most songbirds migrate at night during spring and fall. During these flights they often follow the coastline, routinely flying over the ocean itself. At daybreak, birds that find themselves over the water reorient and fly to the coast. There they spend the day, or multiple days, resting and foraging before continuing on with migration. At Dana Point Harbor, installation of glass or plexiglass windows, wind screens, etc., on harbor-facing parts of the new buildings will create potential for songbirds flying in off the ocean and toward the coastal bluffs to mistake reflections of sky in windows or other glass panels for open space, resulting in bird-strikes. This is a potentially significant adverse effect of the project addressed in Standard Condition BIO-2, below.

Standard Condition BIO-2 Minimization of Window-strikes by Migratory Birds. Prior to City issuance of any project approvals, the Director of Community Development shall verify that all proposed harbor-facing glass or glass-like surfaces have been designed to reduce the incidence of bird-strikes. All materials, including any appliqués, shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications and as recommended by the Director of Community Development.

With implementation of Standard Condition BIO-2, project implementation will not entail any significant impacts to migratory birds due to increased incidence of window-strikes.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With implementation of the identified mitigation measures, all potentially significant project impacts upon biological resources would be reduced to a level less than significant.

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APPENDIX A

LISTS OF VASCULAR PLANTS & VERTEBRATE WILDLIFE DETECTED

The following list identifies plant and wildlife species detected during the current study in upland habitats within the expanded study area. Source:

Calflora: Information on California plants for education, research and conservation, with data contributed by public and private institutions and individuals, including the Consortium of California Herbaria. 2014. Berkeley, California: The Calflora Database [a non-profit organization]. <http://www.calflora.org/>

* Taxon not native to the study area

VASCULAR PLANTS

SECTION: GYMNOSPERMS

Cupressaceae - Cypress Family

* *Juniperus sp.*, juniper

SECTION: EUDICOTS

Aizoaceae - Amaranth Family

* *Aptenia sp.*, Heartleaf Iceplant (cultivar hybrid)

Amaranthaceae - Amaranth Family

* *Chenopodium murale*, Nettle-leaved Goosefoot

Anacardiaceae - Cashew Family

Rhus integrifolia, Lemonade Berry

Apocynaceae - Dogbane Family

* *Nerium oleander*, Oleander

Araliaceae - Ginseng Family

* *Hedera canariensis*, Canarian Ivy

Aquifoliaceae - Holly Family

* *Ilex aquifolium*, English Holly

Asphodelaceae - Aloe Family

* *Aloe arborescens*, Candelabra Aloe

* *Hemerocallis sp.*, Lemon Daylilly Species

* *Phormium tenax*, New Zealand Flax

* *Yucca sp.*, yucca

Asteraceae - Sunflower Family

- Baccharis pilularis*, Coyote Brush
- * *Cotula australis*, Australian Brassbuttons
- * *Erigeron bonariensis*, Argentine Fleabane
- * *Gazania* sp., treasureflower (cultivar hybrid)
- Isocoma menziesii*, Coastal Goldenbush
- * *Osteospermum* sp., daisybush
- * *Senecio vulgaris*, Common Groundsel
- * *Sonchus oleraceus*, Smooth Sowthistle
- Stephanomeria diegensis*, San Diego Wirelettuce
- * *Taraxacum erythrospermum*, Red-seeded Dandelion

Balsaminaceae - Balsam Family

- * *Impatiens walleriana*, Busy-Lizzie

Berberidaceae - Barberry Family

- * *Nandina domestica*, Heavenly Bamboo

Bignoniaceae - Bignonia Family

- * *Tecoma capensis*, Cape Honeysuckle

Boraginaceae - Borage Family

- * *Echium candicans*, Pride of Madeira

Brassicaceae - Mustard Family

- * *Lepidium didymum*, Lesser Swinecress

Caryophyllaceae - Pink Family

- * *Polycarpon tetraphyllum*, Fourleaf Allseed
- * *Sagina apetala*, Annual Pearlwort

Convolvulaceae - Bindweed Family

- * *Dichondra micrantha*, Asian Ponysfoot

Crassulaceae - Stonecrop Family

- * *Aeonium arborescens*, Tree Aeonium
- * *Aeonium haworthii*, Haworth's Aeonium

Brassicaceae - Mustard Family

- * *Brassica tournefortii*, Saharan Mustard

Escalloniaceae - Escallonia Family

- * *Escallonia rubra*, Redclaws

Euphorbiaceae - Spurge Family

- * *Euphorbia hypericifolia*, Graceful Spurge
- * *Euphorbia maculata*, Spotted Spurge
- * *Euphorbia serpens*, Matted Sandmat

Ericaceae - Heather Family

- * *Rhododendron sp.*, azalea

Fabaceae - Pea Family

- * *Acacia sp.*, wattle
- * *Medicago polymorpha*, Toothed Medick
- * *Parkinsonia sp.*, palo verde

Lamiaceae - Mint Family

- * *Salvia rosmarinus*, Rosemary

Malvaceae - Mallow Family

- * *Hibiscus rosa-sinensis*, Chinese Hibiscus

Moraceae - Fig Family

- * *Ficus rubiginosa*, Port Jackson Fig

Myrtaceae - Myrtle Family

- * *Corymbia ficifolia*, Red-flowering Gum
- * *Eucalyptus camaldulensis*, River Red Gum
- * *Eucalyptus melliodora*, Yellow Box
- * *Melaleuca quinquenervia*, Broadleaf Paperbark
- * *Melaleuca sp.*, "Little John Dwarf" bottlebrush (cultivar hybrid)

Oleaceae - Olive Family

- * *Ligustrum sp.*, Privet Species

Oxalidaceae - Wood-Sorrel Family

- * *Oxalis corniculata*, Creeping Woodsorrel

Polygonaceae - Dock Family

- Eriogonum fasciculatum*, California Buckwheat

Pittosporaceae - Dock Family

- * *Pittosporum tobira*, Japanese Cheesewood
- * *Pittosporum undulatum*, Mock Orange

Plantaginaceae - Plantain Family

- * *Plantago major*, Greater Plantain

Plantanaceae - Plane Family

* *Platanus racemosa*, Western Sycamore

Plumbaginaceae - Leadwort Family

* *Plumbago auriculata*, Cape Leadwort

Primulaceae - Dock Family

* *Anagallis arvensis*, Scarlet Pimpernel

Rosaceae - Rose Family

* *Raphiolepis indica*, Indian Hawthorn

Sapindaceae - Soapberry Family

* *Cupaniopsis anacardioides*, Carrotwood Tree

Solanaceae - Nightshade Family

* *Solanum lycopersicum*, Tomato

Theaceae - Tea Family

* *Camellia japonica*, Japanese Camellia

Urticaceae - Nettle Family

* *Soleirolia soleirolii*, Baby's Tears

Verbenaceae - Vervain Family

* *Duranta erecta*, Skyflower

SECTION: MONOCOTS

Araceae - Palm Family

* *Thaumatococcus danianus*, Tree Philodendron

* *Zantedeschia aethiopica*, Calla Lily

Arecaceae - Palm Family

* *Phoenix roebelenii*, Pygmy Date Palm

* *Syagrus romanzoffiana*, Queen Palm

* *Washingtonia robusta*, Mexican Fan Palm

Asparagaceae - Asparagus Family

* *Agave americana*, Century Plant

* *Agave attenuata*, Swan-neck Agave

* *Agave parryi*, Parry's Agave

* *Asparagus aethiopicus*, Sprenger's Asparagus

* *Asparagus densiflorus*, Plume Asparagus Fern

* *Cordyline* sp., cabbage tree

Poaceae - Grass Family

- * *Pennisetum advena*, Purple Fountaingrass
- * *Poa annua*, Annual Blue Grass
- * *Festuca arundinacea*, Tall Fescue

VERTEBRATE WILDLIFE

CLASS AVES - BIRDS

Columbidae - Pigeon and Dove Family

- * *Columba livia*, Rock Pigeon

Trochilidae - Hummingbird Family

Selasphorus sasin, Allen's Hummingbird

Ardeidae - Heron and Egret Family

Nycticorax nycticorax, Black-crowned Night-Heron

Laridae - Gull, Tern, and Skimmer Family

Larus occidentalis, Western Gull

Tyrannidae - Tyrant-Flycatcher Family

Sayornis nigricans, Black Phoebe

Corvidae - Jay, Magpie, Crow, and Raven Family

Corvus brachyrhynchos, American Crow

Fringillidae - Finch Family

Haemorrhous mexicanus, House Finch

Passerellidae - New World Sparrow Family

Zonotrichia leucophrys, White-crowned Sparrow

Parulidae - New World Warbler Family

Setophaga coronata, Yellow-rumped Warbler

Leiothlypis celata, Orange-crowned Warbler

CLASS MAMMALIA - MAMMALS

Sciuridae - Squirrel Family

- * *Sciurus niger*, Fox Squirrel