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December 30, 2020

Governor's Office of Planning & Research

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Dec 31 2020

STATE CLEARINGHOUSE

Subject: Notice of Preparation of a Draft Environmental Impact Report for the Housing Element Update 2021-2029 Project, SCH #2020100575, City of Santa Monica, Los Angeles County

Dear Ms. Kwok:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the City of Santa Monica (City; Lead Agency) for the Housing Element Update 2021-2029 Project (Project). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take", as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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Project Description and Summary

Objective: The Project proposes to update the Housing Element of the City's General Plan. Since 1969, California has required that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community. One of the required elements of a General Plan is the Housing Element. The Housing Element serves as a guide for addressing the housing needs of all segments of the City's population. State law requires that communities prepare and update the Housing Element every eight years.

Housing needs are determined by the California Housing and Community Department, who decides what the numerical housing targets should be for each regional council of governments. Each council of government across the State then further allocates the Regional Housing Needs Allocation (RHNA) to every city and county within its jurisdiction. The RHNA is a targeted housing number. Cities and counties do not have to build this number of units, but rather they must plan for them and show that there is capacity to accommodate for this number of housing under current land use and development standards.

The City's draft RHNA allocation is 8,874 units. As part of the proposed Project, the City must demonstrate to the State that there is available capacity within its jurisdictional boundaries to meet its targeted RHNA number. Per State requirements, the Project would include the following components:

- A detailed analysis of the City's demographic, economic, and housing characteristics;
- An analysis of the barriers to producing and preserving housing;
- A review of the City's progress in implementing current housing policies and programs;
- An identification of goals, objectives, and policies, in addition to a full list of programs that will implement the vision of the plan; and,
- A list of sites (Suitable Sites Inventory) that could accommodate new housing, demonstrating the City's ability to meet RHNA allocation.

Location: The Project is located within the City of Santa Monica. The City is surrounded on three sides by the City of Los Angeles, including the westside communities of Brentwood, Mar Vista, Pacific Palisades, Venice, and West Los Angeles. The City comprises approximately 5,280 acres (approximately 8.25 square miles).

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

Specific Comments

1) Suitable Sites Inventory. CDFW recommends the City prepare a map of the following areas if present within City boundary:

- Conservation easements or mitigation lands;
- U.S. Fish and Wildlife Service [Threatened & Endangered Species Active Critical Habitat](#)

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- (USFWS 2020);
- Los Angeles County Significant Ecological Areas (SEAs). [Los Angeles County Significant Ecological Areas](#) are officially designated areas within Los Angeles County identified as having irreplaceable biological resources (LACDRP 2019). These areas represent the wide-ranging biodiversity of Los Angeles County and contain some of Los Angeles County's most important biological resources;
- Wildlife corridors;
- Sensitive Natural Communities [see General Comment #1 (Biological Baseline Assessment)];
- Aquatic and riparian resources including (but not limited to) rivers, channels, streams, wetlands, and vernal pools, and associated natural plant communities; and,
- Urban forests, particularly areas with dense and large trees [see Comment # 5 (Loss of Bird and Raptor Nesting Habitat)].

CDFW recommends the City avoid sites that may have a direct or indirect impact on conservation easements or lands set aside as mitigation. CDFW recommends the DEIR include measures where future housing development facilitated by the Project mitigate (avoid if feasible) for impacts on biological resources occurring within SEAs and critical habitat, as well as mitigate for impacts on wildlife corridors, sensitive natural communities, aquatic and riparian resources, and urban forests.

- 2) Plummer's Mariposa Lily. According to [iNaturalist](#), there are multiple observations of Plummer's mariposa lily (*Calochortus plummerae*) within the City (iNaturalist 2020).
 - a. Plummer's mariposa lily has a California Rare Plant Rank (CRPR) of 4.2. Plants with a CRPR of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B meet the definitions of rare under CEQA Guidelines section 15380 and are eligible for State listing (CNPS 2020). Some CRPR 3 and 4 species meet the definitions of rare under CEQA (CEQA Guidelines, §15380). Depending on the species and ranking, a CRPR species may be seriously threatened in the State. California Native Plant Society's (CNPS) [Rare Plant Ranks](#) page includes additional rank definitions (CNPS 2020). Impacts to rare plant species should be considered significant under CEQA unless they are mitigated below a level of significance.
 - b. Survey and Assessment of Potential Impacts. In preparation of the DEIR, CDFW recommends the City retain a qualified botanist to conduct multiple spring-time surveys of Plummer's mariposa lily throughout the City. The qualified botanist should be knowledgeable and have experience identifying southern California rare plants [see General Comments #1 (Biological Baseline Assessment)].

In consultation with a qualified botanist, CDFW recommends the City assess the Project's potential direct and/or indirect, permanent, and/or temporary impacts on Plummer's mariposa lily. Direct impacts include loss of individual plants and seedbank. Indirect impacts include loss of habitat supporting Plummer's mariposa lily. The City should assess whether potential impacts to Plummer's mariposa lily may lead to population decline, restriction of species range, and extirpation of the species within the City, regionally, and State-wide.

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- c. Mitigation. CDFW recommends the DEIR include measures where future housing development facilitated by the Project fully avoids potential impacts to Plummer's mariposa lily and habitat. Plummer's mariposa lily and habitat should be avoided as part of the Suitable Sites Inventory. For unavoidable Project impacts, CDFW recommends the DEIR include measures where future housing development mitigates for impacts to Plummer's mariposa lily and habitat. The City's avoidance and mitigation measures should include effective, specific, enforceable, and feasible actions.
- 3) Biological Resources Survey. CDFW recommends the DEIR include measures where future housing development facilitated by the Project provides a project-level biological resources survey [see General Comments #1 (Biological Baseline Assessment)]. A biological resources survey should include identification and delineation of any rivers, streams, and lakes and their associated natural plant communities/habitats. This includes any culverts, ditches, storm channels that may transport water, sediment, pollutants, and discharge into rivers, streams, and lakes.
- 4) Nesting Birds. CDFW recommends the DEIR include measures where future housing development facilitated by the Project avoids potential impacts to nesting birds. Project activities occurring during the bird and raptor breeding and nesting season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.
 - a) Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.
 - b) CDFW recommends that measures be taken to fully avoid impacts to nesting birds and raptors. Ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating) and vegetation removal should occur outside of the avian breeding season which generally runs from February 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their eggs.
 - c) If impacts to nesting birds and raptors cannot be avoided, CDFW recommends the DEIR include measures where future housing development facilitated by the Project mitigates for impacts. CDFW recommends surveys by a qualified biologist with experience conducting breeding bird and raptor surveys. Surveys are needed to detect protected native birds and raptors occurring in suitable nesting habitat that may be disturbed and any other such habitat within 300 feet of the project disturbance area, to the extent allowable and accessible. For raptors, this radius should be expanded to 500 feet and 0.5 mile for special status species. Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.
- 5) Loss of Bird and Raptor Nesting Habitat. The biggest threat to birds is habitat loss and conversion of natural vegetation into another land use such as development (e.g., commercial, residential, industrial). In the greater Los Angeles, urban forests and street

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trees, both native and some non-native species, provide habitat for a high diversity of birds (Wood and Esaian 2020). Some species of raptors have adapted to and exploited urban areas for breeding and nesting (Cooper et al. 2020). For example, raptors (*Accipitridae*, *Falconidae*) such as red-tailed hawks (*Buteo jamaicensis*) and Cooper's hawks (*Accipiter cooperii*) can nest successfully in urban sites. Red-tailed hawks commonly nest in ornamental vegetation such as eucalyptus (Cooper et al. 2020). According to iNaturalist, there are multiple observations of red-tailed hawks and Copper's hawks within the City.

- a. CDFW recommends the DEIR provide measures where future housing development facilitated by the Project avoids removal of any native trees, large and dense-canopied native and non-native trees, and trees occurring in high density (Wood and Esaian 2020). CDFW also recommends avoiding impacts to trees protected by the City's Heritage Tree Program and Tree Ordinance. CDFW also recommends avoiding impacts to understory vegetation (e.g., ground cover, subshrubs, shrubs, and trees).
 - b. If impacts to trees cannot be avoided, trees should be replaced to compensate for the temporal or permanent loss habitat within a project site. Depending on the status of the bird or raptor species impacted, replacement habitat acres should increase with the occurrence of a California Species of Special Concern. Replacement habitat acres should further increase with the occurrence of a CESA-listed threatened or endangered species.
 - c. CDFW recommends planting native tree species preferred by birds. This includes coast live oak (*Quercus agrifolia*) and California sycamore (*Platanus racemosa*) (Wood and Esaian 2020). CDFW recommends Audubon Society's [Plants for Birds](#) for more information on selecting native plants and trees beneficial to birds (Audubon Society 2020).
- 6) **Bats.** Numerous bat species are known to roost in trees and structures throughout Los Angeles County (Remington and Cooper 2014). In urbanized areas, bats use trees and man-made structures for daytime and nighttime roosts. Accordingly, CDFW recommends the DEIR provide measures where future housing development facilitated by the Project avoids potential impacts to bats.
- a) Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs., § 251.1). Project construction and activities, including (but not limited to) ground disturbance, vegetation removal, and any activities leading to increased noise levels may have direct and/or indirect impacts on bats and roosts.
 - b) CDFW recommends a project-level biological resources survey provide a thorough discussion and adequate disclosure of potential impacts to bats and roosts from project construction and activities including (but not limited to) ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating) and vegetation removal. If necessary, to reduce impacts to less than significant, a project-level environmental document should provide bat-specific avoidance and/or mitigation measures [CEQA Guidelines, § 15126.4(a)(1)].

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General Comments

- 1) **Biological Baseline Assessment.** An adequate biological resources assessment should provide a complete assessment and impact analysis of the flora and fauna within and adjacent to a project site and where a project may result in ground disturbance. The assessment and analysis should place emphasis upon identifying endangered, threatened, sensitive, regionally, and locally unique species, and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to a project. CDFW also considers impacts to Species of Special Concern a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures. A project-level environmental document should include the following information:
 - a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. An environmental document should include measures to fully avoid and otherwise protect Sensitive Natural Communities from project-related impacts. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a state-wide ranking of S1, S2, S3 and S4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting [Vegetation Classification and Mapping Program - Natural Communities](#) webpage (CDFW 2020a);
 - b) A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Adjoining habitat areas should be included where project construction and activities could lead to direct or indirect impacts off site;
 - c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at a project site and within the neighboring vicinity. The [Manual of California Vegetation](#) (MCV), second edition, should also be used to inform this mapping and assessment (Sawyer et al. 2009). Adjoining habitat areas should be included in this assessment where project activities could lead to direct or indirect impacts off site. Habitat mapping at the alliance level will help establish baseline vegetation conditions;
 - d) A complete, recent, assessment of the biological resources associated with each habitat type on site and within adjacent areas that could also be affected by a project. CDFW's [California Natural Diversity Database](#) (CNDDDB) in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat (CDFW 2020b). An assessment should include a nine-quadrangle search of the CNDDDB to determine a list of species potentially present at a project site. A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur in the project site. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)];

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- e) A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern, and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of a project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's [Survey and Monitoring Protocols and Guidelines](#) for established survey protocol for select species (CDFW 2020c). Acceptable species-specific survey procedures may be developed in consultation with CDFW and the U.S. Fish and Wildlife Service; and,
 - f) A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of a proposed project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame or in phases.
- 2) Data. CEQA requires that information developed in environmental impact reports be incorporated into a database which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species and natural communities detected by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2020d). The City should ensure data collected at a project-level has been properly submitted, with all data fields applicable filled out. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred.

Conclusion

We appreciate the opportunity to comment on the NOP for the Housing Element Update 2021-2029 to assist the City of Santa Monica in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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