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DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



April 22, 2022

Michael Walker  
City of Napa  
1600 First Street  
Napa, CA 94559  
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Subject: City of Napa General Plan Update 2040, Draft Program Environmental Impact Report, SCH No. 2021010255, City and County of Napa

Dear Mr. Walker:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a draft Program Environmental Impact Report (EIR) from the City of Napa for the City of Napa General Plan Update 2040 (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW previously submitted comments in response to the Notice of Preparation (NOP) of the draft Program EIR.

CDFW is submitting comments on the draft Program EIR to inform the City of Napa (City), as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

## **CDFW ROLE**

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), a Lake and Streambed Alteration (LSA) Agreement, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

## **PROJECT DESCRIPTION SUMMARY**

### **Proponent: City of Napa**

**Objective:** The Project is an update to the City's General Plan and is intended to guide community planning and development through the year 2040. The last update to the General Plan was in 1998. Primary Project activities include updating land use

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<sup>1</sup> CEQA is codified in the California Public Resources Code in Section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

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designations and various plan elements to account for a future 23% increase in the City's population and associated growth.

**Location:** The Project is located in the City and surrounding areas within the City's sphere of influence (SOI), as well as the Rural Urban Limit. The Project encompasses approximately 10,700 acres, 93% of which is within City limits and the remaining 7% is in the SOI. The planning area is surrounded by unincorporated Napa County and generally bounded by Oak Knoll Avenue to the north, First Avenue to the east, Napa Valley Corporate Park to the south, and the Mayacamas Mountains to the west.

**Timeframe:** The Project would be implemented through 2040.

## ENVIRONMENTAL SETTING

The Project covers approximately 10,700 acres consisting of approximately 75% developed land, 5% vineyards, and 20% undeveloped land including native and non-native vegetation and open water. Natural communities within the Project include annual grasslands, coast live oak (*Quercus agrifolia*) woodlands, valley oak (*Quercus lobata*) woodlands, and bulrush (*Schoenoplectus* spp.) and cattail (*Typha* spp.) freshwater marsh. Waterbodies in the Project area include the Napa River, San Pablo Bay, Tulucay Creek, Carneros Creek, and associated tributaries. Special-status species with the potential to occur in or near the Project area include, but are not limited to, Swainson's hawk (*Buteo swainsoni*), state listed as threatened; California Ridgway's rail (*Rallus obsoletus obsoletus*, formerly California clapper rail), state and federally listed as endangered and a Fully Protected species; California black rail (*Laterallus jamaicensis coturniculus*), state listed as threatened and a Fully Protected species; tricolored blackbird (*Agelaius tricolor*), state listed as threatened; longfin smelt (*Spirinchus thaleichthys*), state listed as threatened and candidate for federal listing; delta smelt (*Hypomesus transpacificus*), state listed as endangered and federally listed as threatened; California freshwater shrimp (*Syncaris pacifica*), state and federally listed as endangered; salt-marsh harvest mouse (*Reithrodontomys raviventris*), state and federally listed as endangered and a Fully Protected species; Sebastopol meadowfoam (*Limnanthes vinculans*), state and federally listed as endangered and California Rare Plant Rank<sup>2</sup> (CRPR) 1B.1; soft salty bird's-beak (*Chloropyron molle* ssp. *molle*), state listed as rare, federally listed as endangered, and CRPR 1B.2; Mason's lilaeopsis (*Lilaeopsis masonii*), state listed as rare and CRPR 1B.1; few-flowered navarretia (*Navarretia leucocephala* ssp. *pauciflora*), state listed as threatened, federally listed as endangered, and CRPR 1B.1; Contra Costa goldfields (*Lasthenia conjugens*), federally listed as endangered and CRPR 1B.1; Central California Coast steelhead

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<sup>2</sup> CRPR 1B plants are considered rare, threatened, or endangered in California and elsewhere. Further information on CRPR ranks is available in CDFW's *Special Vascular Plants, Bryophytes, and Lichens List* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>) and on the California Native Plant Society website (<https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>).

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(*Oncorhynchus mykiss irideus*, pop. 8), federally listed as threatened; monarch butterfly (*Danaus plexippus*, pop. 1), candidate for federal listing and a California Terrestrial and Vernal Pool Invertebrate of Conservation Priority<sup>3</sup>; two-fork clover (*Trifolium amoenum*), federally listed as endangered and CRPR 1B.1; burrowing owl (*Athene cunicularia*), a California Species of Special Concern (SSC); California red-legged frog (*Rana draytonii*), federally listed as threatened and SSC; western pond turtle (*Emys marmorata*), SSC; Northwest/North coast clade foothill yellow-legged frog (*Rana boylei*), SSC; pallid bat (*Antrozous pallidus*), SSC; western red bat (*Lasiurus blossevillii*), SSC; American badger (*Taxidea taxus*), SSC; golden eagle (*Aquila chrysaetos*), a Fully Protected species and Bald and Golden Eagle Protection Act species; and white-tailed kite (*Elanus leucurus*), a Fully Protected species.

## REGULATORY REQUIREMENTS

### California Endangered Species Act and Native Plant Protection Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA or the NPPA either during construction or over the life of the Project. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA or NPPA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with CESA.

### Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a

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<sup>3</sup> The list of California Terrestrial and Vernal Pool Invertebrates of Conservation Priority was collated during CDFW’s Scientific Collecting Permit rulemaking process:  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157415&inline>

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river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. In this case, CDFW would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

### **Raptors and Other Nesting Birds**

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

### **Fully Protected Species**

Fully Protected species, such as California Ridgway's rail, California black rail, salt-marsh harvest mouse, golden eagle, and white-tailed kite, may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

### **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those recommended by CDFW below, CDFW concludes that a Program EIR is appropriate for the Project.

### **Subsequent Project CEQA Evaluation**

The draft Program EIR is identified as a Program EIR that "consists of a series of actions or activities, that are related or connected in a single plan" (draft Program EIR, page 1-2). CDFW provided comments on the NOP for the draft Program EIR in a letter dated February 12, 2021<sup>4</sup> and recommended providing a clear checklist or procedure for evaluating subsequent project impacts and clearly citing the portions of the draft Program EIR, including page and section references, containing the analysis of the subsequent project activities' potentially significant effects. The draft Program EIR does not include the checklist and CDFW strongly recommends that the draft Program EIR

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<sup>4</sup> CDFW's CEQA comment letter includes additional details and citations associated with CEQA tiering: <https://ceganet.opr.ca.gov/2021010255/3/Attachment/2L79wK>

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include a procedure or checklist for subsequent projects in an appendix to ensure subsequent project impacts to fish and wildlife resources are appropriately evaluated in compliance with CEQA and impacts are mitigated to less-than-significant.

***Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?***

### **Project Description**

The draft Program EIR's Project description identifies growth forecasts for the City and changes to the General Plan elements, including changes to land use classifications (draft Program EIR, pages 2-8 and 2-10). The Project description does not include a comparison of existing land use conditions relative to future full buildout conditions. The Project would approve changes to land use in the City and immediate surrounding areas, as identified by Figure 3.10-1 *Existing Land Use* and Figure 3.10-2 *General Plan Land Use* (draft Program EIR, pages 3.10-7 and 3.10-12). However, due to changes in the land use classification naming convention and scale of the maps, it is unclear how the land use changes would impact the environment. For example, the existing land use designations of "vacant" and "open space" are combined and identified as "greenbelt," which covers less area in the updated land use map (draft Program EIR, page 3.10-12). Combining two land uses and changing their designations makes it difficult to understand how the land use would change. It appears that some existing open space would be converted to agriculture, corridor mixed use, and other uses. In addition, sections of existing agriculture would be converted to hospitality commercial. Lastly, some vacant land, which may support sensitive natural communities<sup>5</sup>, would be converted to hospitality commercial or residential land use. Ultimately, the Project description related to land use changes is unclear, therefore, the Project's potentially significant impacts to sensitive fish and wildlife resources such as sensitive natural communities are unclear. To reduce impacts to less than significant, CDFW recommends including a table with existing land use and future land use at full build-out. This would be similar to Table 3.10-1 *Existing Land Uses in the Planning Area* but would include the planned future acres and percentages of land use (draft Program EIR, page 3.10-6). Planned land use change that would lead to development of undeveloped lands should be mitigated as further described below.

***Does the Project have impacts that are individually limited, but cumulatively considerable? "Cumulatively considerable" means that incremental effects of the Project are considerable when viewed in connection with effects of past projects, effects of other current projects, and effects of probable future projects?***

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<sup>5</sup> For sensitive natural communities see <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>

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***(MANDATORY FINDING OF SIGNIFICANCE)***

**Closely Related Past, Present, and Reasonably Foreseeable Probable Future Projects**

The draft Program EIR identifies that the Project “would contribute to the ongoing loss of natural lands” and would ultimately “have a cumulatively considerable impact on biological resources” (draft Program EIR, pages 5-2 and 5-3). Specifically, the Project activities would permanently remove existing open space, agriculture, and vacant lands, as described above. Some land use changes appear to overlap with areas of the Project that have been mapped as sensitive natural communities, such as oak woodland, and essential connectivity areas (draft Program EIR, pages 3.3-10 and 3.3-45). The loss of sensitive natural communities and essential connectivity areas would be cumulatively considerable and potentially significantly impact the biological resources in and adjacent to the Project. To reduce impacts to less-than-significant, CDFW recommends that the draft Program EIR include the following:

1. Provide a crosswalk of essential connectivity areas, existing land use designations, and full buildout land use designations that clearly identifies proposed loss of essential connectivity areas.
2. Provide a crosswalk of sensitive natural communities, existing land use designations, and full buildout of land use designations that clearly identifies proposed loss of sensitive natural communities.
3. Reduce or remove land use changes that would specifically result in the loss of sensitive natural communities or essential connectivity areas.
4. Mitigate for the loss of any sensitive natural communities or essential connectivity areas through permanent habitat protection through a conservation easement at a minimum 3:1 mitigation to impact ratio unless alternative mitigation is accepted in writing by CDFW. Compensatory habitat shall be of equal or greater quality than the impacted habitat or a habitat enhancement plan shall be prepared and implemented by a qualified biologist to achieve at least equal habitat quality prior to Project activities. For any habitat enhancement, to ensure a successful planting effort, all plantings shall be monitored and maintained as necessary for a minimum of five years. Oak trees, other trees, and all other plantings shall each have a minimum of 80% survival at the end of the minimum monitoring period. If the planting survival is not meeting this goal, then the Project shall implement replacement planting, additional watering, invasive exotic eradication, or any other practice, to achieve these requirements. Replacement plants shall be monitored with the same survival requirements for five years after planting. Oak plantings shall come from nursery stock grown from locally sourced acorns, or



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from acorns gathered locally, preferably from the same watershed in which they are planted. The trees should be able to survive the last two years of a minimum five-year monitoring period without irrigation.

A cumulatively considerable impact is a mandatory finding of significance and should be discussed as a significant and unavoidable impact that requires the City to adopt an FOC (CEQA Guidelines, § 15065).

### **EDITORIAL SUGGESTIONS**

The draft Program EIR is inconsistent regarding its discussion of significant and unavoidable impacts. The following sections and page numbers should be reviewed for consistency and clarity regarding the Project's significant and unavoidable impacts: section ES.3, page ES-4; section 1.1.3, page 1-3; section 4.1.2, page 4-2; section 5.1.3, page 5-3.

### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations 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 during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB online field survey form and other methods for submitting data can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

### **FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

### **CONCLUSION**

CDFW appreciates the opportunity to comment on the draft Program EIR to assist the City in identifying and mitigating Project impacts on biological resources.

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Questions regarding this letter or further coordination should be directed to Amanda Culpepper, Senior Environmental Scientist (Specialist), at (707) 428-2075 or [Amanda.Culpepper@wildlife.ca.gov](mailto:Amanda.Culpepper@wildlife.ca.gov), or Melanie Day, Senior Environmental Scientist (Supervisory), at [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov) or (707) 210-4415.

Sincerely,

DocuSigned by:

*Erin Chappell*

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Erin Chappell  
Regional Manager  
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2021010255)