



State of California – Natural Resources Agency  
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GAVIN NEWSOM, Governor  
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December 14, 2022

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**Subject: Modera Melrose Mixed Use Development Project, Draft Environmental Impact Report (DEIR), SCH #2022030032**

Dear Ms. Anders:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (DEIR) from the City of Oceanside (City) for the Modera Melrose Mixed Use Development Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding the activities involved in the Modera Melrose Mixed Use Development 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 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; 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" (see Fish & G. Code, § 2050) of

<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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any species protected under the California Endangered Species Act (CESA; Fish & G. Code, § 2050 et seq.) or 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.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of Oceanside has participated in the NCCP program by preparing a draft Subarea Plan (SAP) under the North County Subregional Multiple Habitat Conservation Program (MHCP). However, the Oceanside SAP has not been finalized and has not been adopted by the City or received permits from the Wildlife Agencies (jointly, CDFW and the U.S. Fish and Wildlife Service (USFWS)).

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of Oceanside

**Objective:** The proposed Project includes development of 323 multi-family residential units and ground-level commercial space on the 7.4-acre site. There would be six buildings, five of which would be four-to five-story residential buildings, and one would be a four-story mixed-use building that would include commercial uses. The development would also include 526 parking spaces for residences and guests.

**Location:** The 7.4-acre Project site is located at the southeast corner of Oceanside Boulevard and Bobier Drive on a vacant undeveloped parcel in the east-central portion of the City of Oceanside. The Project site's eastern boundary abuts the City of Vista. It is approximately 1.6 miles south of State Route (SR) 76 and approximately 2 miles north of SR 78.

**Biological Setting:** The site is located in a primarily developed area. Uses in the vicinity of the Project site include residential development, open space, and commercial use. The site abuts existing residential developments to the east, and commercial used to the west. The Melrose Drive Sprinter Light Rail Station is located 0.07 miles west of the site. The Biological Technical Report (BTR, Dudek, August 2022) states that the site is primarily disturbed, vacant land that has experienced periodic disturbance through mowing and/or disking for many years. Per the DEIR, the site is made up of primarily non-native grasslands, and small, isolated patches of Diegan coastal sage scrub on the western and northwestern portions. The proposed project would impact various vegetation types onsite including 0.49 acre of disturbed Diegan coastal sage scrub (DCSS), 5.13 acres of non-native grassland, 0.10 acre of ornamental, and 1.67 acres of disturbed habitat.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist the City in identifying and/or mitigating Project impacts on biological resources and to ensure regional conservation objectives in the MHCP and draft Oceanside SAP would not be eliminated by implementation of the Project.

CDFW recommends the impacts to Diegan coastal sage scrub (DCSS) be consistent with the draft SAP. Per the BTR, there is 0.49 acre of disturbed DCSS onsite that will be impacted by the development. A mitigation ratio of 1:1 is proposed because of a high level of disturbance of the

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coastal sage scrub onsite, small sizes of DCSS habitat patches, and soil disturbance within the DCSS. However, the draft SAP (2010) Table 5-2, requires CSS to be mitigated at a 2:1 ratio if it is not within a Focused Planning Area (FPA), within Offsite Mitigation Zone II, or Remaining Areas as identified in the draft SAP. This site is not within an FPA or the Wildlife Corridor Planning Zone (WCPZ); therefore, it should be mitigated at 2:1. Although the BTR says this site is disturbed, it is still functioning as habitat for native species. Furthermore, because this property has not been authorized for impacts which may have justified the disturbed aspects of the property, the onsite DCSS should be mitigated at 2:1 ratio consistent with the draft SAP.

The DEIR fails to propose mitigation for the habitat identified as “disturbed.” The BTR classifies habitat onsite as non-native grassland (5.13 acres) and 1.67 acres as disturbed habitat. Mitigation is proposed for the non-native grassland. However, no mitigation is proposed for the 1.67 acres of disturbed habitat. This evaluation was based on the site having been subject to repeated grading, compaction, and clearing of vegetation. Again, no evidence has been provided to justify that activities leading to the disturbed condition of the property were authorized, and if the grading and clearing had been authorized there should have been mitigation required at that point in time. According to the draft SAP Figure 3-2 Updated Vegetation Communities, this site was previously mapped as grassland. Therefore, as no justification is provided as to how the disturbed activities were authorized that caused a reduction in habitat quality, and mapping as ‘Disturbed,’ CDFW recommends that the 1.67 acres of disturbed habitat be mitigated as non-native grassland at 0.5:1. This would increase the 5.13 acres of non-native grassland to 6.80 acres requiring mitigation at a 0.5:1 ratio. CDFW believes this is justified because the site is still functioning as grassland and has special-status species within the vicinity.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 field survey form can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>

The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

## **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 in order 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.)

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## CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City in identifying and mitigating Project impacts on biological resources and ensuring Project consistency with the requirement of the draft SAP under the overarching Subregional Northwestern San Diego County MHCP.

Questions regarding this letter or further coordination should be directed to Emily Gray, Environmental Scientist, at [Emily.Gray@wildlife.ca.gov](mailto:Emily.Gray@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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David Mayer  
Environmental Program Manager  
South Coast Region

ec: CDFW

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## References

California Department of Fish and Wildlife. 2020. California Natural Diversity Database. Available from: <https://wildlife.ca.gov/Data/CNDDDB>.

Dudek. Biological Technical Report for Modera Melrose Project. August 2022.

Final MHCP Executive Summary. 2003. Multiple Habitat Conservation Program for the Cities of Carlsbad, Escondido, Oceanside, San Marcos, Solana Beach, and Vista.

City of Oceanside Subarea Plan. 2010. Available from: <https://ci.oceanside.ca.us/gov/dev/planning/subarea.asp>