



State of California – Natural Resources Agency
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May 6, 2022

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Subject: Renzulli Estates (Project), Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR), SCH #2022040125

Dear Ms. Dresser:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the City of San Diego (City) for the Project (No. 674401) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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 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.*). CDFW also administers the Natural Community Conservation Planning (NCCP) program (Fish and Game Code 2800 *et seq.*). The City participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP) and Implementing Agreement (IA). The DEIR for the proposed Project must ensure that all requirements and conditions of the SAP and IA are met. The DEIR should also address any biological issues that are not addressed in the SAP and IA,

¹ 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 1500.

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such as specific impacts to and mitigation requirements for sensitive species that are not covered by the SAP and IA.

PROJECT DESCRIPTION SUMMARY

Proponent: City of San Diego

Project Location: The 40.6-acre Project site is located at 11495 Cypress Canyon Road in the northeast section of the City within the Scripps Miramar Ranch Community Area. The Project site is partially developed, with a large existing single-family residence and associated development in the center of the site and areas of native habitat surrounding. The center of the Project site is on a hill with steep graded slopes extending north and south, terminating at vegetated open space. Surrounding land uses include Cypress Canyon Park to the east and a matrix of native habitat patches and residential homes in all directions.

Project Description/Objectives: The Project proposes to demolish the existing structures on-site and develop 100 single-family residential units and 12 for-rent multi-family residential units. Project-related activities would include grading, landscaping, utilities, and construction of internal roadways to connect with existing off-site roadways. Per the City's April 6, 2022, Development Services Department (DSD) Public Scoping Meeting Presentation, the Project would retain open space areas in the northern and southern portions of the site. A public recreational trail and associated span bridge is proposed in the southern open space area. Compensatory mitigation would be off-site within the City and include preservation and seed collection, weed control, sensitive plant translocation, and native species allocation.

The Project site is largely within the City's Multi-Habitat Planning Area (MHPA) and as proposed would exceed the amount of development impacts authorized under the City's MSCP; therefore, the City is proposing a MHPA Boundary Line Adjustment (BLA). The City is also proposing a MHPA Boundary Line Correction to reflect incorrect baseline mapping of the MHPA at the time of the City's MSCP establishment. The Project would also require Rezoning and a Community Plan Amendment to change the existing residential designation from 1.1 dwelling unit per acre to 2.8 dwelling units per acre. Additionally, per the NOP, the site is within a very high Fire Hazard Sensitivity Zone.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations 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. Comments are based off information provided in the NOP and the City's DSD Scoping Meeting Presentation on the Project (April 6, 2022).

Specific Comments

- 1) MHPA BLA. CDFW recommends that the City consult with the Wildlife Agencies (CDFW and United States Fish and Wildlife Service (USFWS)) early in the CEQA process to resolve the Project's proposed BLA prior to the circulation of the DEIR.
- 2) Trails. The Project proposes the construction of a pedestrian trail in designated open space areas on-site. CDFW recommends that the following information be included in the DEIR: an aerial photograph with an overlay of the proposed alignment of the trail in relation to the

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designated or proposed open space, specifications of trail design, measures to avoid/minimize impacts related to users straying off-trail or trail use by unauthorized vehicles such as electric bicycles, responsible entity and activities related to the maintenance, and a discussion of how the proposed location and use of the trail would be consistent with the City's SAP.

- 3) Fire Buffers. Per the NOP, the proposed Project is within a very high Fire Hazard zone. CDFW requires that all fuel modification zones be included in the development footprint and be considered and mitigated as a permanent impact. The DEIR should also include analysis of impacts to adjacent open space areas from any irrigation or water diversion structures proposed within the fuel modification zones.

General Comments

- 4) Biological Baseline Assessment. CDFW recommends providing a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area, with 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, and specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project. The DEIR 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)].
 - 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 Natural Communities (<https://wildlife.ca.gov/Conservation/Plants/Info>); CDFW recommends that floristic, alliance-based and/or association-based mapping and vegetation impact assessments be conducted for the Project using the Vegetation Classification Manual for Western San Diego County (Sproul et al. 2011). Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts off-site. Habitat mapping at the alliance level will help establish baseline vegetation conditions.
 - c. 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 the 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 recommends that CNDDDB Field Survey Forms be completed and submitted to CNDDDB to document survey results. Online forms can be obtained and submitted at <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.
 - d. Per review of CNDDDB records, Del Mar manzanita (*Arctostaphylos glandulosa* ssp. *crassifolia*; ESA-listed Endangered and MSCP-covered species), is known to occur within the vicinity of the Project. The DEIR should have a complete, recent, assessment of rare, threatened, and endangered, and other sensitive

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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 the Project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the USFWS.

- e. 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 the 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.

- b. Biological Direct, Indirect, and Cumulative Impacts. Due to the proximity of the Project site to open space and existing conservation easements, it is essential to understand how these open spaces and the biological diversity within them may be impacted by Project activities. This should aid in identifying specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends providing a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. The following should be addressed in the DEIR:
 - a. A discussion regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a Natural Community Conservation Plan (NCCP, Fish & G. Code, § 2800 et. seq.). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR.
 - b. A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species and identification of any mitigation measures.
 - c. A discussion on Project-related changes on drainage patterns and downstream of the Project site; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site. Mitigation measures proposed to alleviate such Project impacts should be included.
 - d. An analysis of impacts from land use designations and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR.

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- e. A cumulative effects analysis, as described under CEQA Guidelines section 15130. General and specific plans, and past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
- 5) Project Description and Alternatives. To enable CDFW to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, and wildlife, we recommend the following information be included in the DEIR:
 - a) A complete discussion of the purpose and need for, and description of, the proposed Project, including all staging areas and access routes to the construction and staging areas.
 - b) A range of feasible alternatives to Project component location and design features to ensure that alternatives to the proposed Project are fully considered and evaluated. Potential impacts to wildlife movement areas should also be evaluated, avoided, or mitigated consistent with applicable requirements of the City's SAP.
- 6) Compensatory Mitigation. The DEIR should include mitigation measures for adverse Project-related impacts to sensitive plants, animals, and habitats consistent with the City's MSCP requirements. With respect to the land exchange provided for in the BLA, the analysis should include a discussion of the habitat types and species that would be lost/gained as part of the BLA process, along with analysis of why the BLA maintains or improves the biological functions and values anticipated when the MHPA lines were originally adopted.
- 7) Nesting Birds. To avoid impacts to nesting birds, CDFW recommends that clearing of vegetation occur outside of the peak avian breeding season, which generally runs from February 1 through September 1 (as early as January 1 for some raptors). If Project construction is necessary during the bird breeding season, a qualified biologist with experience in conducting bird breeding surveys should conduct weekly bird surveys for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the Project area would be impacted by the Project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. For the given Project site, CDFW generally recommends a 100-foot buffer from common avian species, 300 feet for listed or highly sensitive species (that are otherwise not addressed by the MSCP), and 500 feet for raptors. The buffer should be delineated by temporary fencing and remain in effect as long as construction is occurring. No Project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the project. 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.
- 8) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of moving an individual from the Project site and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to rare, threatened, or endangered plant or animal species. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat

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capable of supporting these species is often a more effective long-term strategy for conserving sensitive plants and animals and their habitats.

- 9) Moving out of Harm's Way. The proposed Project is anticipated to result in clearing of habitats that support many species of indigenous wildlife. To avoid direct mortality, we recommend that a qualified biological monitor approved by CDFW be on-site prior to and during ground and habitat disturbing activities to move out of harm's way special status species or other wildlife of low mobility that would be injured or killed by grubbing or Project-related construction activities. It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. If the Project requires species to be removed, disturbed, or otherwise handled, we recommend that the DEIR clearly identify that the designated entity should obtain all appropriate state and federal permits.
- 10) Landscaping. Habitat loss and invasive plants are a leading cause of native biodiversity loss. CDFW recommends that the DEIR require that no invasive plant material shall be used. A list of invasive/exotic plants that should be avoided and suggestions for suitable landscape plants can be found online at [Cal-IPC Invasive Plant Inventory](#).
- 11) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, the DEIR should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands.
- 12) Jurisdictional Waters. As a Responsible Agency under CEQA, CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream or use material from a streambed. For any such activities, the project applicant (or "entity") must provide written notification to CDFW pursuant to Fish and Game Code Section 1600 *et seq.*

CDFW's issuance of a Lake and Streambed Alteration Agreement (LSAA) for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the Environmental Impact Report of the local jurisdiction (Lead Agency) for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSAA. Please visit CDFW's [Lake and Streambed Alteration Program webpage](#) to for information about LSA notification and online submittal through the [Environmental Permit Information Management System \(EPIMS\) Permitting Portal](#).

In the event the Project area may support aquatic, riparian, and wetland habitats; a preliminary delineation of the streams and their associated riparian habitats should be included in the DEIR. The delineation should be conducted pursuant to the USFWS wetland definition adopted by CDFW (Cowardin et al. 1970). Be advised that some wetland and

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riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification.

- a) In Project areas which may support ephemeral or episodic streams, herbaceous vegetation, woody vegetation, and woodlands also serve to protect the integrity of these resources and help maintain natural sedimentation processes; therefore, CDFW recommends effective setbacks be established to maintain appropriately sized vegetated buffer areas adjoining ephemeral drainages.
- b) Project-related changes in upstream and downstream drainage patterns, runoff, and sedimentation should be included and evaluated in the DEIR.
- c) As part of the LSA Notification process, CDFW requests a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. CDFW recommends the DEIR evaluate the results and address avoidance, minimization, and/or mitigation measures that may be necessary to reduce potential significant impacts.

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 Forms](#) can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: [CNDDDB Plants and Animals Information](#).

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 NOP to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alison Kalinowski, Environmental Scientist, by email at Alison.Kalinowski@wildlife.ca.gov.

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Sincerely,

DocuSigned by:

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David Mayer
Environmental Program Manager
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cc: CDFW

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