



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 South Coast Region  
 3883 Ruffin Road  
 San Diego, CA 92123  
 (858) 467-4201  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**

Governor's Office of Planning & Research



**Oct 20 2022**

## STATE CLEARINGHOUSE

October 20, 2022

Elena Pascual  
 Senior Planner  
 City of San Diego  
 9485 Aero Drive  
 San Diego, CA 92123  
[EPascual@sandiego.gov](mailto:EPascual@sandiego.gov)

**Subject: Mira Mesa Community Plan Update (Project), Draft Program Environmental Impact Report (DPEIR), SCH #2022090061**

Dear Ms. Pascual:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DPEIR from The City of San Diego for the 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 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 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, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (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 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. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Additionally, CDFW oversees implementation of the Natural Community Conservation Planning (NCCP) program. The City of San Diego participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP). This affords the City "take" of MSCP covered species that are listed under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). If any CESA-listed species may

<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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be impacted by the Project that are not covered by the MSCP, the project proponent may seek related take authorization as provided by the Fish and Game Code.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** City of San Diego (City)

**Objective:** The objective of the Project is to update the Mira Mesa Community Plan, to guide future development within the Community Plan area. The Community Plan will implement specific policies regarding land uses, street and transit networks, urban design, open space areas, historic and cultural resources, and public facilities. Additionally, the Community Plan Update identifies areas proposed for future trail improvements and extensions, parks, and scenic overlooks.

**Location:** The Community Plan area encompasses 10,729 acres in the north-central portion of the City of San Diego. The Project area is bounded to the west by Interstate-805, to the east by Interstate-15, to the south by Marine Corps Air Station Miramar, and to the north by Los Peñasquitos Canyon.

**Biological Setting:** The Community Plan contains several areas identified within the City's MSCP Multi-Habitat Planning Area (MHPA), including Carroll Canyon, Lopez Canyon, and Los Peñasquitos Canyon. The MHPA designation essentially identifies areas of higher biological value and for which on-site avoidance and conservation are necessary to comply with the provisions of the MSCP. The MSCP further requires that Area Specific Management Directives (ASMDs) be prepared for many of the covered species to ensure measures are enacted to protect these species from direct and indirect adverse effects of City-approved projects or activities. The Community Plan area contains 12 upland vegetation communities, including: native grassland, oak woodlands, coastal sage scrub, coastal sage scrub/chaparral, mixed chaparral, chamise chaparral, non-native grasslands, Disturbed Land, eucalyptus woodland, ornamental plantings, agriculture, and urban/developed. Wetland communities within the Community Plan area include: forest and woodland, riparian scrub, freshwater marsh, open water, natural flood channel, disturbed wetland, vernal pool, wetland/riparian enhancement/restoration, and concrete channel.

The PEIR assesses the potential occurrence of sensitive species based upon literature and database review, including the California Natural Diversity Database (CNDDDB) database. The Project site contains suitable habitat to support a variety of sensitive wildlife species, including those covered under the MSCP, CESA-listed species, federal Endangered Species Act (ESA)-listed species; and designations of State Fully Protected (FP), California Species of Special Concern (SSC), and CDFW Watch List Species (WL). The Project site also contains suitable habitat to support a variety of sensitive plant species, including Del Mar manzanita (*Arctostaphylos glandulosa* ssp. *crassifolia*, ESA-list threatened, CNPS List 1B.1, MSCP-covered) and others with Rare Plant Ranks from the California Native Plant Society. Vernal pool habitats and their species which are present within the Project area are covered by CDFW under the MSCP and by the U.S. Fish and Wildlife Service (USFWS) under the federal Vernal Pool Habitat Conservation Plan (VPHCP). These include but are not limited to: San Diego fairy shrimp (*Branchinecta sandiegonensis*; ESA-endangered, MSCP-covered, VPHCP-covered species); Riverside fairy shrimp (*Streptocephalus woottoni*; ESA-listed endangered, MSCP-covered, VPHCP-covered species), western spadefoot (*Spea hammondi*; SSC); southwestern pond turtle (*Emys marmorata*; southern California legless lizard (*Anniella stebbinsi*; SSC); coast horned lizard (*Phrynosoma blainvillii*; SSC, MSCP-covered); Belding's orange-throated whiptail (*Aspidoscelis hyperythra beldingi*; WL, MSCP-covered); coastal whiptail (*Aspidoscelis tigris stejnegeri*; SSC); two-striped garter snake (*Thamnophis hammondi*; SSC); coast patch-nosed snake (*Salvadora hexalepis virgulata*; SSC); red diamond rattlesnake (*Crotalus ruber*; SSC); white-tailed kite (*Elanus leucurus*;

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FP, SSC); northern harrier (*Circus cyaneus*; SSC, MSCP-covered); light-footed Ridgway's rail (*Rallus obsoletus levipes*; ESA-listed endangered; CESA-listed endangered, FP, MSCP-covered); burrowing owl (*Athene cunicularia*; SSC, MSCP-covered); southwestern willow flycatcher (*Empidonax traillii extimus*; ESA- and CESA- listed endangered, MSCP-covered); least Bell's vireo (*Vireo bellii pusillus*; ESA- and CESA-listed endangered, MSCP-covered); coastal California gnatcatcher (*Polioptila californica californica*; ESA-listed threatened, SSC, MSCP-covered); San Diego black-tailed jackrabbit (*Lepus californicus bennettii*; SSC); Mexican long-tongued bat (*Choeronycteris mexicana*; SSC); western mastiff bat (*Eumops perotis californicus*; SSC); big free-tailed bat (*Nyctinomops macrotis*; SSC); western red bat (*Lasiurus blossevillii*; SSC); Townsend's big-eared bat (*Corynorhinus townsendii*; SSC); spotted bat (*Euderma maculatum*; SSC); and pallid bat (*Antrozous pallidus*; SSC).

## 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.

### I. General Comments

#### COMMENT #1: Trails

##### PEIR, Table ES-1, p. ES-18 and Figure 2-19

The Community Plan Update identifies areas proposed for future trail improvements and extensions, parks, and scenic overlooks (Figure 2-19). Many of the proposed public trails identified in the PEIR are newly proposed and were not previously analyzed in the 1994 Community Plan (comparison in Attachment A). For future trail developments within the Mira Mesa Community Plan Update area, ASMDs or a Natural Resources Management Plan (NRMP) that addresses known or potentially occurring covered species needs to be prepared and approved prior to approval of new trails or other activities that could be detrimental to those species. The ASMD/NRMP should discuss the development of trails within the canyons and open space areas of Mira Mesa, and should be completed either prior to, or concurrent with, any trail realignment or new trail development within the Community Plan area. The plan should be reviewed and approved by CDFW and the United States Fish and Wildlife Service (USFWS; collectively, the Wildlife Agencies) prior to implementation. CDFW strongly recommends that a mitigation measure calling for the ASMD/NRMP development be included in the PEIR.

Additionally, trails should be analyzed for potential habitat edge effects associated with the permanent vegetation clearing necessary for a new trail alignment. Increased foot traffic, which will occur from increased access, should also be analyzed and discussed in the PEIR. This discussion should include analysis of impacts associated with development in the MHPA, if applicable, per City Guidelines Section II.A.2.

#### COMMENT #2: Multi-Habitat Planning Area Boundary Line Adjustments

##### PEIR Section 4.2.3, p. 4-12; Biological Resources Report 2.3.2, p. 13

The PEIR indicates that, per the MSCP, areas within areas designated as MHPA will be developed at a maximum of 25 percent, in the least biologically sensitive area. If more than 25 percent is required, an MHPA Boundary Line Adjustment (BLA) would be required for the

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portion that exceeds the 25 percent allowable development area. CDFW recommends that the City consult with the Wildlife Agencies early in the CEQA process to resolve a Project's proposed BLA prior to the circulation of each project-specific CEQA Draft Environmental Impact Report (DEIR). To ensure consistency with the MSCP's conservation goals and objectives, any project-specific DEIRs should provide full disclosure and functional equivalency analysis of the proposed BLA per Sections 1.1.1 and 5.4.2 of the MSCP SAP (City of San Diego 1997). The Wildlife Agencies will need to agree and provide written concurrence for the requested BLA after we have had the opportunity to review all information provided by the City. When evaluating a proposed BLA and habitat equivalency assessment, the Wildlife Agencies generally consider the following biological goals:

- a. no net loss of MHPA acreage;
- b. no net reduction of higher sensitivity vegetation communities (i.e., Tier I, II, IIIa and IIIb);
- c. net impacts/conservation of covered listed species resulting from the BLA;
- d. net impacts/conservation of covered non-listed sensitive species resulting from the BLA;
- e. net impacts/conservation of non-covered sensitive species; and,
- f. landscape configuration to maintain connectivity of the MHPA (i.e., net effects to 'Preserve Design').

### **COMMENT #3: State Fully Protected Species**

Future Projects considered under the Mira Mesa Community Plan Update should include measures to fully avoid impacts to species designated by the State of California as Fully Protected, including those that are MSCP-covered. Per Fish & Game Code, a Fully Protected species may not be taken or possessed at any time. 'Take' is defined by Fish and Game code as, "hunt, pursue, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." Given that Fully Protected species are afforded protections beyond State or Federal listing status, minimization of significant impacts is not sufficient for Fully Protected species, and impacts must be avoided to avoid take of any individuals.

## **II. Mitigation Measure or Alternative and Related Impact Shortcoming**

### **COMMENT #4: Nesting Birds**

#### **Biological Resources Report, Section 6.1.1.4, p. 100**

The Avian Protection Requirements outlined in the Avoidance and Minimization Measures Section (6.1) of the Biological Resources Report do not adequately avoid or minimize impacts to nesting birds. The Avian Protection Requirements indicate that removal of habitat that supports coastal California gnatcatcher or any species identified as listed, candidate, sensitive, or special status in the MSCP should occur outside of avian breeding season (February 1 to September 15). If removal of habitat occurs during breeding season, the Biological Resources Report indicates that a pre-construction survey shall be conducted within 10 calendar days prior to the start of construction activities. A 10-day survey window may be insufficient to detect nest activity, as birds may locate onto the project site and begin nesting during that large span of time. Per California Fish and Game Code Sections 3503, 3503.5, and 3513 the Proposed Project is required to avoid the incidental loss of fertile eggs or nestlings or activities that lead to nest abandonment.

Nesting bird surveys should be conducted as close to the time of potential disruption as possible, no more than 3 days prior to ground disturbance, vegetation removal, or construction

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activities. CDFW recommends that nesting bird surveys be conducted a maximum of 3 days prior to construction-related activities.

## 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 field survey form can be filled out and submitted online 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://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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.)

## CONCLUSION

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

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

Sincerely,

DocuSigned by:  
  
D700B4520375406...

David Mayer  
Environmental Program Manager  
South Coast Region

ec: CDFW

Karen Drewe, San Diego – [Karen.Drewe@wildlife.ca.gov](mailto:Karen.Drewe@wildlife.ca.gov)  
Jennifer Turner, San Diego – [Jennifer.Turner@wildlife.ca.gov](mailto:Jennifer.Turner@wildlife.ca.gov)  
Cindy Hailey, San Diego – [Cindy.Hailey@wildlife.ca.gov](mailto:Cindy.Hailey@wildlife.ca.gov)

USFWS

Jonathan Snyder – [Jonathan\\_d\\_Snyder@fws.gov](mailto:Jonathan_d_Snyder@fws.gov)

OPR

State Clearinghouse, Sacramento – [State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

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## **REFERENCES**

California Natural Diversity Database (CNDDB). 2022. RareFind 5 [Internet]. California Department of Fish and Wildlife, Government Version.

City of San Diego, Land Development Code Biology Guidelines, 2018.

City of San Diego, Mira Mesa Community Plan, 1994. [miramesa042611c.pdf \(sandiego.gov\)](#)

City of San Diego, Multiple Species Conservation Program (MSCP), Subarea Plan, 1997.

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### Attachment A: Comparison of Proposed Trail Map (PEIR, 2022) and Recommended Trail Plan (PEIR, 1994)

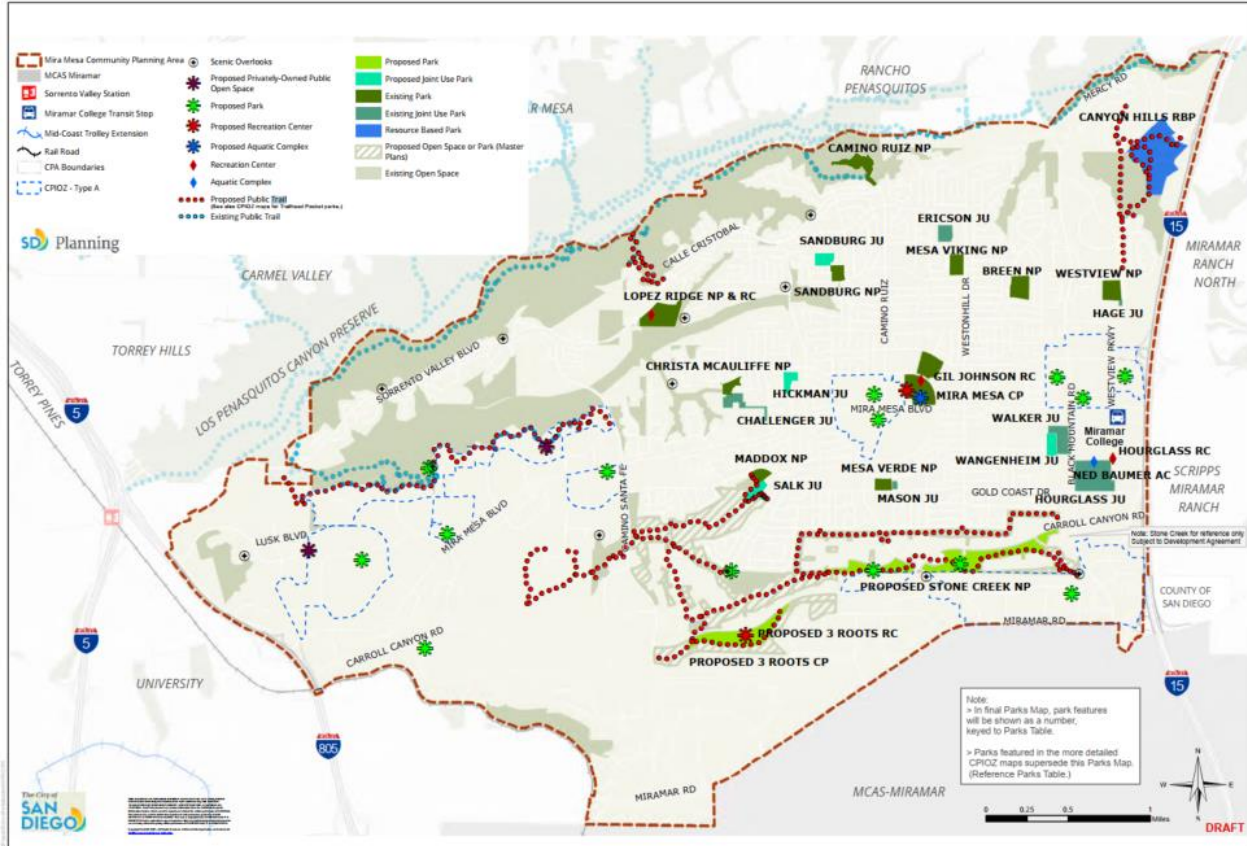


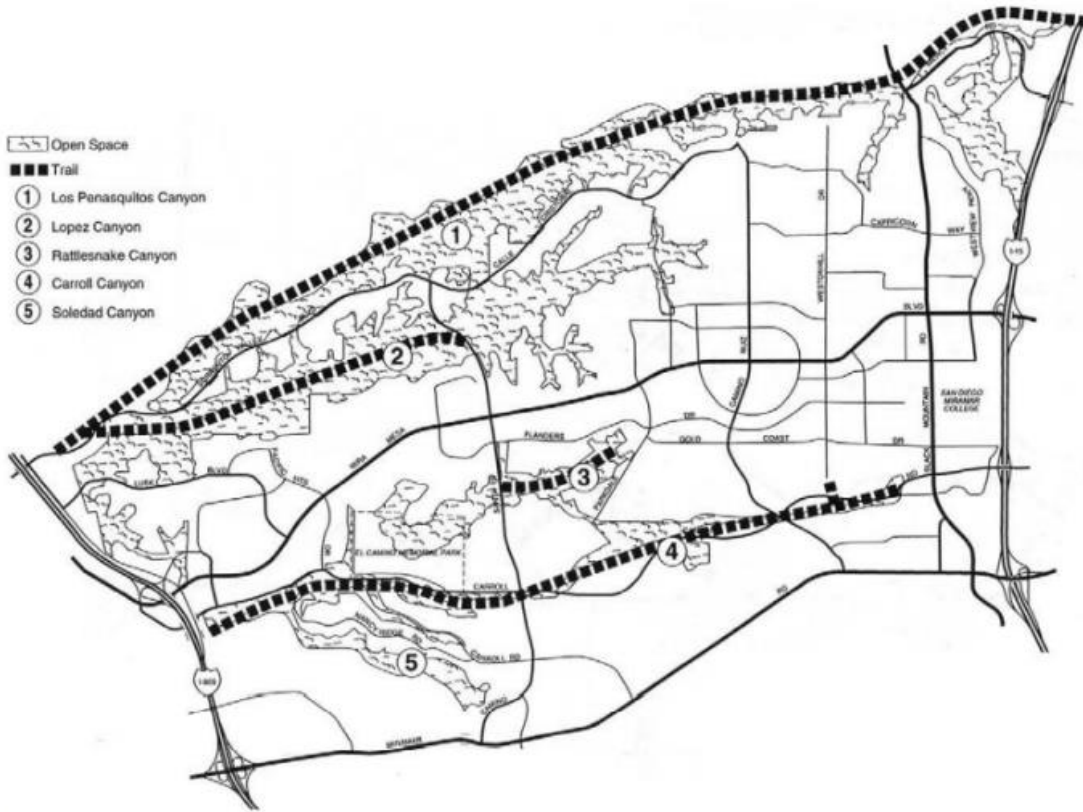
FIGURE 2-19  
Existing and Planned Parks and Recreation  
Mira Mesa Community Plan Update PEIR



Figure 1. Mira Mesa Community Plan Update PEIR, Figure 2-19



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**Recommended Trail System**  
Mira Mesa Community Plan

**7**  
FIGURE

Figure 2. Mira Mesa Community Plan, 1994, Figure 7