



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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January 12, 2023

Brandon Phipps
City of Sausalito
420 Litho Street
Sausalito, CA 94965
bhipps@sausalito.gov

Subject: City of Sausalito 6th Cycle Housing Element Update, Notice of Preparation of a Draft Program Environmental Impact Report, SCH No. 2022120524, Marin County

Dear Mr. Phipps:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a Draft Program Environmental Impact Report (EIR) for the City of Sausalito 6th Cycle Housing Element Update (Project).

CDFW is providing the City of Sausalito as the Lead Agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the EIR (Cal. Code Regs., tit. 14, § 15082, subd. (b)).

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT DESCRIPTION AND LOCATION

The Project site is the City of Sausalito in southern Marin County. The City of Sausalito is proposing to update the 2015 Housing Element of its General Plan, as mandated by Government Code section 65583. The update of the Housing Element would take into account changes in demography and housing needs and would result in the modification of policies in the Housing Element of the General Plan. There are no plans within the Housing Element to implement changes in zoning or affect any physical

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development within the city. As such, the proposed action would not result in any direct physical changes to the environment, but would result in reasonably foreseeable indirect changes such as rezoning sites to allow a mix of uses including residential, increasing densities on underutilized parcels, and development of Objective Design and Development Standards for single family and multiple unit development projects. Under the proposed action, 724 total housing units would be included in the City's 6th Cycle Regional Housing Needs Allocation (RHNA) which are greater than the 5th Cycle RHNA of 79 units.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the EIR incorporate a full project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following Project components in the Project description:

- Land use changes resulting from, for example, rezoning certain areas.
- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Area and plans for any proposed buildings/structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems.
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.

The NOP identifies that the EIR will be a Program EIR. While Program EIRs have a necessarily broad scope, CDFW recommends providing as much information related to anticipated future activities as possible. CDFW recognizes that, pursuant to CEQA Guidelines section 15152, subdivision (c), if a Lead Agency is using the tiering process in connection with an EIR or large-scale planning approval, the development of detailed, site-specific information may not be feasible and can be deferred, in many instances, until such time as the Lead Agency prepares a future environmental document. This future environmental document would cover a project of a more limited geographical scale and is appropriate if the deferred information does not prevent adequate identification of significant effects of the planning approval at hand. The CEQA Guidelines section 15168, subdivision (c)(4) states, "Where the later activities involve site-specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the

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environmental effects of the operation were within the scope of the program EIR.” Based on CEQA Guidelines section 15183.3 and associated Appendix N Checklist, and consistent with other program EIRs, CDFW recommends creating a procedure or checklist for evaluating subsequent project impacts on biological resources to determine if they are within the scope of the Program EIR or if an additional environmental document is warranted. This checklist should be included as an attachment to the EIR. Future analysis should include all special-status species and sensitive habitat including but not limited to species considered rare, threatened, or endangered species pursuant to CEQA Guidelines, section 15380.

When used appropriately, the checklist should be accompanied by enough relevant information and reasonable inferences to support a “within the scope” of the EIR conclusion. For subsequent Project activities that may affect sensitive biological resources, a site-specific analysis should be prepared by a qualified biologist to provide the necessary supporting information. In addition, the checklist should cite the specific portions of the EIR, including page and section references, containing the analysis of the subsequent Project activities’ significant effects and indicate whether it incorporates all applicable mitigation measures from the EIR.

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 NPPA, either during construction or over the life of the Project. Issuance of a CESA 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 listed species, such as those identified in **Attachment 1**, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA 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, and 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 Agreement

CDFW will require an LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq. for Project activities affecting lakes or streams and associated riparian habitat.

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Notification is required for any activity that will 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 river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Nesting Birds

CDFW also has authority over actions that may disturb or destroy active nest sites or take birds. Fish and Game Code sections 3503, 3503.5, and 3513 protect birds, their eggs, and nests. Migratory birds are also protected under the federal Migratory Bird Treaty Act.

Fully Protected Species

Fully Protected species, including any listed in **Attachment 1**, may not be taken or possessed at any time except for collecting these species for necessary scientific research, relocation of the bird species for the protection of livestock, or if they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

ENVIRONMENTAL SETTING

The EIR should provide sufficient information regarding the environmental setting (“baseline”) to understand the Project’s, and its alternative’s (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360).

CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including but not limited to all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see:

<https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City may require. Fully protected, threatened or endangered, candidate, and other special-status species and sensitive natural communities that are known to occur, or have the potential to occur in or near the Project site, include but are not limited to those listed in **Attachment 1**.

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Habitat descriptions and the potential for species occurrence should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System, and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the EIR should adequately assess which special-status species are likely to occur on or near the Project site, and whether they could be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrological conditions, and require the identification of reference populations.¹ More than one year of surveys may be necessary based on environmental conditions. Please refer to CDFW protocols for surveying and evaluating impacts to special status plants available at: <https://www.wildlife.ca.gov/Conservation/Plants>.

IMPACT ANALYSIS AND MITIGATION MEASURES

The EIR should discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project (CEQA Guidelines, § 15126.2). This includes evaluating and describing impacts such as:

- Land use changes that would reduce open space or agricultural land uses and increase residential or other land use involving increased development;
- Encroachments into riparian habitats, wetlands or other sensitive areas;
- Potential for impacts to special-status species;

¹ 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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- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, vegetation overhanging banks);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The CEQA document should also identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a special-status species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines direct the lead agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the EIR, and/or mitigate significant impacts of the Project on the environment (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370). This includes a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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 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>.

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FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). 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.

If you have any questions, please contact Alex Single, Environmental Scientist, at (707) 799-4210 or Alexander.Single@Wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell

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Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Special-Status Species

ec: State Clearinghouse # 2022120524

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Attachment 1: Special-Status Species

Scientific Name	Common Name	Status
Amphibians & Reptiles		
<i>Rana draytonii</i>	California red-legged frog	FT, SSC
<i>Dicamptodon ensatus</i>	California giant salamander	SSC
<i>Rana boylei</i>	foothill yellow-legged frog - north coast DPS	SSC
<i>Emys marmorata</i>	western pond turtle	SSC
Birds		
<i>Rallus obsoletus obsoletus</i>	California Ridgway's rail	FE, SE, FP
<i>Laterallus jamaicensis coturniculus</i>	California black rail	ST, FP
<i>Strix occidentalis caurina</i>	northern spotted owl	FT, ST
<i>Riparia riparia</i>	bank swallow	ST
<i>Athene cunicularia</i>	burrowing owl	SSC
<i>Geothlypis trichas sinuosa</i>	saltmarsh common yellowthroat	SSC
<i>Melospiza melodia samuelis</i>	San Pablo song sparrow	SSC
Plants		
<i>Plagiobothrys diffusus</i>	San Francisco popcornflower	SE, CRPR 1B.1
<i>Pentachaeta bellidiflora</i>	white-rayed pentachaeta	FE, SE, CRPR 1B.1
<i>Clarkia franciscana</i>	Presidio clarkia	FE, SE, CRPR 1B.2
<i>Arctostaphylos montana</i> ssp. <i>ravenii</i>	Presidio manzanita	FE, SE, CRPR 2B.3
<i>Streptanthus glandulosus</i> ssp. <i>niger</i>	Tiburon jewelflower	FE, SE, CRPR 1B.2
<i>Holocarpha macradenia</i>	Santa Cruz tarplant	FT, SE, CRPR 1B.3

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<i>Arenaria paludicola</i>	marsh sandwort	FE, SE, CRPR 1B.2
<i>Lessingia germanorum</i>	San Francisco lessingia	FE, SE, CRPR 1B.2
<i>Castilleja affinis</i> var. <i>neglecta</i>	Tiburon paintbrush	FE, ST, CRPR 1B.2
<i>Layia carnosa</i>	beach layia	FT, ST, CRPR 1B.2
<i>Calochortus tiburonensis</i>	Tiburon mariposa-lily	FT, ST, CRPR 1B.1
<i>Hesperolinon congestum</i>	Marin western flax	FT, ST, CRPR 1B.1
<i>Arctostaphylos franciscana</i>	Franciscan manzanita	FE, CRPR 1B.1
<i>Trifolium amoenum</i>	two-fork clover	FE, CRPR 1B.2
<i>Plagiobothrys glaber</i>	hairless popcornflower	CRPR 1B.1
<i>Grindelia hirsutula</i> var. <i>maritima</i>	San Francisco gumplant	CRPR 1B.1
<i>Collinsia corymbosa</i>	round-headed Chinese-houses	CRPR 1B.1
<i>Kopsiopsis hookeri</i>	small groundcone	CRPR 1B.2
<i>Stebbinsoseris decipiens</i>	Santa Cruz microseris	CRPR 1B.2
<i>Arctostaphylos virgata</i>	Marin manzanita	CRPR 1B.2
<i>Chloropyron maritimum</i> ssp. <i>palustre</i>	Point Reyes salty bird's-beak	CRPR 1B.1
<i>Helianthella castanea</i>	Diablo helianthella	CRPR 1B.2
<i>Leptosiphon rosaceus</i>	rose leptosiphon	CRPR 1B.2
<i>Microseris paludosa</i>	marsh microseris	CRPR 1B.1
<i>Gilia millefoliata</i>	dark-eyed gilia	CRPR 1B.2
<i>Gilia capitata</i> ssp. <i>chamissonis</i>	blue coast gilia	CRPR 1B.1
<i>Cirsium andrewsii</i>	Franciscan thistle	CRPR 1B.1

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<i>Horkelia cuneata</i> var. <i>sericea</i>	Kellogg's horkelia	CRPR 1B.2
<i>Silene verecunda</i> ssp. <i>verecunda</i>	San Francisco campion	CRPR 1B.2
<i>Eriogonum luteolum</i> var. <i>caninum</i>	Tiburon buckwheat	CRPR 1B.2
<i>Triphysaria floribunda</i>	San Francisco owl's-clover	CRPR 2B.2
<i>Hemizonia congesta</i> ssp. <i>congesta</i>	congested-headed hayfield tarplant	CRPR 1B.1
<i>Polemonium carneum</i>	Oregon polemonium	CRPR 1B.2
<i>Collinsia multicolor</i>	San Francisco collinsia	CRPR 1B.2
<i>Plagiobothrys chorisianus</i> var. <i>chorisianus</i>	Choris' popcornflower	CRPR 1B.1
<i>Chorizanthe cuspidata</i> var. <i>cuspidata</i>	San Francisco Bay spineflower	CRPR 1B.2
<i>Horkelia marinensis</i>	Point Reyes horkelia	CRPR 1B.2
<i>Cirsium hydrophilum</i> var. <i>vaseyi</i>	Mt. Tamalpais thistle	CRPR 1B.3
<i>Amorpha californica</i> var. <i>napensis</i>	Napa false indigo	CRPR 1B.1
<i>Quercus parvula</i> var. <i>tamalpaisensis</i>	Tamalpais oak	CRPR 2B.2
<i>Silene scouleri</i> ssp. <i>scouleri</i>	Scouler's catchfly	CRPR 3.1
<i>Calystegia purpurata</i> ssp. <i>saxicola</i>	coastal bluff morning-glory	CRPR 1B.1
<i>Polygonum marinense</i>	Marin knotweed	CRPR 1B.2
<i>Horkelia tenuiloba</i>	thin-lobed horkelia	CRPR 1B.2
<i>Carex comosa</i>	bristly sedge	CRPR 2B.1
<i>Heteranthera dubia</i>	water star-grass	CRPR 2B.2
<i>Carex praticola</i>	northern meadow sedge	CRPR 2B.2
<i>Calamagrostis crassiglumis</i>	Thurber's reed grass	CRPR 2B.1
Fish		
<i>Oncorhynchus kisutch</i>	Coho salmon - central California coast ESU	FE, SE
<i>Oncorhynchus tshawytscha</i>	Central Valley winter Chinook salmon	FE, SE

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<i>Hypomesus pacificus</i>	delta smelt	FT, SE
<i>Spirinchus thaleichthys</i>	longfin smelt	FC, ST
<i>Eucyclogobius newberryi</i>	tidewater goby	FE
<i>Acipenser medirostris</i>	green sturgeon - southern DPS	FT
<i>Oncorhynchus mykiss</i>	steelhead - Central California Coast DPS	FT
<i>Acipenser medirostris</i>	southern green sturgeon	FT, SSC
<i>Acipenser transmontanus</i>	white sturgeon	SSC
<i>Entosphenus tridentata</i>	Pacific lamprey	SSC
<i>Pogonichthys macrolepidotus</i>	Sacramento splittail	SSC
<i>Cottus gulosus</i>	riffle sculpin	SSC
<i>Lampetra ayersi</i>	river lamprey	SSC
<i>Lavinia symmetricus symmetricus</i>	Central California roach	SSC
Insects		
<i>Icaricia icarioides missionensis</i>	Mission blue butterfly	FE
<i>Bombus occidentalis</i>	western bumble bee	SC
<i>Danaus plexippus plexippus</i>	monarch - California overwintering population	FC
Mammals		
<i>Reithrodontomys raviventris</i>	salt-marsh harvest mouse	FE, SE, FP
<i>Enhydra lutris nereis</i>	southern sea otter	FT, FP
<i>Taxidea taxus</i>	American badger	SSC
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	SSC

FP = state fully protected under Fish and Game Code; FE = federally listed as endangered under the Endangered Species Act (ESA); FT = federally listed as threatened under ESA; SE = state listed as endangered under CESA; ST = state listed as threatened under CESA; FC= Federal Candidate Species, SC = State Candidate Species; WL = CDFW Watch List; SSC = state Species of Special Concern; CRPR = California Rare Plant Rank; DPS = Distinct Population Segment; ESU = Evolutionarily Significant Unit