



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
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GAVIN NEWSOM, Governor
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September 15, 2023

Rachael Lindebrekke
City of Encinitas
505 South Vulcan Ave.
Encinitas, CA 92024
RLindebrekke@encinitasca.gov

Subject: Sanctuary Project (PROJECT), Mitigated Negative Declaration (MND), SCH #2023080062

Dear Rachael Lindebrekke:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Encinitas for the Project 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 Sanctuary 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 also oversees the Natural Community Conservation Planning (NCCP) program. The City had prepared a draft Subarea Plan under the Subregional Multiple Habitat Conservation Program (MHCP), which addressed regional conservation planning across seven incorporated jurisdictions in northern San Diego County. Unfortunately, the Encinitas Subarea Plan was not finalized, and state and federal permits have not been issued to the City. To date, only the City of Carlsbad has received state and federal permits pursuant to the MHCP; however, the conservation principals remain relevant for development projects occurring in the other

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 15000.

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jurisdictions, and the draft Encinitas Subarea Plan provides an excellent measure for assessing the significance of potential impacts under CEQA.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Encinitas (City)

Objective: The objective of the Project is to subdivide an 8.32-acre parcel into nine residential lots, one private street/drainage lot, and one open space lot. Impacts will occur to 3.04 acres of the Project site, and the remaining 5.28 acres will remain as undeveloped open space. Project activities include vegetation removal; grading; construction of a new cul-de-sac street; installation of drainage features, utilities, and landscaping; processing of a tentative map, major use permit, design review permit, boundary adjustment, and a Planning Commission interpretation; and construction.

Location: The Project site is located on the southwest corner of Rancho Santa Fe Road and Ranch View Terrace in the City of Encinitas, California (APN 265-331-49). Surrounding land uses include residential development, and an adjacent church.

Biological Setting: The Project site is currently undeveloped. Vegetation communities on the Project site include southern maritime chaparral, disturbed Diegan coastal sage scrub, non-native vegetation, eucalyptus woodland, and disturbed/developed habitat. Special-status plants observed at the Project site include: Del Mar manzanita (*Arctostaphylos glandulosa* spp. *crassifolia*; federal Endangered Species Act (ESA)-listed endangered; California Rare Plant Rank (CRPR) 1B.1), coast white ceanothus (*Ceanothus verrucosus*; CRPR 2B.2), and Torrey pine (*Pinus torreyana*; CRPR 1B.2). The only special-status wildlife species observed on the Project site is San Diego desert woodrat (*Neotoma lepida intermedia*; California Species of Special Concern). A protocol-level survey for coastal California gnatcatcher (*Polioptila californica californica*; ESA-threatened) was conducted in 2019 and was negative.

Project History: Development at the Project site was previously scoped under a different Project name: Ranch View Terrace. The Wildlife Agencies engaged in informal scoping meetings with the City and the Project Applicant in 2022. Based on feedback provided in the meetings, the prior Project was modified to avoid impacts to Del Mar manzanita, coast white ceanothus, and Torrey pine. The Project as circulated for public CEQA review is called the Sanctuary Project. Several documents associated with the Ranch View Terrace project are incorporated into the appendices for the Sanctuary Project, including the Biological Field Survey by Biological Consultant Vincent Scheidt, dated October 2022. There was initially some confusion regarding additional history of Project scoping, given that a nearby City Project called “Sanctuary” was informally scoped with the Wildlife Agencies between 2007 and 2019.

At the request of the Wildlife Agencies, a meeting was held with the City on August 30, 2023 to request clarification on Project impacts. At that time, Andrew Maynard, Principal Planner at the City, granted our request for additional information from the Applicant, and

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extended the comment submittal period to September 15, 2023. An e-mail was received from Rachael Lindebrekke, Associate Planner with the City on September 12, 2023, confirming that there are no anticipated impacts to Del Mar manzanita, and also confirming that the Mitigation, Monitoring, and Reporting Plan can be updated to include recordation of a Conservation Easement rather than a Biological Open Space Easement. On September 12, 2023, a site visit occurred wherein Vincent Scheidt confirmed that no impacts will occur to the special-status plants on site.

At the time of the site visit, the CDFW informed the City that we would be submitting comments on the MND as currently written while acknowledging that several Project details have been provided and clarified which are not covered in the environmental document. We look forward to working with the City to formally incorporate the comments below to further avoid, minimize, and mitigate for impacts to the many biological resources within the Project area.

COMMENTS AND RECOMMENDATIONS

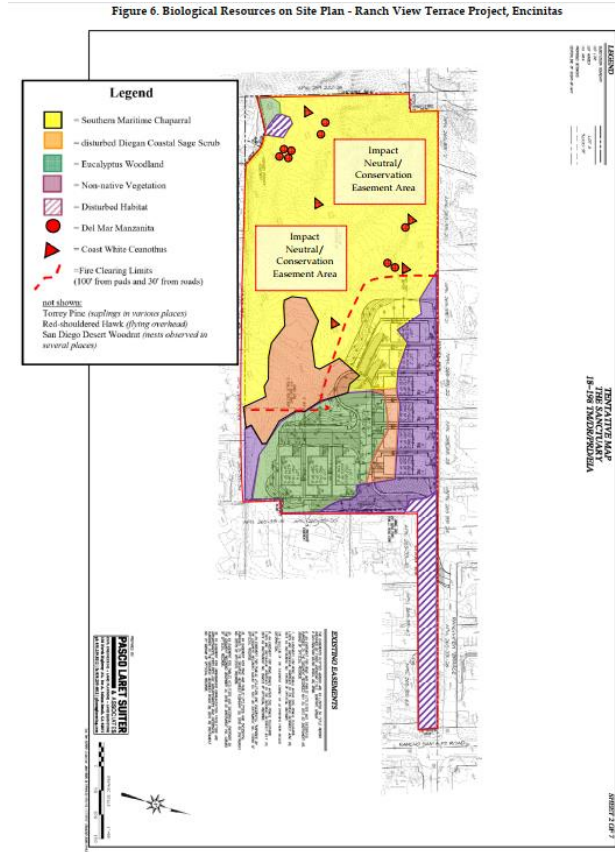
COMMENT #1: Biological Impacts and Project Description

Issue: The description of biological impacts in the Initial Study is inconsistent with Mitigation Measure BIO-1 (MM BIO-1) in the MND. Absent a consistent and accurate Project description, the Wildlife Agencies are unable to fully analyze the biological impacts associated with this Project.

Specific impact: The Initial Study indicates that 3.04 acres of the 8.5-acre Project site will be impacted as a result of grading and development (page 36). The Special Status Species section states, "...the project would not impact all of the 18 Del Mar manzanita individuals on site, and mitigation would be required via the MHCP Narrow Endemic Policy (MM-BIO-1). The project would impact all of the nine coast white ceanothus individuals on site, and mitigation would be required via the MHCP Special Considerations Policy. The project would impact all four Torrey pine individuals on site, and replacement mitigation at a 1:1 ratio requirement would be required (MM-BIO-1)." The above statement is ambiguous in that it states that that not all 18 of the Del Mar manzanita individuals would be impacted, but it is unclear how many will be impacted.

This is out of alignment with MM-BIO-1, which states that a 1:1 replacement ratio of 18 Del Mar Manzanita, nine coast white ceanothus, and four Torrey pine individuals will be required. Impacts to special status plant individuals in the MND are also inconsistent with the depiction of biological resources in Figure 6 of Appendix C (below), which shows that all special status plants are located outside of the Project footprint:

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Additionally, Table 3 in Appendix C (Impact and Mitigation Analysis – Sensitive Plant Species; below) documents that no Del Mar manzanita or coast white ceanothus will be impacted as a result of the project:

Table 3. Impact and Mitigation Analysis - Sensitive Plant Species:
 Ranch View Terrace Project

<u>Biological Resource</u>	<u>Pre development Numbers</u>	<u>Post-development Impact Numbers</u>	<u>Impact Neutral Numbers</u>	<u>Required Mitigation</u>
Del Mar Manzanita	18	0	18	MHCP Narrow Endemic Policy
Coast White Ceanothus	9	0	9	MHCP Special Considerations Policy
Torrey Pine	4	n/a	n/a	none

The City confirmed via e-mail and at the site visit on September 12, 2023 that there will be no impacts to Del Mar Manzanita, coast white ceanothus, or Torrey pine as a result of this Project.

In addition to discrepancies with the described impacts to biological resources, there are several editorial inaccuracies with the acreage and square foot calculations in the Project Description and Construction sections of the Initial Study (Page 5). The percentage calculation for undeveloped open space is incorrect as well. CDFW

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recommends updating the acreage, square foot, and percentage calculations throughout the documents for accuracy and consistency.

Recommendation #1: The Project description in the Initial Study and MND should be both consistent and sufficiently detailed to allow the Wildlife Agencies and the public to accurately assess biological impacts and provide comments. CDFW recommends recirculating the documents for public CEQA review, as the Project impacts were not accurately described in the MND or in the mitigation measures. The following elements related to the Project description within the Initial Study, MND, and Appendix C should be updated for accuracy:

- a. update analysis of biological impacts to special-status plants for consistency throughout all documents. The Biological Resources Section in the Initial study (Section IV), as well as the mitigation measures, should be updated to reflect that there will be no impacts to Del Mar manzanita, coast white ceanothus, or Torrey pine as a result of the Project;
- b. update Project name for consistency throughout all documents, i.e. update the Project name throughout the Biology Field Survey to reflect Sanctuary Project, rather than Ranch View Terrace; and,
- c. update square foot and acreage calculations, as well as the calculation for percent of the Project site remaining as undeveloped open space, on page 5 of the Initial Study.

COMMENT #2: Del Mar Manzanita Mitigation (MM BIO-1)

MND, Page 2

Issue: As written, MM BIO-1 in the MND indicates that 18 Del Mar manzanita individuals will be impacted as a result of Project activities. As discussed above, the City clarified on September 12, 2023 that **no** Del Mar manzanita individuals will be impacted as a result of the Project, and confirmed that all individuals fall within the open space area that will be placed under a Conservation Easement. Vincent Scheidt also confirmed that coast white ceanothus and Torrey pine will not be directly impacted as a result of the Project. MM BIO-1 should be rewritten to accurately describe biological impacts and proposed mitigation.

Specific impact: Although impacts to special status plants are not identified in the Biological Survey, the mitigation measures in the MND propose mitigation to offset impacts to Del Mar manzanita, coast white ceanothus, and Torrey pine. As written, MM BIO-1 in the MND reads:

“Prior to issuance of a grading permit, impacts to 18 Del Mar manzanita, nine coast white ceanothus, four Torrey pine individuals shall occur at a minimum ratio of 1:1 for Del Mar manzanita, 1:1 for coast white ceanothus, and 1:1 for Torrey pine, unless otherwise required by the City or United States Fish and Wildlife Service

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(USFWS). Mitigation for impacts to these three plant species shall be accomplished on-site through one or a combination of translocation or new plantings, habitat-based preservation, and/or purchase of conservation Mitigation Bank credits, as follows:

-1:1 replacement ratio of the 18 Del Mar Manzanita, nine coast white ceanothus, and four Torrey pine individuals impacted to be planted at an on-site location approved by the City and USFWS. Monitoring and management of the mitigation planting site would also be required; or

-Preservation of on-site mitigation land, recordation of a biological open space (BOS) easement, and preparation of a Resources Management Plan (RMP) to address long-term monitoring, maintenance, management, and reporting directives, in perpetuity, approved by the City and USFWS. The location shall be deemed acceptable by the City and USFWS. Long-term management shall be funded through a non-wasting endowment in an amount determined through a Property Assessment Record (PAR) or similar method for determining funding amount. The mitigation land shall be owned by a conservancy, the City or other similar, experienced entity subject to approval by the City and USFWS. Or,

-If demonstrated to the satisfaction of the City and USFWS that on-site preservation of mitigation land is not feasible to fulfill all or a portion of mitigation obligations, then the project shall include purchase of southern maritime chaparral credits at an approved conservation Mitigation Bank deemed acceptable by the City and USFWS. The mitigation credits shall include lands occupied by Del Mar manzanita, coast white ceanothus, and Torrey pine; resulting in a 1:1 replacement ratio for these species.”

Evidence impact would be significant: The Project is located in the Softline Focused Planning Area (Softline FPA), as defined in the Multiple Habitat Conservation Program (MHCP) Subregional Plan and corresponding draft Encinitas Subarea Plan. The Narrow Endemic Species Policy (page 4-19) of the Encinitas draft SAP and the MHCP requires that at least 95% of Del Mar Manzanita within the Softline FPA be conserved in open space, and that there is ‘no net loss’ of the population. As written, MM BIO-1 does not demonstrate that those criteria are met.

Furthermore, CDFW does not support translocation of Del Mar manzanita, due to evidence of limited success of prior translocation and propagation efforts for this species (USFWS, 2023). However, given the City’s confirmation that Del Mar manzanita will not be impacted, CDFW recommends updating MM BIO-1, as discussed in more detail below.

Additionally, while CDFW appreciates the inclusion of a land protection instrument over the remaining open space area on the Project site, a Biological Open Space (BOS) easement is not sufficient to ensure preservation for the purposes of conservation in perpetuity. We strongly recommend that a Conservation Easement be placed over the property. Conservation Easements are a unique property interest created by statute for

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the purpose of retaining land "...predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition" (Civ. Code, § 815.1). Conservation easements are permanent, legally binding, and enforceable on all future landowners; as such, they are the strongest land protection instrument to guarantee conservation of mitigation land in perpetuity. The City confirmed via e-mail on September 12, 2023 that the MMRP language can be revised to incorporate a CE. We appreciate the City's coordination on this matter and recommend that the City coordinate with the Wildlife Agencies to establish a conservation easement over the Preservation Area.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1:

To minimize significant impacts: The MND, Initial Study and Biological report must accurately document the number of Del Mar Manzanita on the Project site and demonstrate that at least 95% of the individuals will be conserved in open space. To accomplish this, the documents should be amended to clarify that there will be no impacts as a result of Project activities to the 18 Del Mar manzanita, coast white ceanothus, or Torrey pine on the Project site, as confirmed by the City and Vincent Sheidt on September 12, 2023. The documents should specify that the Del Mar manzanita individuals are all located in the area that will be preserved as open space and placed under a Conservation Easement. CDFW recommends updating MM BIO-1 to read as below (changes in ~~strikeout~~ and **bold**):

~~*"MM BIO-1: Prior to issuance of a grading permit, impacts to 18 Del Mar manzanita, nine coast white ceanothus, four Torrey pine individuals shall occur at a minimum ratio of 1:1 for Del Mar manzanita, 1:1 for coast white ceanothus, and 1:1 for Torrey pine, unless otherwise required by the City or United States Fish and Wildlife Service (USFWS). Mitigation for impacts to these three plant species shall be accomplished on-site through one or a combination of translocation or new plantings, habitat-based preservation, and/or purchase of conservation Mitigation Bank credits, as follows:*~~

~~*-1:1 replacement ratio of the 18 Del Mar Manzanita, nine coast white ceanothus, and four Torrey pine individuals impacted to be planted at an on-site location approved by the City and USFWS. Monitoring and management of the mitigation planting site would also be required; or*~~

The Project will not result in impacts to any of the special-status plants on the Project site including: 18 Del Mar manzanita, nine coast white ceanothus, and four Torrey pine individuals. 5.28 acres will remain as undeveloped open space and be placed under a Conservation Easement. Preservation of on-site mitigation land, recordation of a biological open space (BOS) easement, and preparation of a **A Resources Management Plan (RMP) will be prepared to address long-term monitoring, maintenance, management, and reporting directives, in perpetuity, approved by the City, and USFWS, and CDFW. The location shall be deemed acceptable by the City and USFWS. Long-term management shall be**

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funded through a non-wasting endowment in an amount determined through a Property Assessment Record (PAR) or similar method for determining funding amount. The mitigation land shall be owned by a conservancy, the City or other similar, experienced entity subject to approval by the City, and ~~USFWS, and CDFW.~~ Or,

~~-If demonstrated to the satisfaction of the City and USFWS that on-site preservation of mitigation land is not feasible to fulfill all or a portion of mitigation obligations, then the project shall include purchase of southern maritime chaparral credits at an approved conservation Mitigation Bank deemed acceptable by the City and USFWS. The mitigation credits shall include lands occupied by Del Mar manzanita, coast white ceanothus, and Torrey pine; resulting in a 1:1 replacement ratio for these species."~~

Comment #3: Mitigation Measure BIO-2 (MM BIO-2)

MND, Page 3

Issue: MM BIO-2 proposes mitigation to offset Project impacts to 0.41 acre of southern maritime chaparral, 0.33 acre of Diegan coastal sage scrub, and 1.10 acres of eucalyptus woodland. MM BIO-2 states that mitigation will be achieved through off-site preservation of mitigation land, or through purchase of credits at a Mitigation Bank. At this time, CDFW is not aware of a Mitigation Bank with a service area that includes the Project site, that has credits available to mitigate for impacts to southern maritime chaparral. Additionally, the City does not identify an off-site mitigation parcel in the MND for consideration or provide further details on compensatory mitigation options. CDFW recommends maximizing on-site avoidance, minimization, and mitigation; should remaining mitigation obligations need to be accomplished off-site, we recommend further coordination with CDFW and the U.S. Fish and Wildlife (jointly, the Wildlife Agencies).

Specific impact: As written, MM BIO-2 in the MND reads:

"Prior to issuance of a grading permit, impacts to 0.41 acres of southern maritime chaparral shall be mitigated at a 3:1 ratio, impacts to 0.33 acres of disturbed Diegan coastal sage scrub shall be mitigated at a 2:1 ratio, and 1.10 acres of Eucalyptus Woodland shall be mitigated at a 1:1 ratio, unless otherwise required by the City and United States Fish and Wildlife Service (USFWS). Unless otherwise mitigated by MM-BIO-1, mitigation for southern maritime chaparral, disturbed Diegan coastal sage scrub and Eucalyptus Woodland shall be accomplished off-site through a combination of habitat-based preservation, and/or purchase of conservation Mitigation Bank credits, as follows:

-Off-site preservation of mitigation land, recordation of a BOS easement, and preparation of a Resource Management Plan to address long-term monitoring, maintenance, management, and reporting directives, in perpetuity, approved by the City and USFWS. The location shall be deemed acceptable by the City and

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USFWS. Long-term management shall be funded through a non-wasting endowment in an amount determined through preparation of a PAR or similar method for determining funding amount. The mitigation land shall be owned by a conservancy, the City or other similar, experienced entity subject to approval by the City and USFWS.

-If demonstrated to the satisfaction of the City and USFWS that off-site preservation of mitigation land is not feasible to fulfill all or a portion of mitigation obligations, then the project shall include purchase of southern maritime chaparral credits at an approved conservation Mitigation Bank deemed acceptable by the City and USFWS.”

Recommended Potentially Feasible Mitigation Measure

Mitigation Measure #2:

To minimize significant impacts: CDFW recommends maximizing on-site avoidance, minimization, and mitigation as feasible. If remaining mitigation obligations will be accomplished off-site, CDFW recommends further coordination with the Wildlife Agencies to identify a suitable site, as well as recordation of a Conservation Easement over the mitigation. We recommend amending MM BIO-2 to read as follows (changes in strikeout and bold):

*“Prior to issuance of a grading permit, impacts to 0.41 acres of southern maritime chaparral shall be mitigated at a 3:1 ratio, impacts to 0.33 acres of disturbed Diegan coastal sage scrub shall be mitigated at a 2:1 ratio, and 1.10 acres of Eucalyptus Woodland shall be mitigated at a 1:1 ratio, unless otherwise required by the City, CDFW, and United States Fish and Wildlife Service (USFWS). Unless otherwise mitigated by MM-BIO-1, mitigation for southern maritime chaparral, disturbed Diegan coastal sage scrub and Eucalyptus Woodland shall be accomplished off-site through a combination of habitat-based **restoration and preservation**, and/or purchase of conservation Mitigation Bank credits, as follows:*

*-Off-site **restoration and preservation** of mitigation land, recordation of a BOS easement **Conservation Easement**, and preparation of a Resource Management Plan to address long-term monitoring, maintenance, management, and reporting directives, in perpetuity, approved by the City, **CDFW**, and USFWS. The location shall be deemed acceptable by the City, **CDFW**, and USFWS. Long-term management shall be funded through a non-wasting endowment in an amount determined through preparation of a PAR or similar method for determining funding amount. The mitigation land shall be owned by a conservancy, the City or other similar, experienced entity subject to approval by the City and USFWS.*

~~-If demonstrated to the satisfaction of the City and USFWS that off-site preservation of mitigation land is not feasible to fulfill all or a portion of mitigation obligations, then the project shall include purchase of southern maritime chaparral credits at an~~

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~~approved conservation Mitigation Bank deemed acceptable by the City and USFWS.”~~

Comment #3: Nesting Birds

Issue: The MND does not incorporate a mitigation measure to ensure avoidance of impacts to nesting birds.

Specific Impact: The Biological Resources analysis in the MND (Page 41) states that, “avoidance of the avian breeding season will be implemented and if an active nest is observed, avoidance measures will be implemented.” However, the MND does not incorporate a specific mitigation measure to ensure that nesting bird impacts will be avoided. To adequately identify nesting bird presence in the Project area, nesting bird surveys should be conducted by a qualified biologist no more than 3 days prior to ground disturbance, vegetation removal, or construction activities. If active nests or breeding behavior are observed within the Project area during the survey, a buffer zone between 100-500’ (dependent on species and as determined by the project biologist) should be established around the nest; the monitoring biologist should be on-site to monitor activity daily during vegetation clearing and grading.

Why impact would occur: Suitable habitat for nesting and migratory birds is present on the Project site. Direct impacts to nesting birds may occur from vegetation removal; indirect impacts may occur from vibration, noise, dust, and increased human activity related to construction.

Evidence impact would be significant: California Fish and Game Code Sections 3503, 3503.5, and 3513 require the avoidance of the incidental loss of fertile eggs or nestlings, or activities that lead to nest abandonment (Fish & G. Code, § 3503, 3503.5, and 3513 *et seq.*).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure #3: To avoid potential direct and indirect impacts to nesting birds in conformance with the California Fish and Game Code and Migratory Bird Treaty Act, the MND should require that clearing of vegetation and construction activities occur outside of the peak avian breeding season, which generally runs from February 1st through September 1st (as early as January 1st for some raptors). If Project activities cannot occur outside of the bird breeding season, CDFW recommends that nesting bird surveys be conducted no more than three days prior to construction-related activities including clearing of vegetation, grubbing, or grading. If active nests or breeding behavior are observed within the Project area during the survey, a buffer zone with a minimum width of 100 feet (300 feet for CESA-listed passerines and 500 feet for raptors) should be established around the nest and a qualified biologist should be on-site to monitor activity daily during vegetation clearing and grading. Buffer zones should be delineated by temporary fencing and remain in effect as long as construction is occurring or until the nest is no longer active.

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We recommend that the MND incorporate the below mitigation measure:

“MM BIO-3: All vegetation clearing, construction, and fuel modification shall occur outside of the avian breeding season (generally February 1st through September 1st, as early as January 1st for some raptors), to ensure that no active nests will be disturbed. If clearing and/or grading activities cannot be avoided during the nesting season, all suitable habitats within the Project site and a 300’ buffer shall be thoroughly surveyed, no more than three days prior to activities. If an active nest is detected, the area shall be flagged along with a 100’–500’ buffer, dependent on the species, and as determined by the monitoring biologist. The flagged area shall be avoided until it is determined by the monitoring biologist that all chicks have fledged and that the nest is no longer active.”

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 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 MND 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.

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Sincerely,

DocuSigned by:


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David Mayer
Environmental Program Manager
South Coast Region

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Andrew Maynard, City of Encinitas – AMaynard@encinitasca.gov
David Zoutendyk, USFWS – David.Zoutendyk@fws.gov

References:

California Environmental Quality Act (CEQA). 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.

United States Fish and Wildlife Service (USFWS). *Arctostaphylos glandulosa* subsp. *Crassifolia* (Del Mar manzanita) 5-Year Review. August, 2023.

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Attachment A:

CDFW Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations

Recommendation	Mitigation Measures	Timing	Responsible Party
Rec. 1	<p>CDFW recommends that the City update the MND and Initial Study to accurately reflect impacts to biological resources. We additionally recommend recirculating the documents for public CEQA review.</p> <p>The following elements related to the Project description within the Initial Study, MND, and Appendix C shall be updated for accuracy:</p> <p>1) Update analysis of biological impacts to special status plants for consistency throughout all documents. The Biological Resources Section in the Initial study (Section IV), as well as the mitigation measures, shall be updated to reflect that there will be no impacts to Del Mar manzanita, coast white ceanothus, or Torrey pine as a result of the Project.</p> <p>2) Update Project name for consistency throughout all documents, i.e. update the Project name throughout the Biology Field Survey to reflect Sanctuary Project, rather than Ranch View Terrace.</p> <p>3) Update square foot and acreage calculations, as well as the calculation for percent of the Project site remaining as undeveloped open space, on page 5 of the Initial Study.</p>	Before Adoption of MND	City of Encinitas
Mitigation Measure #1	CDFW recommends that MM BIO-1 be rewritten to read as follows:	Before Impacts	City of Encinitas

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	<p><i>“MM BIO-1: The Project will not result in impacts to any of the special-status plants on the Project site including: 18 Del Mar manzanita, nine coast white ceanothus, and four Torrey pine individuals. 5.28 acres will remain as undeveloped open space and be placed under a Conservation Easement. A Resources Management Plan (RMP) will be prepared to address long-term monitoring, maintenance, management, and reporting directives, in perpetuity, approved by the City, USFWS, and CDFW. Long-term management shall be funded through a non-wasting endowment in an amount determined through a Property Assessment Record (PAR) or similar method for determining funding amount. The mitigation land shall be owned by a conservancy, the City or other similar, experienced entity subject to approval by the City, USFWS, and CDFW.”</i></p>		
<p>Mitigation Measure #2</p>	<p>CDFW recommends that MM BIO-2 be rewritten to read as follows:</p> <p><i>“Prior to issuance of a grading permit, impacts to 0.41 acres of southern maritime chaparral shall be mitigated at a 3:1 ratio, impacts to 0.33 acres of disturbed Diegan coastal sage scrub shall be mitigated at a 2:1 ratio, and 1.10 acres of Eucalyptus Woodland shall be mitigated at a 1:1 ratio, unless otherwise required by the City, CDFW, and United States Fish and Wildlife Service (USFWS). Unless otherwise mitigated by MM-BIO-1, mitigation for southern maritime chaparral, disturbed Diegan coastal sage scrub and Eucalyptus Woodland shall be accomplished off-site through habitat-based restoration and preservation, as follows:</i></p>	<p>Before Impacts</p>	<p>City of Encinitas</p>

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	<p><i>-Off-site restoration and preservation of mitigation land, recordation of a Conservation Easement, and preparation of a Resource Management Plan to address long-term monitoring, maintenance, management, and reporting directives, in perpetuity, approved by the City, CDFW, and USFWS. The location shall be deemed acceptable by the City, CDFW, and USFWS. Long-term management shall be funded through a non-wasting endowment in an amount determined through preparation of a PAR or similar method for determining funding amount. The mitigation land shall be owned by a conservancy, the City or other similar, experienced entity subject to approval by the City and USFWS."</i></p>		
<p>Mitigation Measure #3</p>	<p>CDFW recommends incorporating a third mitigation measure, MM BIO-3, to read as follows:</p> <p><i>"All vegetation clearing, construction, and fuel modification shall occur outside of the avian breeding season (generally February 1st through September 1st, as early as January 1st for some raptors), to ensure that no active nests will be disturbed. If clearing and/or grading activities cannot be avoided during the nesting season, all suitable habitats within the Project site and a 300' buffer shall be thoroughly surveyed, no more than three days prior to activities. If an active nest is detected, the area shall be flagged along with a 100'–500' buffer, dependent on the species, and as determined by the monitoring biologist. The flagged area shall be avoided until it is determined by the monitoring biologist that all chicks have fledged and that the nest is no longer active."</i></p>	<p>Before Impacts</p>	<p>City of Encinitas</p>