



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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December 3, 2024

Shannon Vitale
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054
svitale@oceansideca.org

SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE OLIVE PARK APARTMENTS PROJECT, SCH NO. 2024040851, SAN DIEGO COUNTY, CA

Dear Shannon Vitale:

The California Department of Fish and Wildlife (CDFW) reviewed the Draft Environmental Impact Report (DEIR) from the City of Oceanside (City) for the Olive Park Apartments Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

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, CDFW appreciates 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 (Fish & G. Code, § 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 may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise

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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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.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law² of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of Oceanside has participated in the NCCP program by preparing a draft Subarea Plan (SAP) under the North County Subregional Multiple Habitat Conservation Program (MHCP) (San Diego Association of Governments 2003). The MHCP identifies critically important biological resources, which if lost to development, would result in significant specific or cumulative impacts within a given jurisdiction and across the MHCP subregion.

Unfortunately, the Oceanside SAP was not finalized and has not been adopted by the City nor has the City received permits from the Wildlife Agencies. The Focused Planning Areas nonetheless are considered highly relevant when evaluating the significance of biological resources on a given property within the cities comprising the MHCP planning effort.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Oceanside (City)

Objective: The objective of the Project is to develop apartments on a 43.50-acre plot referred to as the Parcel Area. A total of 11.75 acres would be impacted where 10.87 acres would include the development (On-Site Impact Area) and 0.88 acres would be disturbed through Project development outside of the Parcel Area (Off-Site Impact Area). The remaining 32.67 acres will be placed under a conservation easement. Primary Project activities include vegetation removal, grading, paving, and building construction.

Location: The proposed Project is in the Mira Costa neighborhood in Oceanside. It lies southwest of Oceanside Boulevard and 1.5 miles north of State Route 78. More specifically, the Project is in the west terminus of Olive Drive and south of the North County Transit District. Loma Alta Creek runs along the northern border of the Project.

² "Take" is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

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Timeframe: The Project is proposed to occur in two phases over the course of 11 months. Construction is proposed to occur January 2026 to November 2026.

Biological Setting: The Project area is currently undeveloped and the surrounding land types are residential and industrial development. The vegetation communities within the biological study area, which includes the Parcel Area and off-site areas, were assessed as Diegan coastal sage scrub (16.82 acres; 1.99 acres disturbed), southern mixed chapparal (7.12 acres; 4.60 acres disturbed), non-native grassland (4.33 acres), freshwater marsh (0.05 acres), disturbed southern willow scrub (1.37 acres), and eucalyptus woodland (0.92 acres).

Dudek prepared a Biological Technical Report (BTR) which included results of vegetation mapping in 2022 to 2024 and focused surveys for coastal California gnatcatcher (*Polioptila californica californica*; California Species of Special Concern; Endangered Species Act (ESA) listed-threatened) in 2023 to 2024. Additionally in 2024, a jurisdictional delineation, focused surveys for least Bell's vireo (*Vireo bellii pusillus*; ESA listed-endangered; CESA listed-endangered), southwestern willow flycatcher (*Empidonax traillii extimus*; ESA-listed endangered; CESA-listed endangered), and rare plants were conducted. San Diego marsh-elder (*Iva hayesiana*; California Rare Plant Rank (CRPR) 2B.2) was observed in the Parcel Area during the focused rare plant surveys.

Sensitive species that are of potential concern for the Project include cliff spurge (*Euphorbia misera*; CRPR 2B.2), thread-leaved brodiaea (*Brodiaea filifolia*; ESA-listed threatened; CESA-listed endangered; CRPR 1B.1), and Crotch's bumble bee (*Bombus crotchii*; CESA listed-candidate).

The DEIR proposes mitigation measures (MMs) relating to the designation of open space, nesting birds, biological monitoring, fencing, invasive species prohibition, a resident education program, and Crotch's bumble bee. Relating to the designation of open space, the Project proposes to offset permanent impacts through a conservation easement of 32.63 acres. Additional conserved habitat of eucalyptus woodland and disturbed habitat are proposed to provide restoration for Projects. The DEIR provided mitigation ratios for habitat impacts consistent with the SAP.

Project History: In May 2024, CDFW provided comments on the Project's Notice of Preparation CEQA document. In summary, there were recommendations to obtain an Incidental Take Permit (ITP) for CESA-listed species, conduct consultation with the United States Fish and Wildlife Service (USFWS), a request to be included as a third-party beneficiary to the conservation easement, to follow guidelines set forth in the Subarea Plan, assess whether a Lake and Streambed Alteration Agreement (LSAA) is appropriate, and provide a biological resources assessment.

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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 and to ensure regional conservation objectives in the MHCP and draft Oceanside SAP would not be eliminated by implementation of the Project. We understand the City Council has voted not to adopt the draft SAP and that they released the Environmental Impact Report for the General Plan Update, which included provisions from the draft SAP; however, that plan is still not finalized nor is it subject to approval by the Wildlife Agencies. Additional comments or other suggestions may also be included to improve the document.

COMMENT # 1: Impacts to Rare Plants

Issue: The DEIR does not discuss or provide MMs to reduce impacts to rare plant species.

Specific impact: The Project may impact suitable habitat for San Diego marsh-elder, cliff spurge, and thread-leaved brodiaea, and may directly or indirectly impact these rare plant species. The DEIR does not provide a mitigation measure nor compensatory mitigation to minimize and avoid impacts to these rare plant species if found within the impact area.

Why impact would occur: There is potential for cliff spurge and thread-leaved brodiaea to occur due to suitable coastal scrub, chaparral, and grassland in the Parcel Area. Moreover, San Diego marsh-elder was observed in the Parcel Area during focused rare plant surveys. There were also observations on California Natural Diversity Database (CNDDDB) of rare plant species occurring within two miles of the Project area (CDFW 2024a). Project activities, such as vegetation removal and soil excavation, may result in adverse impacts to special status plant species without an avoidance, minimization, and mitigation measure. The DEIR does not provide a mitigation measure for rare plant species or compensatory mitigation for the loss of rare plant species habitat. Impacts to rare plants such as removal of habitat or loss of population would be considered significant under CEQA.

Evidence impact may be significant: Certain species are in danger of extinction because their habitats have been severely reduced in acreage, are threatened with destruction or adverse modification, or because of a combination of these and other factors. The California Endangered Species Act (CESA) and Native Plant Protection Act (NPPA) provide additional protections for such species, including take prohibitions (Fish & G. Code, § 2050 et seq.; Fish & G. Code, § 1908). As a responsible agency, CDFW has the authority to issue permits for the take of species listed under CESA and NPPA if the take is incidental to an otherwise lawful activity; CDFW has determined that the impacts of the take have been minimized and fully mitigated; and the take would not jeopardize the continued existence of the species (Fish & G. Code, § 2081, subd. (b));

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Cal. Code Regs., tit. 14 § 786.9, subd. (b)). Botanical field surveys are one of the preliminary steps to detect special status plant species and sensitive natural communities that may be impacted by a project.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: Rare Plant Survey

Within one year prior to the commencement of ground-disturbing activities, habitat assessment surveys for the special-status plants shall be conducted by a qualified botanist. Surveys shall be in accordance with the [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018) and [Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants](#) (USFW 2000) at the appropriate time of year when the target species would be in flower or otherwise clearly identifiable. Locations of special-status plant populations shall be clearly identified in the field by staking, flagging, or fencing a minimum 100-foot-wide buffer around them prior to the commencement of activities that may cause disturbance.

Mitigation Measure #2: Compensatory Mitigation

If plants with a CRPR of 1B or 2B are observed in the impact area and cannot be avoided, no Project activities shall commence, and the City shall coordinate with CDFW to discuss avoidance of the rare plants on site. If complete avoidance is unattainable, the Project proponent shall provide compensatory mitigation to offset the Project's impact on rare plants observed on site at no less than 2:1. The total habitat acreage within the mitigation land shall be no less than 2:1. The Project proponent shall acquire CDFW approved mitigation land that has presence of San Diego marsh-elder, cliff spurge, and thread-leaved brodiaea that are located in the same watershed as the Project site. The mitigation land shall also provide equivalent or greater habitat value than that of the Project site. The Project proponent shall protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094. Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment shall also be provided for the long-term monitoring and management of mitigation lands.

COMMENT # 2: Impacts to Crotch's Bumble Bee

Issue: The DEIR does not include survey results for the presence or absence of Crotch's bumble bee. Moreover, MM-BIO-8 may be improved to deter accidental take or adverse impacts on Crotch's bumble bee.

Specific impact: The DEIR states Crotch's bumble bee has a moderate potential to occur on-site; however, focused surveys were not conducted prior to the circulation of the DEIR to determine if Crotch's bumble bee currently occupy the Project area.

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Additionally, MM-BIO-8 includes an avoidance plan that may be subject to appropriate authorization from CDFW in the form of an ITP.

Why impact would occur: There is suitable vegetation and habitat for host plants within the Project area for Crotch's bumble bee, such as coastal sage scrub, deerweed, chaparral, and grassland. Additionally, a CNDDDB search shows the Project area is within the [Crotch's Bumble Bee Range](#) (CDFW 2024b). The Project's ground and vegetation disturbance could result in potentially significant impacts to Crotch's bumble bee, including loss of foraging resources, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young, and/or queens, and direct mortality. Moreover, the BTR stated that burrows excavated by small mammals capable of creating nesting colony habitat have been observed within the Project area. Crotch's bumble bees primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, under-brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2012).

Given that the Project area is in the current range and has suitable habitat, there is potential for this CESA candidate species to be detected on site. BIO-8 calls for a preconstruction survey protocol that may cause adverse impacts to Crotch's bumble bee without appropriate take authorization under CESA. Construction delays due to obtainment of the proper permits may cause work stoppages due to Crotch's bumble bee presence. This can extend the Project into additional breeding seasons, leading to increased risk of disturbance to Crotch's bumble bee. In addition to the biological cost of construction delays, such delays are expensive in terms of Project implementation and logistics.

Evidence impact would be significant: Recently, the California Fish and Game Commission accepted a petition to list the Crotch's bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9).

CDFW considers impacts to species that are candidates for CESA listing to be significant, under CEQA. Accordingly, the Project may have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

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Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #3: Focused Survey for Crotch's Bumble Bee

The Project proponent shall retain a qualified biologist with appropriate handling permits and familiar with the species' behavior and life history of the species. Focused surveys should follow CDFW's [Survey Considerations for California Endangered Species Act \(CESA\) Candidate Bumble Bee Species](#) (CDFW 2023). Prior to finalizing the CEQA document, focused surveys shall be conducted throughout the entire Project area during the appropriate flying season to ensure no missed detection of Crotch's bumble bee occurs. If Crotch's bumble bee is detected within the Project area, the Project proponent should consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & G. Code, § 2080 et seq). The Project proponent should have a copy of a fully executed take authorization prior to any ground disturbance and vegetation removal. If an ITP through CESA is pursued, then the City shall also include details of impacts to the species and compensatory mitigation including land protection instruments and in-perpetuity funding.

Mitigation Measure #4: Crotch's Bumble Bee Pre-Construction Survey – The City shall revise MM-BIO-8 to incorporate the underlined language and omit the language in strikethrough:

A pre-construction survey for Crotch's bumble bee shall be conducted within the construction footprint prior to the start of ground-disturbing construction activities occurring during the Crotch's bumble bee nesting period (February 1 through October 31). The survey shall ensure that no nests for Crotch's bumble bee are within the construction area. The pre-construction survey shall include a habitat assessment and focused surveys, both of which shall be based on recommendations described in the Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species, released by the California Department of Fish and Wildlife (CDFW) on June 6, 2023, or the most current version at the time of construction.

The habitat assessment shall, at a minimum, include historical and current species occurrences; document potential habitat in the Parcel Area, including foraging, nesting, and/or overwintering resources; and identify which plant species are present. For the purposes of this mitigation measure, nest resources are defined as abandoned small mammal burrows, bunch grasses with a duff layer, thatch, hollow trees, brush piles, and human-made structures that may support bumble bee colonies such as rock walls, rubble, and furniture. The habitat assessment shall be repeated prior to February 1 in each year ground-disturbing activities occur to determine if nesting resources are present within the On-Site and/or Off-Site Impact Areas. If nesting resources are present in the On-Site and/or Off-Site Impact Areas, focused surveys shall be conducted.

The focused survey shall be performed by a biologist with expertise in surveying for bumble bees and include at least three survey passes that are not on sequential days or

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in the same week, preferably spaced 2 to 4 weeks apart. The timing of these surveys shall coincide with the colony active period (April 1 through August 31 for Crotch's bumble bee). Surveys may occur between 1 hour after sunrise and 2 hours before sunset. Surveys shall not be conducted during wet conditions (e.g., foggy, raining, or drizzling), and surveyors shall wait at least 1 hour following rain. Optimal surveys are when there are sunny to partly sunny skies and a temperature greater than 60°F. Surveys may be conducted earlier if other bees or butterflies are flying. Surveys shall not be conducted when it is windy (i.e., sustained winds greater than 8 miles per hour). Within non-developed habitats, the biologist shall look for nest resources suitable for bumble bee use. Ensuring that all nest resources receive 100% visual coverage, the biologist shall watch the nest resources for up to 5 minutes, looking for exiting or entering worker bumble bees. Worker bees should arrive and exit an active nest site with frequency, such that their presence would be apparent after 5 minutes of observation. If a bumble bee worker is detected, then a representative shall be identified to species. Biologists should be able to view several burrows at one time to sufficiently determine if bees are entering/exiting them, depending on their proximity to one another. It is up to the discretion of the biologist regarding the actual survey viewshed limits from the chosen vantage point to determine which would provide 100% visual coverage; this could include a 30- to 50-foot-wide area. If a nest is suspected, the surveyor can block the entrance of the possible nest with a sterile vial or jar until nest activity is confirmed (no longer than 30 minutes).

Identification shall include trained biologists netting/capturing the representative bumble bee in appropriate insect nets, per the protocol in U.S. National Protocol Framework for the Inventory and Monitoring of Bees. The bee shall be placed in a clear container for observation and photographic documentation, if able. The bee shall be photographed using a macro lens from various angles to ensure recordation of key identifying characteristics. If bumble bee-identifying characteristics cannot be adequately captured in the container due to movement, the container shall be placed in a cooler with ice until the bumble bee becomes inactive (generally within 15 minutes). Once inert, the bumble bee shall be removed from the container and placed on a white sheet of paper or card for examination and photographic documentation. The bumble bee shall be released into the same area from which it was captured upon completion of identification. Based on implementation of this method on a variety of other bumble bee species, they become active shortly after removal from the cold environment, so photography must be performed quickly.

If Crotch's bumble bee nests are not detected, no further mitigation would be required. The mere presence of foraging Crotch's bumble bees would not require implementation of additional minimization measures because they can forage up to 10 kilometers from their nests. If nest resources occupied by Crotch's bumble bee are detected within the construction area, no construction activities shall occur within 100 feet of the nest, or as determined by a qualified biologist through evaluation of topographic features or distribution of floral resources. The nest resources shall be avoided for the duration of the Crotch's bumble bee nesting period (February 1 through October 31). Outside of the

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nesting season, it is assumed that no live individuals would be present within the nest because the daughter queens (gynes) usually leave by September, and all other individuals (original queen, workers, males) die. The gyne is highly mobile and can independently disperse to outside of the construction footprint to surrounding open space areas that support suitable hibernacula resources.

A written survey report shall be submitted to the City of Oceanside and CDFW within 30 days of the pre-construction survey. The report shall include survey methods, weather conditions, and survey results, including a list of insect species observed and a figure showing the locations of any Crotch's bumble bee nest sites or individuals observed. The survey report shall include the qualifications/resumes of the surveyor(s) and approved biologist(s) for identification of photo vouchers and a detailed habitat assessment. If Crotch's bumble bee nests are observed, the survey report shall also include recommendations for avoidance, and the location information shall be submitted to the California Natural Diversity Database at the time of, or prior to, submittal of the survey report.

~~If the above measures are followed, the applicant would not need to obtain authorization from CDFW through the CESA Incidental Take Permit process. If nest resources cannot be avoided, as outlined in this measure, If Crotch's bumble bee is detected within the project area, the project applicant shall consult with CDFW regarding the need to obtain an Incidental Take Permit. Any measures determined to be necessary through the Incidental Take Permit process to offset impacts to Crotch's bumble bee may supersede measures provided in this document and shall be incorporated into the habitat mitigation and monitoring plan.~~

In the event that an Incidental Take Permit is needed, mitigation for direct impacts to Crotch's bumble bee shall be fulfilled through compensatory mitigation at a minimum 1:1 nesting habitat replacement of equal or better functions and values to those impacted by the project, or as otherwise determined through the Incidental Take Permit process. Mitigation shall be accomplished through on-site preservation of suitable habitat and/or in accordance with CDFW guidance for off-site locations. The funding source shall be in the form of an endowment to help the qualified natural lands management entity that is ultimately selected to hold the conservation easement(s). The endowment amount shall be established following the completion of a project-specific Property Analysis Record to calculate the costs of in-perpetuity land management. The Property Analysis Record shall take into account all management activities required in the Incidental Take Permit to fulfill the requirements of the conservation easement.

ADDITIONAL COMMENTS

Mitigation and Monitoring Reporting Plan. CDFW recommends the Project's environmental document include mitigation measures recommended in this letter. CDFW has provided comments via a mitigation monitoring and reporting plan to assist in the development of feasible, specific, detailed (i.e., responsible party, timing, specific

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actions, location), and fully enforceable mitigation measures (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The Lead Agency is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (Attachment A).

Conservation Easement. The DEIR states that 32.67 acres of the Project site will remain as natural open space and will be placed under a conservation easement. Consistent with our prior letter, CDFW requests that we and the USFWS be included as third-party beneficiaries on the conservation easement, and that MM-BIO-1 be amended to reflect third-party beneficiary designation of the Wildlife Agencies. We also recommend that the Final EIR include a discussion for which future City Projects will or may use the additional restoration and/or enhancement. Lastly, restoration efforts for this Project should not include fuel modification zones in order to offset permanent impacts and should be excluded from future plans for fuel modification.

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 CNDDDB. The [CNDDDB website](#)³ provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms.

In addition, information on special status native plant populations and sensitive natural communities, should be submitted to CDFW's Vegetation Classification and Mapping Program using the [Combined Rapid Assessment and Relevé Form](#)⁴.

The City should ensure data collected for the preparation of the DEIR is properly submitted.

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.

³ <https://wildlife.ca.gov/Data/CNDDDB>

⁴ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

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(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 DEIR to assist the City in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project (CEQA Guidelines, § 15073(e)).

Questions regarding this letter or further coordination should be directed to Joleena De La Fe⁵, Environmental Scientist.

Sincerely,

DocuSigned by:

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Victoria Tang
Environmental Program Manager
South Coast Region

ATTACHMENTS

Attachment A: Draft Mitigation, Monitoring, and Reporting Program

ec: California Department of Fish and Wildlife
Victoria Tang (CDFW EPM)
Jennifer Turner (CEQA Supervisor)
Steve Gibson (CESA supervisor)
Melanie Burlaza (NCCP supervisor)
Joleena De La Fe (CEQA staff)
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REFERENCES

[CDFW] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural

⁵ Phone: 858-354-3527; Email: Joleena.delafe@wildlife.ca.gov

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ATTACHMENT A: DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Mitigation Measure	Timing	Responsible Party
<p>Mitigation Measure #1: Rare Plant Survey</p> <p>Within one year prior to the commencement of ground-disturbing activities, habitat assessment surveys for the special-status plants shall be conducted by a qualified botanist. Surveys shall be in accordance with the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018) and Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants (USFW 2000) at the appropriate time of year when the target species would be in flower or otherwise clearly identifiable. Locations of special-status plant populations shall be clearly identified in the field by staking, flagging, or fencing a minimum 100-foot-wide buffer around them prior to the commencement of activities that may cause disturbance.</p>	<p>Prior to Project Initiation</p>	<p>Designated Biologist</p>
<p>Mitigation Measure #2: Compensatory Mitigation</p> <p>If plants with a CRPR of 1B or 2B are observed in the impact area and cannot be avoided, no Project activities shall commence, and the City shall coordinate with CDFW to discuss avoidance of the rare plants on site. If complete avoidance is unattainable, the Project proponent shall provide compensatory mitigation to offset the Project’s impact on rare plants observed on site at no less than 2:1. The total habitat acreage within the mitigation land shall be no less than 2:1. The Project proponent shall acquire CDFW approved mitigation land that has presence of San Diego marsh-elder, cliff spurge, and thread-leaved brodiaea that are located in the same watershed as the Project site. The mitigation land shall also provide equivalent or greater habitat value than that of the Project site. The Project proponent shall protect replacement</p>	<p>During Project Construction / After Project Completion</p>	<p>Lead Agency / Project Proponent</p>

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Mitigation Measure	Timing	Responsible Party
<p>habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094. Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment shall also be provided for the long-term monitoring and management of mitigation lands.</p>		
<p>Mitigation Measure #3: Focused Survey for Crotch’s Bumble Bee</p> <p>The Project proponent shall retain a qualified biologist with appropriate handling permits and familiar with the species’ behavior and life history of the species. Focused surveys should follow CDFW’s Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023). Prior to finalizing the CEQA document, focused surveys shall be conducted throughout the entire Project area during the appropriate flying season to ensure no missed detection of Crotch’s bumble bee occurs. If Crotch’s bumble bee is detected within the Project area, the Project proponent should consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & G. Code, § 2080 et seq). The Project proponent should have a copy of a fully executed take authorization prior to any ground disturbance and vegetation removal. If an ITP through CESA is pursued, then the City shall also include details of impacts to the species and compensatory mitigation including land protection instruments and in-perpetuity funding.</p>	<p>Prior to Project Initiation</p>	<p>Designated Biologist / Lead Agency</p>
<p>Mitigation Measure #4: Crotch’s Bumble Bee Pre-Construction Survey – The City shall revise MM-BIO-8 to incorporate the <u>underlined</u> language and omit the language in strikethrough:</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>

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Mitigation Measure	Timing	Responsible Party
<p>A pre-construction survey for Crotch’s bumble bee shall be conducted within the construction footprint prior to the start of ground-disturbing construction activities occurring during the Crotch’s bumble bee nesting period (February 1 through October 31). The survey shall ensure that no nests for Crotch’s bumble bee are within the construction area. The pre-construction survey shall include a habitat assessment and focused surveys, both of which shall be based on recommendations described in the Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species, released by the California Department of Fish and Wildlife (CDFW) on June 6, 2023, or the most current version at the time of construction.</p> <p>The habitat assessment shall, at a minimum, include historical and current species occurrences; document potential habitat in the Parcel Area, including foraging, nesting, and/or overwintering resources; and identify which plant species are present. For the purposes of this mitigation measure, nest resources are defined as abandoned small mammal burrows, bunch grasses with a duff layer, thatch, hollow trees, brush piles, and human-made structures that may support bumble bee colonies such as rock walls, rubble, and furniture. The habitat assessment shall be repeated prior to February 1 in each year ground-disturbing activities occur to determine if nesting resources are present within the On-Site and/or Off-Site Impact Areas. If nesting resources are present in the On-Site and/or Off-Site Impact Areas, focused surveys shall be conducted.</p> <p>The focused survey shall be performed by a biologist with expertise in surveying for bumble bees and include at least three survey passes that are not on sequential days or in the same week, preferably spaced 2 to 4 weeks apart. The timing of these surveys shall coincide with the colony active period (April 1 through August 31 for Crotch’s bumble bee). Surveys may occur between 1 hour after sunrise and 2 hours before sunset. Surveys shall not be conducted during wet conditions (e.g., foggy,</p>		

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<p>raining, or drizzling), and surveyors shall wait at least 1 hour following rain. Optimal surveys are when there are sunny to partly sunny skies and a temperature greater than 60°F. Surveys may be conducted earlier if other bees or butterflies are flying. Surveys shall not be conducted when it is windy (i.e., sustained winds greater than 8 miles per hour). Within non-developed habitats, the biologist shall look for nest resources suitable for bumble bee use. Ensuring that all nest resources receive 100% visual coverage, the biologist shall watch the nest resources for up to 5 minutes, looking for exiting or entering worker bumble bees. Worker bees should arrive and exit an active nest site with frequency, such that their presence would be apparent after 5 minutes of observation. If a bumble bee worker is detected, then a representative shall be identified to species. Biologists should be able to view several burrows at one time to sufficiently determine if bees are entering/exiting them, depending on their proximity to one another. It is up to the discretion of the biologist regarding the actual survey viewshed limits from the chosen vantage point to determine which would provide 100% visual coverage; this could include a 30- to 50-foot-wide area. If a nest is suspected, the surveyor can block the entrance of the possible nest with a sterile vial or jar until nest activity is confirmed (no longer than 30 minutes).</p> <p>Identification shall include trained biologists netting/capturing the representative bumble bee in appropriate insect nets, per the protocol in U.S. National Protocol Framework for the Inventory and Monitoring of Bees. The bee shall be placed in a clear container for observation and photographic documentation, if able. The bee shall be photographed using a macro lens from various angles to ensure recordation of key identifying characteristics. If bumble bee-identifying characteristics cannot be adequately captured in the container due to movement, the container shall be placed in a cooler with ice until the bumble bee becomes inactive (generally within 15 minutes). Once inert, the bumble bee shall be removed from the container and placed on a white sheet of paper or card for examination and photographic documentation.</p>		

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Mitigation Measure	Timing	Responsible Party
<p>The bumble bee shall be released into the same area from which it was captured upon completion of identification. Based on implementation of this method on a variety of other bumble bee species, they become active shortly after removal from the cold environment, so photography must be performed quickly.</p> <p>If Crotch’s bumble bee nests are not detected, no further mitigation would be required. The mere presence of foraging Crotch’s bumble bees would not require implementation of additional minimization measures because they can forage up to 10 kilometers from their nests. If nest resources occupied by Crotch’s bumble bee are detected within the construction area, no construction activities shall occur within 100 feet of the nest, or as determined by a qualified biologist through evaluation of topographic features or distribution of floral resources. The nest resources shall be avoided for the duration of the Crotch’s bumble bee nesting period (February 1 through October 31). Outside of the nesting season, it is assumed that no live individuals would be present within the nest because the daughter queens (gynes) usually leave by September, and all other individuals (original queen, workers, males) die. The gyne is highly mobile and can independently disperse to outside of the construction footprint to surrounding open space areas that support suitable hibernacula resources.</p> <p>A written survey report shall be submitted to the City of Oceanside and CDFW within 30 days of the pre-construction survey. The report shall include survey methods, weather conditions, and survey results, including a list of insect species observed and a figure showing the locations of any Crotch’s bumble bee nest sites or individuals observed. The survey report shall include the qualifications/resumes of the surveyor(s) and approved biologist(s) for identification of photo vouchers and a detailed habitat assessment. If Crotch’s bumble bee nests are observed, the survey report shall also include recommendations for avoidance, and the location information shall be</p>		

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Mitigation Measure	Timing	Responsible Party
<p>submitted to the California Natural Diversity Database at the time of, or prior to, submittal of the survey report.</p> <p>If the above measures are followed, the applicant would not need to obtain authorization from CDFW through the GESA Incidental Take Permit process. If nest resources cannot be avoided, as outlined in this measure, <u>If Crotch's bumble bee is detected within the project area</u>, the project applicant shall consult with CDFW regarding the need to obtain an Incidental Take Permit. Any measures determined to be necessary through the Incidental Take Permit process to offset impacts to Crotch's bumble bee may supersede measures provided in this document and shall be incorporated into the habitat mitigation and monitoring plan.</p> <p>In the event that an Incidental Take Permit is needed, mitigation for direct impacts to Crotch's bumble bee shall be fulfilled through compensatory mitigation at a minimum 1:1 nesting habitat replacement of equal or better functions and values to those impacted by the project, or as otherwise determined through the Incidental Take Permit process. Mitigation shall be accomplished through on-site preservation of suitable habitat and/or in accordance with CDFW guidance for off-site locations. The funding source shall be in the form of an endowment to help the qualified natural lands management entity that is ultimately selected to hold the conservation easement(s). The endowment amount shall be established following the completion of a project-specific Property Analysis Record to calculate the costs of in-perpetuity land management. The Property Analysis Record shall take into account all management activities required in the Incidental Take Permit to fulfill the requirements of the conservation easement.</p>		