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Subject: De Anza Natural (Project), Draft Program Environmental Impact Report (DPEIR), SCH #2018061024

Dear Ms. Moore:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DPEIR from the City of San Diego (City) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted comments in response to the De Anza Revitalization Plan in 2016, the De Anza Cove Amendment to the Mission Bay Park Master Plan NOP in 2018, and the Notice of Preparation (NOP) of the DPEIR in 2022.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related activities that have the potential to adversely affect fish and wildlife resources. CDFW also oversees implementation of the Natural Community Conservation Planning (NCCP) program. The City of San Diego participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP) and Implementing Agreement (IA). The DPEIR for the proposed Project must ensure that all requirements and conditions of the SAP and IA are met. The DPEIR should also address any biological issues that are not addressed in the SAP and IA, such as specific impacts and

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.

mitigation requirements for sensitive species that are not covered by the SAP and IA. CDFW is also responsible for marine biodiversity protection under the Marine Life Protection Act in coastal marine waters of California and ensuring fisheries are sustainably managed under the Marine Life Management Act.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 *et seq.*)

PROJECT DESCRIPTION SUMMARY

Proponent: City of San Diego (City)

Project Site Plan:



Figure 3-1
 Site Plan

De Anza Natural Amendment to the Mission Bay Park Master Plan

(City of San Diego, De Anza Natural DPEIR, 2023)

Objective: The purpose of the Project is to revitalize De Anza Cove in accordance with, and as an amendment to, the Mission Bay Park Master Plan (MBPMP). The MBPMP recommends that the revitalization should serve regional recreation needs including: providing guest housing; contributing to the improvement of the park's water quality; creating additional wetlands; facilitating hydrological improvements to support marsh areas; providing a waterfront trail, viewing areas, and other recreational features for public use; and ensuring leaseholds support the Mission Bay recreational use. The Project will update the MBPMP to ensure consistency with the Climate Resilient SD Plan and account for sea level rise and climate change.

Project objectives identified by the City are below:

1. Provide equitable access to De Anza Cove and the coastal landscape for all San Diegans, particularly communities that have historically experienced barriers to access.
2. Foster opportunities for members of local Tribal nations to reconnect to De Anza Cove.
3. Incorporate climate adaptation strategies to increase resilience to climate change and mitigate potential sea level rise impacts.
4. Embrace responsibility and stewardship of the environment by restoring and safeguarding natural habitats within De Anza Cove.
5. Diversify active and passive recreational uses that will serve a range of interests, ages, activity levels, incomes, and cultures both on land and in water.
6. Enhance public access and connectivity within De Anza Cove and increase connections to the surrounding communities, including opportunities for multimodal travel.

Key project components are outlined below, and illustrated in Figure 3-1:

Kendall-Frost Marsh Reserve/Northern Wildlife Preserve (KFMR/NWP)

The Project proposes to enhance and restore the existing 86.8-acre KFMR/NWP, which consists primarily of vegetated wetland. The Project will expand the Preserve through creation of 30.7 acres of new wetlands at the former Campland site. An additional 109.8 acres of wetlands will be created around De Anza Cove, on the eastern portion of the current De Anza 'boot,' and along the outfall of Rose Creek.

De Anza Cove Area – North

The northern region of the Project site will contain active recreational facilities such as tennis and pickleball courts, a clubhouse, and athletic fields. Many of the existing recreational uses will be retained; however, the Mission Bay Boat and Ski Club will be relocated. A shared clubhouse and boat facility will be constructed on the northern shore of De Anza Cove, for use by non-motorized boats. The DPEIR indicates that additional opportunities for expanded recreational uses will be analyzed under a General Development Plan in the future.

De Anza Cove Area – South

The existing RV campground and mobile home park will be partially replaced with low-cost visitor accommodations, which will be developed adjacent to the eastern bank of Rose Creek, as well as on the western portion of the De Anza 'boot.' The 48.5-acre low-cost visitor accommodations will provide space for RV's, cabins, or other 'eco-friendly' accommodations

and facilities consistent with camping. The existing regional parkland will be enhanced with recreational amenities, including access to the multi-use path that connects the Project area to surrounding paths. Other potential amenities include “open green” areas, children’s play areas, parking lots, restrooms, and picnic shelters. A sandy beach area will run along the northern and western edges of De Anza Cove, adjacent to the low-cost visitor guest accommodation and boating use.

Environmental Education and Nature Interpretation Facility

A facility for environmental education and nature interpretation is proposed at one of two locations; one site is along Pacific Beach Drive within the KFMR/NWP, and the other site is along the northern shore of De Anza Cove, adjacent to the proposed boat facility and clubhouse.

Location: Mission Bay Park (Bay) is a 4,660-acre park within the City of San Diego. The 314-acre Project area is located in the northeast corner of Mission Bay and includes the following existing land uses: the KFMR/NWP, guest housing, athletic fields and tennis courts, a golf course, regional parkland, and the De Anza Cove Area, which is identified as the De Anza Special Study Area in the MBPMP. The KFMR/NWP area is partially within the Multi-Habitat Planning Area (MHPA) of the MSCP SAP.

Biological Setting: Mission Bay supports a wide variety of biological resources and habitats including diverse marine habitats, coastal salt marsh, and three terrestrial habitats: salt pan, coastal strand, and disturbed habitat (City, 1990). Mission Bay also hosts diverse avifauna, small mammals, reptiles, and habitat for avian feeding, resting, and breeding. The coastal salt marsh habitats improve the Bay’s water quality through bioremediation and filtering of pollutants and wastewater discharge.

Special-status wildlife species observed in the Project area include: light-footed Ridgway’s rail (*Rallus obsoletus levipes*; CESA- and federal Endangered Species Act (ESA)- listed endangered; California Fully Protected Species (FP)); Belding’s savannah sparrow (*Passerculus sandwichensis beldingii*; CESA-listed endangered); American peregrine falcon (*Falco peregrinus anatum*; FP); California least tern (*Sterna antillarum browni*; CESA- and ESA-listed endangered, FP); black skimmer (*Rynchops niger*; California Species of Special Concern (SSC)); black tern (*Chlidonias niger*; SSC); brant (*Branta bernicla*; SSC); California brown pelican (*Pelecanus occidentalis californicus*; FP); Clark’s marsh wren (*Cistothorus palustris clarkae*; SSC); common loon (*Gavia immer*; SSC); monarch butterfly (*Danaus plexippus*; ESA-candidate for listing); northern harrier (*Circus hudsonius*; SSC); redhead (*Aythya americana*; SSC); Southern California legless lizard (*Anniella stebbinsi*; SSC); and white-tailed kite (*Elanus leucurus*; FP). Two additional sensitive wildlife species were determined to have a high potential to occur in the Project area, but were not observed: northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*; SSC) and Mexican long-tongued bat (*Choeronycteris mexicana*; SSC). The Project area also contains suitable roosting and foraging habitat for additional common and sensitive bat species, including: hoary bat (*Lasiurus cinereus*), western red bat (*Lasiurus blossevillii*; SSC), western yellow bat (*Lasiurus xanthinus*; SSC), pallid bat (*Antrozous pallidus*; SSC), and western small-footed myotis (*Myotis ciliolabrum*).

Sensitive plants that were observed in the Project area include: Palmer’s frankenia (*Frankenia palmeri*; California Rare Plant Rank (CRPR) 2B.1), San Diego marsh-elder (*Iva hayesiana*; CRPR 2B.2), southwestern spiny rush (*Juncus acutus* ssp. *leopoldii*; CRPR 4.2), and California

seablite (*Suaeda californica*; ESA-listed Endangered; CRPR 1B.1). Two sensitive plant species were determined to have a high potential to occur in the Project area, but were not detected during biological resource surveys, including: estuary seablite (*Suaeda esteroa*; CRPR 1B.2) and Nuttall's acmispon (*Acmispon prostratus*; CRPR 1B.1).

Marine Biological Setting: Mission Bay is locally known for its bay, estuary, eelgrass, and shallow bay, important for fish and wildlife habitat. The Bay is also important nursery habitat for fish spawning, shelter, and foraging. The Bay includes large areas (i.e., 'beds') of eelgrass (*Zostera marina*, *Z. pacifica*), which is a sensitive marine habitat type and is important to many aquatic and nearshore species.

Alternatives Analysis: The four Project alternatives analyzed within the DPEIR include: 1) No Project/No Build Alternative; 2) Enhanced Wetlands/Optimized Parkland Alternative; 3) Resiliency Optimized Alternative; and 4) Wetlands Optimized Alternative. Excluding the No Project/No Build Alternative, the Enhanced Wetlands/Optimized Parkland Alternative was identified as the environmentally superior alternative in the DPEIR. Land uses proposed under each alternative by comparison to the Project are illustrated in the DPEIR Alternatives Analysis Figures and Tables Summary (Attachment A).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

I. Specific Comments

COMMENT #1: CEQA Document Tiering

Issue: Site-specific design elements and associated impact-specific mitigation are not analyzed in high resolution within the DPEIR, due to the programmatic nature of the document. The City plans to provide more specific analysis under a General Development Plan (GDP) process that will be based on consistency with the PEIR; however, will not require circulation of additional CEQA documents. The GDP process as described will not benefit from further public review and analysis under CEQA.

Specific impact: The DPEIR indicates that several aspects of the Project will be analyzed during future site planning efforts as part of one or more GDPs through a public process. Specific aspects to be analyzed under a GDP include the recreational and athletic facilities, parking areas, layout of the proposed boat facility, site-specific wetland design, and construction of the Interpretive Nature Center. Per the DPEIR, the GDPs will provide precise plans for construction and engineering for the recreational elements of the project. The GDPs will be analyzed by the City for consistency with the PEIR, to determine if the mitigation is adequate, or if additional mitigation is required.

The DPEIR states, "If, when examining future development actions in the project area, the City finds no new environmental effects could occur or no new mitigation measures would be required other than those analyzed and/or required in this PEIR, the City can approve the activity without additional environmental documentation. If additional analysis is required, it

can be streamlined by tiering from this PEIR pursuant to CEQA Guidelines, Sections 15152, 15153, and 15168 (e.g., through preparation of a Mitigated Negative Declaration, Addendum, or Supplemental or Subsequent EIR)” (PEIR, Section 1.4.1).

Why impact would occur: Site-specific analysis of biological impacts and specific mitigation for several aspects of the project is deferred. For instance, in the discussion of direct impacts to sensitive species and mitigation framework, the DPEIR states, “As future site-specific projects come forward, project-specific analysis would be required during the design and review phase of the project to ensure that any impacts to sensitive species are avoided, minimized, or mitigated as conditions of project approval prior to implementation” (DPEIR, Section 5.3.5.1.).

Additionally, in discussion of wetland impacts, the DPEIR states, “An analysis of the exact acreage of impacts that would occur to wetlands in the project area as a result of the project is not provided at the programmatic level because such analysis would be speculative in nature since future site-specific projects are not known at this time. In addition, due to new, but unspecified development and associated infrastructure (e.g., lighting) occurring adjacent to wildlife habitat and the MHPA, CDFW is unable to consider, and provide thorough comments, to ensure that detrimental indirect edge effects would not occur to sensitive species and habitats protected under the City’s SAP. As future site-specific projects come forward, project-specific analysis would be conducted in the review phase of the project, and any impacts to wetlands would be avoided, minimized, or mitigated as conditions of project approval prior to the implementation of the future site-specific projects” (DPEIR, Section 5.3.3.3.).

Absent specific details of impacts and mitigation for sensitive species and habitats, CDFW is unable to comment on the full breadth of environmental concerns and potential avoidance, minimization, or mitigation measures. While we appreciate additional public involvement through future site-specific GDPs, a PEIR-consistency approval process does not benefit from CEQA-level public review and analysis.

Evidence impact would be significant: CEQA Lead Agencies may elect to prepare a Program EIR as a high-level CEQA document addressing “...a series of actions that can be characterized as one large Project...” (CEQA Guidelines § 15168). Given the nature of a programmatic environmental document, CDFW acknowledges that the CEQA Lead Agency is not obligated to fully analyze subsequent activities for which insufficient data exists. However, CEQA findings of significance should only be made when those findings are supported by substantial evidence in the record (CEQA § 15091(b)).

Recommendation #1: We recommend that, for those aspects of the proposed Project that have not been fully studied, findings of significance should be set aside when certifying the PEIR until those aspects can be fully studied in a subsequent or supplemental CEQA document (see CEQA Guidelines §§ 15162 and 15163).

COMMENT #2: Wetland Design Elements and Habitat Classification

Issue: The DPEIR does not provide specific design elements of the proposed wetlands at the current Campland site, or around the De Anza Boot and De Anza Cove. Absent details

of the wetland design elements, CDFW is unable to comment on the adequacy of the proposed habitat creation.

Specific impact: The proposed Project includes 227.4 acres of wetland habitat, comprised of 86.8 acres of existing habitat at the KFMR/NWP, 30.7 acres of new wetlands at the former Campland site, and 109.8 acres of other new wetlands (DPEIR, Figure 3-1). The DPEIR indicates that the Project will, "...follow the MBPMP recommendation of replacing the existing Campland area with expanded marshland/habitat area, which would include a combination of mudflats, wetlands, and upland habitats. This area would be approximately 140.5 acres" (DPEIR, Page 3-3). Expanded marshland and habitat will also be created in the De Anza Cove area, "...composed of high-, mid-, and low-salt marsh areas, mudflats, and subtidal areas..." (DPEIR, Page 3-3). Acreage totals for each habitat type and topographic details of the design are not included in the DPEIR.

Why Impact would occur: In the discussion of aquatic and wetland communities, the BTRR includes open water, tidal channel, and eelgrass beds in the wetland classification, citing the Wetland Mitigation Ratio table in the City of San Diego Biology Guidelines (City of San Diego 2018, Table 2A). Mitigation Measure BIO-4 further analyzes impacts to eelgrass beds, proposing 2:1 mitigation in accordance with the City's Bio Guidelines. It is not clear in the DPEIR if the eelgrass mitigation sites, open water, and tidal channels are included in the acreage calculations for expanded marshland and wetland creation. The Final PEIR or subsequent CEQA document should include a table that summarizes acreages of each habitat type to be included in the created wetlands and expanded marshland habitat; eelgrass mitigation and new open water areas should be calculated separately from wetland creation acreages.

Evidence impact would be significant: The Mission Bay Park Master Plan (MBPMP, 1994) indicates that an 80+/- acre wetland habitat area is proposed west and south of the Rose Creek outfall, and contiguous with the Northern Wildlife Preserve.

Section 113.0103 of the San Diego Municipal Code defines wetlands as indicated below:

"Wetlands are defined as areas which are characterized by any of the following conditions:

1. All areas persistently or periodically containing naturally occurring wetland vegetation communities characteristically dominated by hydrophytic vegetation, including but not limited to salt marsh, brackish marsh, freshwater marsh, riparian forest, oak riparian forest, riparian woodlands, riparian scrub, and vernal pools;
2. Areas that have hydric soils or wetland hydrology and lack naturally occurring wetland vegetation communities because human activities have removed the historic wetland vegetation or catastrophic or recurring natural events or processes have acted to preclude the establishment of wetland vegetation as in the case of salt pannes and mudflats;
3. Areas lacking wetland vegetation communities, hydric soils and wetland hydrology due to non-permitted filling of previously existing wetlands;
4. Areas mapped as wetlands on Map No. C-713 as shown in Chapter 13, Article 2, Division 6 (Sensitive Coastal Overlay Zone)."

Recommendation #2: We recommend that the Final PEIR, or a subsequent CEQA document, provide specific details of the habitat types in the proposed wetland and marshland creation areas. Acreages for each habitat type such as open water, mudflat, low saltmarsh, mid-high saltmarsh, transitional habitat, and upland habitat should be identified. A summary table and detailed map should be included.

COMMENT #3: Climate Change Analysis

Issue: The DPEIR does not sufficiently incorporate climate resiliency into the Project design or include an analysis of how sea level rise will affect the proposed wetland habitat.

Specific impact: The DPEIR states, “the low-risk aversion projections for San Diego are 3.6 feet by the year 2100, and the medium-high risk projections are 7 feet by the year 2100... The project is a habitat restoration project with recreational amenities. Future planning efforts can consider phasing of adaptation strategies to account for uncertainty around timing and extent of sea level rise. With implementation of the project, De Anza Cove is expected to experience lowered levels of inundation and velocities by 2100 compared to if the area is left in its current state as a result of proposed wetland restoration activities, which would increase resilience to sea level rise and coastal flooding. Restored wetlands increase resilience by providing an increased opportunity for flood flows to be diverted into the new enhancement areas compared with existing impervious conditions” (DPEIR, Page 5.7-2). While the DPEIR discusses climate change in the context of tidal inundation resiliency for surrounding communities, it does not analyze how created wetland will be impacted by sea level rise.

Why impact would occur: Several climate change models illustrate that areas of De Anza will be subject to sea level rise, which may jeopardize the redevelopment of De Anza, absent major structural infrastructure. The existing and proposed wetlands and buffer habitats in Mission Bay are at particularly high risk for impacts from sea level rise.

Sea level rise is expected to have significant impacts on wetlands, which provide critical habitat for a number of ESA- and CESA-listed species. Climate modeling shows that impacts of sea level rise will be particularly severe in areas with low-lying, flat terrain, which are vulnerable to inundation and erosion. To ensure the long-term resiliency of the newly created wetlands, it is essential to consider the specific habitat types that are necessary to support the ecological functioning of wetlands. These habitat types include marshes, mudflats, and shallow subtidal zones (Neckles et al., 2002). Marshes provide habitat for a variety of plant and animal species, including salt-tolerant vegetation and important food sources for birds and fish. Mudflats are important feeding and resting areas for shorebirds and other waterfowl, while shallow subtidal zones are important for shellfish, crabs, and other benthic organisms.

The Project design should aim to create resilient marsh habitats that can adapt to changing sea levels. In addition to ensuring that these habitat types are represented in Project design, it is critical to factor in the projected sea level rise for 2100, based on current climate modeling. It is important to design wetlands with transitional habitat, a buffer zone, and an elevation gradient that can accommodate sea level rise and maintain the essential habitat types.

Evidence impact would be significant: The City's Climate Change Vulnerability Assessment (City of San Diego, 2020) categorizes conservation areas/open space/source water land as having the highest vulnerability to sea level rise and storm surge. The assessment acknowledges the important habitat value and ecosystem services provided by City parks and natural areas, including climate control, flood prevention, nutrient cycling, and provisioning of clean air and water. In discussion of sea level rise, the Vulnerability Assessment states, "Conservation areas could experience damage or significant alteration if exposed to chronic flooding. The changes to ecosystems that come with sea level rise impacts—changes in sediment, nutrient availability, and salinity—could lead to shifts in habitat locations and may cause certain habitats to shrink or disappear (ICLEI, 2017). Species (including endangered species) may become locally extirpated if certain habitats in conservation areas and parks are lost (Consultation with City of San Diego Parks and Recreation Department, 2019)" (City of San Diego, 2020).

Recommendation #3: We recommend that the Project design include resilient marsh habitats that can adapt to changing sea levels. Transitional habitat, buffer zones, and climate-resilient elevation gradients should therefore be incorporated. The PEIR should include an analysis of habitat changes and adaptations over time in response to rising sea levels, projected out to 2100, based on current climate models. Additionally, the Project Alternatives should consider the effects of potential sea level rise and climate change on marine habitat modifications, created wetlands, and created upland habitat, based on climate modeling and the City's Climate Change Vulnerability Assessment. Analysis should include discussion of infrastructure and long-term maintenance, type conversion of habitats, and describe how the Project is congruent with the Climate Resilient SD Plan.

COMMENT #4: Wetlands Optimized Alternative Inadequacy

Issue: The Wetlands Optimized Alternative in the DPEIR does not demonstrate that 80-acres of wetland will remain after sea level rise in the year 2100.

Specific impact: The MBPMP identifies establishment of an 80-acre wetland area at the outfall of Rose Creek as a key environmental recommendation (MBPMP 1994). Funding was secured through a Supplemental Environmental Project (SEP) grant negotiated between the City and the Regional Water Quality Control Board (RWQCB; R9-2020-0150 SEP), for inclusion of an additional Project alternative which would expand habitat restoration opportunities. The SEP requires that the alternative, "...maximize implementable wetland restoration reflective of existing feasibility studies for Mission Bay..." (California Regional Water Quality Control Board, 2020). The SEP also requires that the alternative result in establishment of 80 acres of, "additional functional wetlands (low-mid-high wetland/salt marsh and mudflats), in addition to the Kendall-Frost Marsh/Northern Wildlife Preserve, at the Year 2100 based on current models utilized by the City for sea level rise projections" (California Regional Water Quality Control Board, 2020).

In accordance with the SEP requirements, the City incorporated and analyzed the Wetlands Optimized Alternative in the DPEIR. A table comparing the proposed land uses of the proposed Project versus the Wetlands Optimized Alternative is below, along with a Figure depicting the alternative:

Table 8-1. Comparison of Wetlands Optimized Alternative to the Proposed Project		
Land Use	Wetlands Optimized Alternative (acres)	Proposed Project (acres)
KFMR/NWP	86.8	86.8
Expanded Marshland/Habitat	164.1 ¹	140.5
Upland Habitat (Dune, Sage) and Buffer Area	46.1	37.4
Low-Cost Visitor Guest Accommodations	27.4	48.5
Regional Parkland	30.8	26.3
Boat Facilities/Clubhouse	2.9	2.6
Interpretive Nature Center (1 Location) ²	—	—
Potential Water Lease ³	1.2	2.1
Active Recreation	49.9	60.1
Open Water	93	95.9
Open Beach	2.3	5.5
Road ⁴	1.9	1.6
Total	505.2	505.2

Notes: KFMR/NWP = Kendall-Frost Marsh Reserve/Northern Wildlife Preserve

¹ Expanded wetlands includes 31.1 acres currently occupied by Campland and 133 acres of other new wetlands.

² Area for the Interpretive Nature Center has not been determined, and programming for the center is assumed to occur after adoption of the amendment as part of a future GDP.

³ Potential Water Lease areas on the plan are diagrammatic. The intent is not to overlap with Open Beach.

⁴ Service roads, vehicular access, and parking would be in areas proposed for low-cost visitor accommodations, regional parkland, and active recreation, subject to future design.



Figure 8-1

Wetlands Optimized Alternative

De Anza Natural Amendment to the Mission Bay Park Master Plan

Why impact would occur: Although the Wetlands Optimized Alternative expands opportunities for wetland and upland creation, it does not incorporate climate modeling to illustrate how sea level rise will affect the created wetlands through the year 2100. Both the proposed Project and the Wetlands Optimized Alternative should include an analysis of how the created wetlands will change over time given current climate projections and demonstrate how 80 acres of functional wetlands would remain under projections through

2100. Transitional habitat should be incorporated, to allow for adaptation and habitat type conversion as sea levels rise.

Evidence impact would be significant: SEP funding required a detailed analysis of an expanded restoration alternative within the PEIR, to include projections to 2100 based on current climate models. Per the Revised Project Application, “The expanded restoration alternative would increase the acres of wetlands and associated transitional zones and uplands to be created and restored in Northeastern Mission Bay, converting the southern portion of the De Anza 'boot' and the De Anza Bay to wetlands. The expanded wetland alternative would maximize implementable wetland restoration reflective of existing feasibility studies for Mission Bay and will provide diverse beneficial uses. This alternative would result in the establishment of 80 acres of additional functional wetlands (low-mid-high wetland/salt marsh and mudflats), in addition to the Kendall-Frost Marsh/Northern Wildlife Preserve, at the Year 2100 based on current models utilized by the City for sea level rise projections” (California Regional Water Quality Control Board, 2020).

Recommendation #4: The Wetlands Optimized Alternative shall be further analyzed to demonstrate how 80 acres of additional functional wetland will remain in 2100, given sea level rise under current climate projections, to satisfy the requirements of the SEP funding. Additionally, to meet the SEP requirement to, “...maximize implementable wetland restoration reflective of existing feasibility studies for Mission Bay,” the alternative should incorporate feasible design elements that were studied as a component of Audubon’s ReWild Mission Bay. For instance, the ReWild Mission Bay Feasibility Study proposed three restoration alternatives (‘Wild’, ‘Wilder’, and ‘Wildest’), which each incorporated subtidal, mudflat, low salt marsh, mid-high salt marsh, and transitional/upland habitat types, in addition to passive and active recreation areas with buffers. The habitat types were analyzed for sensitivity to sea level rise over time, projected to the year 2100 based on climate modeling.

We continue to encourage the City to incorporate native habitat along the entire De Anza peninsula. The marsh habitat associated with the Northern Wildlife Preserve (including the Kendall-Frost Reserve) serves an important regional resting, feeding, and migratory stop within the Pacific Flyway, and also acts as a significant bioremediation tool to improve water quality—a key focus of the MBPMP and the Mission Bay Natural Resources Management Plan (City of San Diego, 2002 and 1990 respectively). The City’s planning documents have long recognized the mutual benefits that improved water quality offer public recreation and habitat values in specifically stating that the De Anza Special Study Area (SSA) “...shall not be developed to the detriment of existing and/or future adjacent habitat areas. Foremost in consideration should be the extent to which the SSA can contribute to the Park’s [Mission Bay Park] water quality. In fact, additional wetlands creation *must be considered* [emphasis added] as part of the SSA.” (City, 2002, p. 53). Given the range of alternatives analyzed in the DPEIR, CDFW supports the Wetlands Optimized Alternative, as it maximizes wetland restoration along the De Anza Boot.

COMMENT #5: Pile Driving and Sound Criteria

Issue: Project construction activities within the waters of Mission Bay could result in the generation of sound exposure levels (SELs) that may have a direct or indirect impact on marine species within the Project area.

Specific Impact: Noise generated from impact pile driving may have adverse effects on marine mammals, fish, and other marine organisms from physiological and/or behavioral changes.

Why impact would occur: Projects that involve pile driving in or near water can contribute to increased underwater sound pressure levels in marine environments, resulting in potential impacts to marine species that range from alteration of behavior to physical injury or mortality. The pile type and size, depth of water, distance, substrate, and hammer size can all greatly influence the magnitude of potential impacts from underwater sound pressure on fish and other marine species. Additionally, fish and other marine species differ in regard to their sensitivity to underwater sound pressure. Some species are particularly sensitive to sound, possessing specialized structures and sensory systems to detect and use sound to direct their activities and respond adaptively to their environment. Smaller fish are generally more susceptible to physical injury from sound than larger fish; however, larger fish are generally more susceptible to temporary threshold shift than smaller fish. In 2008, the Fisheries Hydroacoustic Working Group determined that avoidance and minimization measures should be implemented to reduce impacts to marine species for any pile driving activity that has the potential to result in an underwater peak sound pressure level (SPL) that exceeds 206 dB.

Evidence impact would be significant: Mission Bay is inhabited by sensitive marine species that may be indirectly impacted by potentially significant high sound and vibration levels during the Project's construction activities. For assessing sound pressure wave impacts to fish from pile driving, CDFW relies on guidance from the Fisheries Hydroacoustic Working Group to set safe SPL criteria (FHWG 2008). The criteria include a peak SPL of 206 dB and a cumulative SEL level of 187 dB for fish two grams and heavier or a cumulative SEL of 183 dB for fish lighter than two grams. Additional information on in-water sound level criteria can be found at: <https://dot.ca.gov/programs/environmental-analysis/biology/hydroacoustics>.

Recommendation #5: CDFW recommends using a vibratory hammer for pile driving to the greatest extent feasible, or an alternative technology that produces the least amount of noise. If an impact hammer must be used (e.g., due to pile material, refusal at bedrock) as the Pre-Construction Hydroacoustic Study mitigation measure (MM BIO 5.3-6) proposes, multiple minimization measures are needed to reduce sound levels. CDFW recommends the following:

- A wood, or similar material, cushion block should be used between the pile and hammer during all pile driving using an impact hammer.
- To further reduce hydroacoustic impacts to fish and marine mammals, a bubble curtain should be used to the greatest extent feasible during all impact pile driving to reduce sound below levels that have been shown to cause injury and/or mortality.
- A sound attenuation and monitoring plan should be submitted to the resource agencies for review and approval prior to initiating pile driving activities.

COMMENT #6: Sensitive Marine Fish and Invertebrate Species

Issue: Potential impacts to marine fish and invertebrate species, including both commercially and recreationally important species, were not identified in the Draft PEIR.

Specific Impact: In-water construction or wetland creation/restoration construction activities in Mission Bay may have a direct impact on many important commercial and recreational fish and invertebrate species that use the Project area for breeding, shelter, spawning, and foraging.

Why impact would occur: The Draft PEIR notes that there are potential direct impacts to eelgrass beds, a sensitive habitat type and important nursery habitat for fish species, resulting from the burial or excavations/dredging, placement of fill material, and pile driving within Mission Bay. Many fish and invertebrate species inhabit the eelgrass bed and open subtidal Mission Bay habitats within or adjacent to the proposed Project. These species and their habitats are vulnerable to direct and indirect dredging, excavation, fill, burial, turbidity, and sedimentation impacts.

Evidence impact would be significant: The Project's construction activities may have unavoidable impacts to existing sensitive marine fish and wildlife and associated marine habitats that are managed. For example, the placement of fill material from the proposed Project may displace marine fish such as the California halibut (*Paralichthys californicus*), which is an important recreational species in southern California and commercially-fished species among the state-managed fisheries.

Recommendation #6: CDFW recommends that potential impacts to marine fish and invertebrate species, including both commercially and recreationally important species, should be identified and analyzed in the Final PEIR. Any significant impacts to marine fish and invertebrate species should be disclosed in the Final PEIR and avoided and minimized to below a level of significance. A list and description of fish species in the Bay may be found on Marine Bios (<https://wildlife.ca.gov/Conservation/Marine/GIS/MarineBIOS>). Fish and invertebrate species which should be addressed include but are not limited to:

- California spiny lobster (*Panulirus interruptus*)
- California halibut (*Paralichthys californicus*)
- Leopard shark (*Triakis semifasciata*)
- Barred sand bass (*Paralabrax nebulifer*)
- Spotted sand bass (*Paralabrax maculatofasciatus*)
- Calico bass (*Paralabrax clathratus*)
- Black croaker (*Cheilotrema saturnum*)
- Yellowfin croaker (*Umbrina roncador*)
- Spotfin croaker (*Roncador stearnsii*)
- White croaker (*Genyonemus lineatus*)
- California corbina (*Menticirrhus undulatus*)
- Shovelnose guitarfish (*Rhinobatos productus*)
- Shortfin corvina (*Cynoscion parvipinnis*)

II. Mitigation Measure and Related Impact Shortcoming

COMMENT #7: Mitigation Measure BIO 5.3-1 (MM BIO 5.3-1), Sensitive Plants

Section 5.3.5, Page 5.3-20

Issue: The DPEIR does not provide sufficient evidence to support the feasibility of the proposed mitigation for sensitive plant species in MM BIO 5.3-1.

Specific impact: Three sensitive plant species have been observed or determined to have a high potential to occur within the Project area: Palmer's frankenia (CRPR 2B.1), San Diego marsh-elder (CRPR 2B.2), and California seablite (ESA-listed Endangered; 1B.1).

The DPEIR proposes MM BIO 5.3-1 to reduce potential direct impacts to the species to less than significant. The measure includes focused sensitive plant surveys in suitable habitat for California seablite, Palmer's frankenia, and estuary seablite, prior to site-specific Project approval. Direct impacts to sensitive plant species will be avoided where feasible. However, the DPEIR states:

"If significant impacts to these species are unavoidable, the take of these species shall be reduced to a less than significant level through implementation of one or a combination of the following actions: in accordance with a City of San Diego approved Conceptual Restoration Plan or acquisition of mitigation credits:

- Impacted plants shall be salvaged and relocated to suitable habitat in the on-site restoration area in Kendall-Frost Marsh Reserve/Northern Wildlife Preserve within the Multi-Habitat Planning Area boundary, if possible. If relocation to this site is not practical, the plants shall be relocated off-site to an appropriate (nearby) location determined by a qualified biologist.
- Seeds from impacted plants shall be collected for use at a local off-site location.
- Off-site habitat that supports the species impacted shall be enhanced and/or supplemented with seed collected on site.
- Comparable habitat at an approved off-site location shall be determined by a qualified biologist and preserved for relocation, enhancement, or transplant of the impacted sensitive plants.

Mitigation that involves relocation, enhancement, or transplant of sensitive plants shall include all of the following:

- Conceptual planting plan prepared by a qualified biologist including grading and, if appropriate, temporary irrigation;
- Planting specifications and fencing and signage to discourage unauthorized access of the planting site;
- Monitoring program including success criteria; and
- Long-term maintenance and preservation plan"

Translocation plans should be provided to CDFW for review and comment, and for concurrence on the success criteria and remedial measures in the event the restoration is not successful.

CDFW generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to species, as studies have shown that these efforts are experimental in nature and largely unsuccessful. Should the City pursue these methods as mitigation for sensitive plant species, the final PEIR should provide strong evidence to demonstrate the feasibility of the proposed mitigation.

Why impact would occur: Transplantation has been shown to have limited success in establishing rare plants at new locations. A study by CDFW (Fiedler, 1991) found that, even under optimal conditions, transplantation was effective in only 15% of cases studied. Other reviews (e.g. Allen, 1994; Howald, 1996) identified similar issues: digging up, transporting, and replanting plants, bulbs, rhizomes, or seeds imposes stress on plants, which can lead to mortality; scientifically tested, reliable methods for salvage, propagation, translocation, or transplantation are not available for many rare species; areas where the impacted taxon is already present are often at the carrying capacity for the habitat, and introduction of transplanted individuals will disrupt the equilibrium of the population and will not increase the vitality of the taxon.

Evidence impact would be significant: As indicated in the DPEIR and per the City of San Diego Biology Guidelines, direct impacts to non MSCP-covered federal- and/or state-listed plant species, non MSCP-covered CRPR 1B.1, 1B.2, or 2B.2 species, or covered species in the MHPA are considered significant. Mitigation measures included in the PEIR must be both feasible and enforceable (CEQA Guidelines § 15126.4). Absent sufficient mitigation, impacts to California seablite would also be considered significant pursuant to the federal Endangered Species Act.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)

Mitigation Measure #1: To reduce impacts, the final PEIR shall provide evidence (e.g. scientific literature, monitoring reports documenting species-specific transplantation success) that the proposed mitigation will be feasible. The Conceptual Planting Plan and Long-term Maintenance and Preservation Plan shall be prepared by a biologist with expertise in southern California ecosystems and native plant restoration techniques and submitted to the Wildlife Agencies for review and approval prior to implementation. The Plans shall discuss the following, at a minimum: 1) species-specific planting (i.e. container or seed) methods; 2) species-specific measurable goals and success criteria (e.g. number of individuals, percent survival rate, absolute cover) for establishing self-sustaining populations; 3) long-term monitoring; 4) location of transplantation/restoration sites; 5) a description of the irrigation methodology; 6) measures to control exotic vegetation; 7) contingency measures, should the success criteria not be met; and 8) conservation of the mitigation site in perpetuity. The Long-term Maintenance and Preservation Plan shall specify how it will be implemented, who the responsible party for overseeing the implementation is, and when it will be approved. Further coordination with USFWS may be necessary to ensure that proposed mitigation for the ESA-listed California seablite is adequate.

COMMENT #8: Mitigation Measure BIO 5.3-2 (MM BIO 5.3-2), Bats

DPEIR, Section 5.3, Page 5.3-2

Issue: Mitigation Measure BIO 5.3-2 does not adequately avoid or mitigate impacts to special-status bat species with the potential to roost or forage on the Project site.

Specific impact: Ornamental trees and structures in the Project area provide suitable roosting habitat for four Species of Special Concern (SSC), which are not covered species under the MSCP: western red bat, western yellow bat, pallid bat, and Mexican long-tongued bat. Common species hoary bat and western small-footed myotis may also roost in the trees. The ornamental trees are located in the Campland area, De Anza Cove, and the Mission Bay Tennis Center, Athletic Fields, and Golf Course (MBTAG) in the central and eastern areas of the Project site. The abandoned structures and mobile homes within De Anza Cove provide suitable roosting habitat for Mexican long-tongued bat and other structure-dwelling bats. Mexican long-tongued bats may use the vegetation for foraging during migration and winter months; pallid bat and western small-footed myotis may forage over open water in the Project area (BRTR 5.4.7, P. 80). The BRTR indicates that bat guano was observed in the abandoned mobile homes during the October 2022 biological resource surveys, but no nighttime focused acoustic surveys were conducted. The BRTR acknowledges that bats are likely roosting and foraging in the suitable habitat within the Project area.

Section F of MM BIO 5.3-2 addresses structure clearance and states:

“Prior to the issuance of any permit to allow for the removal or demolition of trees and existing structures within the project area (particularly the ornamental trees and existing buildings in Campland on the Bay, De Anza Cove, and the Mission Bay Tennis Center, Athletic Fields, and Golf Course), the qualified monitoring biologist shall conduct clearance surveys to flush out any wildlife species nesting, roosting, or otherwise occupying the trees or structures. If wildlife species are encountered within any of the trees or structures (outside the general bird nesting season), the qualified monitoring biologist shall remove them, if possible, or provide them with a means of escape and allowed the species to disperse. If tree-roosting bats are suspected, slow removal by gently pushing the tree over with heavy equipment is required.”

As written, MM BIO 5.3-2 does not adequately avoid, minimize, or mitigate potential impacts to special-status bats.

Why impact would occur: Direct impacts to roosting bats will occur from removal of ornamental trees and structures within the Project site that host roosting bat colonies. Flushing bats from active roosting habitats and downing trees that are being used for roosting may crush bats, cause disruption of maternal colonies, and result in a decline of breeding success. Indirect impacts could occur from removal of foraging habitat, human interference, light disturbance, or construction noise.

Evidence impact would be significant: As per CEQA Section 15380, impacts to species identified as California Species of Special Concern are considered significant due to their designation as species requiring special attention and protection. These species are

recognized by CDFW as being at risk or vulnerable. Impacts to species listed as endangered, threatened, or rare by federal or state agencies, such as those designated as California Species of Special Concern, are presumed to be significant impacts under CEQA (CEQA §§ 15063 & 15065). Any adverse effects on these bat species would be presumed to have significant environmental impacts and would require thorough analysis and mitigation measures implemented within the PEIR to minimize or avoid such impacts.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #2: To reduce potential impacts to special-status bat species to less than significant, the following protocol shall be incorporated into the PEIR:

1. An initial bat survey shall be conducted by a qualified bat biologist during the maternity season (March 1 to August 31) to confirm if any maternity colonies have been established within the Project site. Survey protocol should include a combination of suitable habitat inspection and sampling, as well as at least one evening emergence and acoustic survey. Any ground disturbance or removal of vegetation/suitable roosting habitat should be conducted no more than three days after pre-construction surveys are completed. Furthermore, eviction of any bats found day-roosting during the maternity season should be avoided.

2. If an active roost is identified during maternity season, CDFW requests the opportunity to review any mitigation and exclusion plans for concurrence prior to implementation. Removal of the roost should only occur outside of the maternity season, when the mitigation plan has been approved by CDFW, and only when bats are not present in the roost. The mitigation plan should detail the methods of excluding bats from the roost and the plans for a replacement roost in the vicinity of the Project site.

The plan shall include: (a) a description of the species targeted for mitigation; (b) a description of the existing roost or roost sites; (c) methods to be used to exclude the bats if necessary; (d) methods to be used to secure the existing roost site to prevent its reuse prior to removal; (e) the location for a replacement roost structure; (f) design details for the construction of the replacement roost; (g) monitoring protocols for assessing replacement roost use; (h) a schedule for excluding bats, demolishing of the existing roost, and construction of the replacement roost; and (i) contingency measures to be implemented if the replacement roosts do not function as designed.

3. If special-status bat species or a maternity roost of any bat species is present, but no direct removal of active roosts will occur, specific avoidance measures should be determined by the bat biologist, which may include implementation of a construction-free buffer around the active roost. Combustion equipment such as generators, pumps, and vehicles should not be parked or operated under or adjacent to the roost habitat. Vibration and noise should be avoided, and personnel should not be present directly under the colony.

4. If the pre-construction survey determines that no active roosts are present, then trees/suitable habitat should be removed within three days following the pre-construction survey. All potential roost trees should be removed in a manner approved by a qualified

bat biologist, which may include presence of a biological monitor. Additionally, all construction activity in the vicinity of an active roost should be limited to daylight hours.

COMMENT #9: Mitigation Measure 5.3-4, Native Eelgrass Impacts

Issue: Impacts to eelgrass (*Zostera Marina*, *Zostera pacifica*), highly productive habitat forming species, shall be avoided and minimized to the maximum extent practicable to achieve a no net loss of eelgrass habitat function.

Specific Impact: The Draft PEIR has identified eelgrass as a species that is found within the Project area where the burial or excavations/dredging, placement of fill material, and pile driving impacts may occur. Additionally, significant impacts may occur to associated eelgrass ecological communities such as benthic and epibenthic invertebrates, fish, and marine birds.

Why impact would occur: Eelgrass beds are considered sensitive habitat types and the Project has potential direct impacts to eelgrass beds resulting from the burial or excavations/dredging, placement of fill material, and pile driving within Mission Bay. Additionally, impacts to eelgrass beds result in direct or indirect impacts to a variety of marine species that inhabit the beds. For example, the California spiny lobster (*Panulirus interruptus*) may utilize the open subtidal Bay habitats within or adjacent to the proposed Project and use eelgrass for shelter which is present throughout the shallow area of the Bay. This species and their habitat are vulnerable to direct and indirect dredging, excavation, fill, burial, turbidity, and sedimentation impacts.

Evidence impact would be significant: Native eelgrass species create large beds beneficial for fish habitat and have been identified as a special aquatic site and given protections by the Clean Water Act. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) identifies eelgrass as a Habitat Area of Special Concern. Additionally, the importance of eelgrass protection and restoration, as well as the marine ecological benefits of eelgrass, is identified in the California Public Resources Code (PRC §35630). CDFW uses the California Eelgrass Mitigation Policy (CEMP) (NOAA 2014), developed by the National Marine Fisheries Service (NMFS), for guidance on identifying eelgrass impacts, eelgrass mitigation measures and compensation, and for identifying appropriate eelgrass mitigation and donor sites.

Recommended Potentially Feasible Mitigation Measures

Mitigation Measure #3: While CDFW appreciates the Eelgrass Beds Creation mitigation measure noted in the Draft PEIR (Mitigation Measure 5.3-4), CDFW disagrees that the remaining 1:1 creation mitigation required for eelgrass beds habitat may occur outside Mission Bay, if necessary. Since in-kind mitigation is the preferred option to compensate for impacts to eelgrass, CDFW recommends that all mitigation for eelgrass impacts should be in-kind mitigation in Mission Bay to the greatest extent feasible.

Contaminated or high silt and organic content sediments should not be placed in the marine environment that are not compatible with existing native sediment. High silt content sediments may cause marine soft substrates to be compacted and unsuitable for sustained growth of eelgrass and intertidal and subtidal benthic and epibenthic invertebrates.

Compatible sediments are required for healthy marine invertebrate habitat needed for forage of the higher trophic levels such as fish and shorebirds. CDFW recommends using compatible sediments when placing fill material in Mission Bay.

CDFW recommends that plans should be developed to avoid and minimize potential impacts to eelgrass to the maximum extent feasible since eelgrass beds or patches are identified within or adjacent to the Project area. The proposed Project should avoid and minimize disturbance and damage or losses to eelgrass beds from placement of material fill, pile driving, potential shading from construction activities or new structures, and from associated barges and vessels to the maximum extent feasible. Impacts to avoid and minimize may include, at a minimum, barge shading and anchoring within eelgrass habitat, pile driving and pile pulling bottom disturbances, demolition and construction turbidity, sedimentation, and falling debris. CDFW recommends the following should eelgrass beds or patches be identified within or adjacent to the Project area:

- To avoid direct eelgrass impacts, locate pile driver barges and vessels and all barge anchoring outside of eelgrass habitat.
- To avoid scouring of eelgrass and potential eelgrass habitat, anchor chain designs, and locations of barge and vessel moorings should avoid eelgrass habitat impacts.
- To avoid and minimize eelgrass impacts from demolition and construction debris, the City of San Diego should use Best Management Practices (BMPs) such as perimeter debris booms. If debris is observed falling into the Mission Bay water, retrieve debris as soon as possible.
- To minimize eelgrass impacts from water turbidity and sedimentation, install silt curtains around pile driving or demolition areas if applicable. Restrict the turbidity plumes to the smallest possible area during all phases of in-water construction.

Additionally, if eelgrass habitat is identified in the Project area, comprehensive pre- and post-construction surveys for eelgrass beds or patches should be conducted consistent with the CEMP and a map of the existing eelgrass wetland habitat should be provided in the Final PEIR. If any unavoidable eelgrass impacts occur, these impacts should be compensated using guidance described within the CEMP. Indirect eelgrass impacts such as shading from new piles should also be avoided. Since pile driving work conducted outside of the peak eelgrass growing period may reduce shading impacts when eelgrass beds may have died back, pile location and time of year for pile driving should be considered to avoid eelgrass and other fish and wildlife impacts generated by pile driving. If expected eelgrass losses are unavoidable, the City of San Diego should use guidance from the CEMP to compensate for the losses. Final eelgrass losses should be determined after construction and eelgrass impact monitoring surveys are complete. Draft pre-construction eelgrass Mitigation, Monitoring, and Reporting Plans (Plan) should be developed in consultation with CDFW and other permitting and resources agencies. Minimum Plan elements should include:

- Prior to construction, a draft mitigation Plan should be developed based on updated eelgrass surveys. The Plan should be finalized along with the final eelgrass impacts analysis once post-construction and impacts monitoring surveys are completed.

- The Plan should include a summary of eelgrass habitat impacts. The summary should include conservation measures for eelgrass avoidance, minimization, and eelgrass compensatory mitigation if necessary.
- If compensatory mitigation is required for eelgrass impacts, mitigation ratios should be determined, at a minimum, in accordance with the CEMP, and as recommended by CDFW and other agencies.
- The Plan should identify CDFW as an agency to receive and review draft and final eelgrass mitigation and monitoring reports, surveys, and plans.
- If eelgrass harvesting and transplanting is proposed, healthy eelgrass donor sites should be identified during preliminary eelgrass impact surveys or during separate pre-harvest eelgrass donor site surveys.

If eelgrass harvest and transplanting is required for mitigation, a Scientific Collecting Permit (SCP) from CDFW will be required prior to harvest and transplanting activities. The SCP may include permit conditions such as donor eelgrass surveys, submittal of an eelgrass harvest and transplant plan, limits on number of turions collected, methods for collection and transplanting, notification of activities, and reporting requirements. Please visit CDFW's SCP webpage for more information: <https://wildlife.ca.gov/Licensing/Scientific-Collecting>.

An eelgrass mitigation site is located just south of the Project footprint. The mitigation site was created to mitigate for eelgrass impacts related to the Mission Bay Navigational Channel Dredging Project completed three years ago. This eelgrass mitigation site should be identified and addressed in the Final PEIR. Avoidance and minimization measures should be proposed for the eelgrass mitigation site.

III. Additional Comments and Recommendations

COMMENT #10: Recreational Use

a) Recreation: Several habitat design elements in the Project description incorporate recreational use. The DPEIR states, "The intent of the expanded wetlands is to provide a natural environment for recreation, mitigate for other disturbed environments, and benefit wildlife" (DPEIR, Page 3-4). Additionally, a multi-use path is proposed through the upland (dune, sage) and buffer habitat areas, as depicted in Figure 3-1.

Recommendation #7: Development of trails within native habitat areas should be analyzed within the PEIR for potential habitat edge effects. Trail and path development footprints should be excluded from acreage calculations for upland habitat. Recreational activities in wetlands should be limited only to activities that will not disturb wildlife, particularly special-status birds, or activities for scientific/education purposes. The PEIR should discuss what activities will be allowed, what areas will be open for public access as opposed to activities more limited in their occurrence as may be allowed by special approval by the City, and how regulations will be enforced.

b) Camping: The DPEIR states, "The project would place low-cost visitor guest accommodation use on the eastern side of Rose Creek, buffered by upland vegetation. This land use would allocate approximately 48.5 acres for RV's, cabins, or other eco-friendly accommodations and associated open space and facilities consistent with camping

accommodations.” As indicated in prior letters (CDFW 2018 and 2022), CDFW does not consider RV camping to be a passive recreational use and must be considered as producing a direct impact to the MHPA. The MBPMP states, “The SSA [Project area] shall not be developed to the detriment of existing and/or future adjacent habitat areas. Foremost in consideration should be the extent to which the SSA can contribute to the Park’s water quality. In fact, additional wetlands creation must be considered as part of the SSA.” The PEIR should discuss how natural resources adjacent to the low-cost visitor accommodations will be affected by RV and active recreational use.

Recommendation #8: CDFW recommends that the PEIR analyze the proposed low-cost guest housing and RV use on the De Anza peninsula as an active recreational use and discuss how surrounding natural habitat will be impacted. To maximize habitat values and improve water quality, we continue to recommend that commercial and other land use developments be strategically located farthest away from sensitive resources to include wetlands and open waters.

c) Watercraft: The DPEIR indicates that a boat facility and shared clubhouse will be constructed on the northern shore of De Anza Cove, with 1 acre of water use for non-motorized boats. The DPEIR states that the sandy beach area at the northern and western edges of De Anza Cove will be, “protected by buffers/safety measures that would delineate the edges/ extents of the non-motorized boat use” (DPEIR Section 3.3.1.1., Page 3-4). While we appreciate limitation of De Anza Cove to non-motorized watercraft, the DPEIR should include further discussion of measures to prohibit motorized watercraft from entering De Anza Cove, particularly adjacent to the created wetlands.

As addressed in our comment letter in response to the NOP (CDFW, 2022), CDFW recommends that De Anza Cove be limited to non-motorized watercraft and swimming uses only. Allowing motorized watercraft activities in De Anza Cove risks damage to the proposed eastern wetlands, resulting from boats operating close to, or directly in, wetland areas. Noise from motors may also disturb nesting or foraging avian species. Indirect impacts to the wetlands could occur from pollution and increased turbidity caused by motorized watercraft. Motorized watercraft access currently exists just east of the Project boundary at the De Anza Boat Launch.

Recommendation #9: CDFW recommends that the DPEIR elaborate on the specific buffers/safety measures that will delineate the non-motorized boat use area, and include discussion on what measures will be taken to ensure that motorized watercraft do not enter De Anza Cove.

COMMENT #11: Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment (BLA)

The PEIR indicates that no Multiple Habitat Planning Area (MHPA) boundary line adjustments (BLA) are anticipated as part of the Project; however, the City may decide to process a BLA to add the natural habitat creation and restoration areas to the MHPA in the future. CDFW recommends that the City consult with the Wildlife Agencies (CDFW and United States Fish and Wildlife Service (USFWS)) to resolve any proposed BLA prior to the circulation of the Final PEIR.

Recommendation #10: To ensure consistency with the MSCP’s conservation goals and objectives, the Final PEIR should provide full disclosure and functional equivalency analysis of the proposed BLA per Sections 1.1.1 and 5.42 of the MSCP SAP (City of San Diego 1997). The Wildlife Agencies will need to agree and provide written concurrence for the requested BLA after we have had the opportunity to review all information provided by the City. When evaluating a proposed BLA and habitat equivalency assessment, the Wildlife Agencies generally consider the following biological goals:

- No net loss of MHPA acreage;
- No net reduction of higher sensitivity vegetation communities (i.e., Tier I, II, IIIa and IIIb);
- Net impacts/conservation of covered species resulting from the BLA;
- Net impacts/conservation of covered non-covered sensitive species resulting from the BLA; and
- Landscape configuration to minimize edge effects and maintain connectivity of the MHPA (i.e., net effects to ‘Preserve Design’)

COMMENT #12: Jurisdictional Delineation and 1600 Notification

A program-level jurisdictional delineation was conducted to determine the extent of wetlands and non-wetland waters under the jurisdiction of CDFW and other jurisdictional agencies. CDFW is included as a jurisdictional agency in Table 10 of the BRTR, which provides a summary of aquatic resources potentially under the jurisdiction of the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), California Coastal Commission (CCC), CDFW, and/or the City. The jurisdictional aquatic resources are also summarized in Table 2-5 in the DPEIR; however, CDFW is not included on the list of jurisdictional agencies:

Table 10. Jurisdictional Aquatic Resources in the Project Area (Acres)

General Vegetation Type	SDBG Vegetation Community	Jurisdiction	Acreage
Wetland and Riparian Areas			
Disturbed Wetland (Arundo)	Disturbed Wetland	USACE/RWQCB/CCC/CDFW/City	0.02
Disturbed Freshwater Marsh	Freshwater Marsh	USACE/RWQCB/CCC/CDFW/City	0.38
Eelgrass	Eelgrass beds	USACE/RWQCB/CCC/CDFW/City	83.74
Salt Panne	Salt Panne	USACE/RWQCB/CCC/CDFW/City	1.11
Mudflat	Marine Habitat	USACE/RWQCB/CCC/CDFW/City	34.73
Southern Coastal Salt Marsh	Salt Marsh	USACE/RWQCB/CCC/CDFW/City	45.69
Wetland and Riparian Areas Total¹			165.67
Non-Wetland Waters			
Open Water	Natural Flood Channel/Marine Habitat	USACE/RWQCB/CCC/CDFW/City	107.12
Tidal Channel	Marine Habitat	USACE/RWQCB/CCC/CDFW/City	2.57
Non-Wetland Waters Total¹			109.69
Total¹			275.36

Note: CCC = California Coastal Commission; CDFW = California Department of Fish and Wildlife; RWQCB = Regional Water Quality Control Board; USACE = U.S. Army Corps of Engineers

¹ Acreage may not sum due to rounding.

Table 2-5. Jurisdictional Aquatic Resources in the Project Area (Acres)		
Jurisdictional Aquatic Resource	Jurisdiction	Acreage
Wetland and Riparian Areas		
Disturbed Wetland (Arundo)	USACE/RWQCB/CCC/City	0.02
Disturbed Freshwater Marsh	USACE/RWQCB/CCC/City	0.38
Eelgrass	USACE/RWQCB/CCC/City	83.74
Salt Panne	USACE/RWQCB/CCC/City	1.11
Mudflat	USACE/RWQCB/CCC/City	34.73
Southern Coastal Salt Marsh	USACE/RWQCB/CCC/City	45.69
Wetland and Riparian Areas Total		165.67
Non-Wetland Waters		
Open Water	USACE/RWQCB/CCC/City	107.12
Tidal Channel	USACE/RWQCB/CCC/City	2.57
Non-Wetland Waters Total		109.69
Total		275.36

Source: Appendix D.

Notes: City = City of San Diego; CCC = California Coastal Commission; USACE = U.S. Army Corps of Engineers; RWQCB = Regional Water Quality Control Board

The Project area supports aquatic, riparian, and wetland habitats. As discussed in the DPEIR (Section 1.3.2.5, Page 1-5), the CDFW has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or “entity”) must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW’s issuance of an LSAA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. CDFW as a Responsible Agency under CEQA may consider the City’s PEIR for the Project. The DPEIR indicates that no permits are required from CDFW at the time of the Programmatic document but acknowledges that permits may be required as future development projects are implemented.

Recommendation #11: Table 2-5 in the DPEIR should be updated to include CDFW on the list of jurisdictional agencies, for consistency with Table 10 in the BRTR. We additionally look forward to further consultation with the City regarding submittal of a streambed notification package to the Lake and Streambed Alteration Program, per Fish and Game Code section 1600 *et seq.*, particularly for aspects of the Project that will occur in Rose Creek.

COMMENT #13: Mitigation Plans and Long-term Maintenance

The Summary of Significant Environmental Impacts table (DPEIR, Table S-4) references several plans that will be developed and implemented as the site-specific elements of the Project progress, including:

- 1) MM BIO 5.3-1: Conceptual Restoration Plan
- 2) MM BIO 5.3-1: Long-term Maintenance and Preservation Plan
- 3) MM BIO 5.3-1: Biological Construction Mitigation/Monitoring Exhibit
- 4) MM BIO 5.3-3(c): Habitat Mitigation and Monitoring Plan
- 5) MM BIO 5.3-4: Habitat Mitigation and Monitoring Plan (eelgrass)

Recommendation #12: Any future plans should detail the success criteria of the habitat creation/restoration components of the Project, discuss how they will be preserved in perpetuity, and indemnify their success through financial sureties. CDFW recommends that any plans relating to habitat design elements or mitigation aspects of the Project be developed in coordination with, and be subject to review and approval by, the Wildlife Agencies.

COMMENT #14: Constructed Oyster Beds

To improve water quality, the Draft PEIR proposes to create “green” infrastructure such as constructed oyster beds at shorelines where oyster colonization is feasible. With limited details from the Draft PEIR, CDFW is identifying the proposed infrastructure as an artificial reef as defined in Fish and Game Code. CDFW has authority for artificial reefs under a variety of roles including Statutory/Legislative Authority, Trustee and Responsible Agency Status under CEQA and the Marine Life Management Act, and an advisory role to other agencies. Fish and Game Code Section 6420-6425 established the California Artificial Reef Program (CARP) through legislation in 1985. The program was created to investigate the potential to enhance declining species through the placement of artificial reefs and is currently unfunded with no identified source of funding. However, the CARP does not consider reef placement for mitigation, dampening effects of sea level rise, improve diving opportunities, or restoration. In order to provide adequate consultation and advice to the principal permitting agencies on reef design, development, and purpose, CDFW needs a comprehensive statewide scientifically based plan for overseeing the placement of artificial reefs in state waters.

Recommendation #13: Without a scientifically based statewide artificial reef plan for California, CDFW does not recommend any new artificial reef or artificial habitat at this time, regardless of intent. CDFW recommends providing additional discussion within the Final PEIR as to why the treatment would be necessary to achieve the goal to improve water quality. In addition, CDFW recommends including alternatives to the constructed oyster beds that could still achieve similar shoreline protection goals.

CDFW is concerned artificial reefs and habitat creation could attract invasive species. If the constructed oyster beds are implemented as currently described within the Draft PEIR, CDFW recommends that the Final PEIR include discussion on developing an invasive species monitoring plan that includes monitoring measures, adaptive management measures, and protocols if invasive species are identified.

Additionally, CDFW is concerned that placement of the constructed oyster beds would potentially decrease the amount of habitat for further eelgrass expansion. CDFW recommends the Final PEIR include additional discussion on whether the installation of the oyster beds would be within current and/or future eelgrass habitat and whether it could prevent future expansion of eelgrass if it were to be implemented.

COMMENT #15: Invasive Species Impacts

Disturbance of the bottom sediments from potential pile construction, dredging construction, or anchoring may redistribute non-native species that compete with native species. This could cause widespread adverse impacts to eelgrass and the marine ecology. The invasive alga *Caulerpa taxifolia* is listed as a federal noxious weed under the U.S. Plant Protection Act, and while deemed eradicated in 2006, is monitored for potential future emergence. Another invasive alga species found recently in Newport Bay is *Caulerpa prolifera*, which is also a potential threat to growth and expansion of native eelgrass beds and other native algae.

Recommendation #14: CDFW recommends including a mitigation measure detailing a pre-construction *Caulerpa spp.* survey to identify potential existence of invasive *Caulerpa spp.* as described in the *Caulerpa* Control Protocol <https://www.fisheries.noaa.gov/west-coast/habitat-conservation/aquaticinvasive-species-west-coast>. If *Caulerpa spp.* are found, do not disturb the species and contact CDFW and National Marine Fisheries Service within 24 hours as described in the *Caulerpa* Control Protocol.

COMMENT #16: De Anza Cove Boat Ramp Removal

The Draft PEIR notes that watercraft access would be provided on De Anza Cove, and that the existing boat ramp at the western end of De Anza Cove would be removed. The Draft PEIR did not provide information or methods on how the piles or rock from the boat ramp would be removed.

Recommendation #15: CDFW recommends an analysis of the potential piles or rock that would be involved in the existing boat ramp removal construction in the Final PEIR. If no further analysis is done, CDFW assumes the analysis will be done in subsequent CEQA documents.

COMMENT #17: CDFW Fully Protected Species

As indicated in the DPEIR, "According to Sections 3511 and 4700 of the California Fish and Game Code, which regulate birds and mammals, respectively, a "fully protected" species may not be taken or possessed without a permit from the California Fish and Game Commission, and "incidental take" of these species are not authorized" (DPEIR, P4-16).

Recommendation #16: Future site-specific analysis should ensure that impacts to species designated as Fully Protected (FP), regardless of their status as covered species under the MSCP SAP, cannot lead to the death of any individuals. FP species may not be taken or possessed at any time per § 3511 of the Fish and Game Code. Avoidance measures for avian species may include phasing construction to occur outside of nesting season, conducting species-specific surveys when construction will occur within 500 feet of a nesting site, retaining a qualified biological monitor on-site during construction, and implementation of no-activity buffers around active nests.

COMMENT #18: CESA-listed Species

As indicated in prior comment letters, CDFW considers adverse impacts to a species protected by CESA, for the purposes of CEQA, to be significant without mitigation (CDFW 2018, CDFW 2022). As to CESA, take of any endangered, threatened, or candidate species not already covered by the City's SAP that results from the Project is prohibited, except as authorized by state law (Fish & G. Code, §§ 2080, 2085).

Recommendation #17: If any site-specific elements of the Project will result in take of a species designated as endangered or threatened, or as a candidate for listing under CESA, unless covered by the City's SAP permit, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options (Fish and G. Code §§ 2080.1, 2081, subds. (b), (c)). Early consultation is encouraged, as significant modification to a project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

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

Jordan Moore
City of San Diego
April 20, 2023
Page 27 of 40

Questions and further coordination on terrestrial issues should be directed to Jessie Lane, Environmental Scientist, at Jessie.Lane@wildlife.ca.gov. Questions and further coordination on marine issues should be directed to Leslie Hart, Marine Environmental Scientist, at Leslie.Hart@wildlife.ca.gov.

Sincerely,



David Mayer
Environmental Program Manager
South Coast Region

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Attachments

Attachment A: DPEIR Alternatives Analysis Figures and Tables Summary

Attachment B: CDFW Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations

Attachment C: CDFW Comments on the De Anza Revitalization Plan. December 13, 2016.

Attachment D: CDFW Comments on the Notice of Preparation of a Draft Program Environmental Impact Report for the Mission Bay Park Master Plan Update-Fiesta Island. June 8, 2017.

Attachment E: CDFW Comments on the De Anza Cove Amendment to the Mission Bay Park Master Plan NOP. July 10, 2018.

Attachment F: CDFW Comments on the De Anza Natural Project NOP. February 10, 2022.

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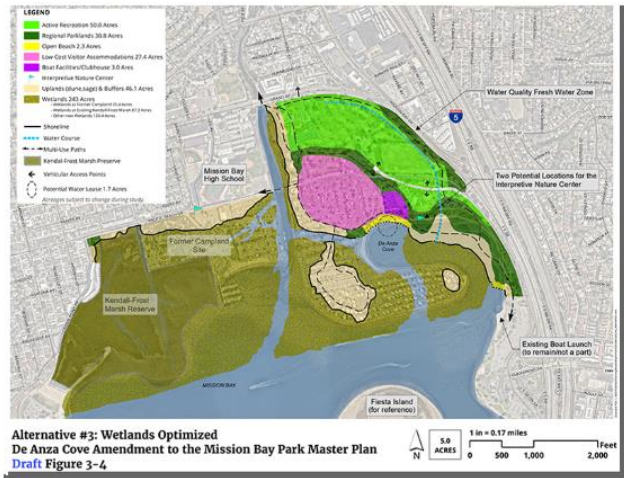
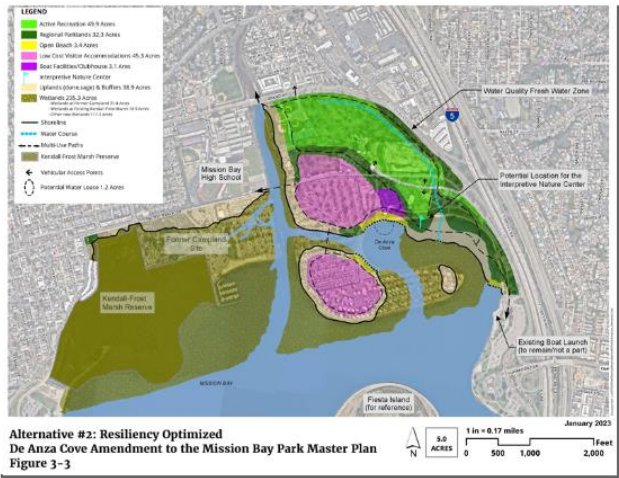
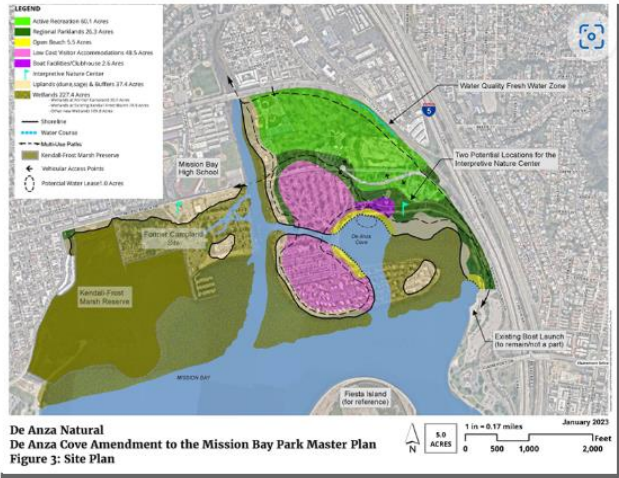
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Attachment A:

DPEIR Alternatives Analysis Figures and Tables Summary



Land Use	Acres
KFMR/NWP	86.8
Expanded Marshland/Habitat ¹	140.5
Upland Habitat (Dune, Sage) and Buffer Area	37.4
Low-Cost Visitor Guest Accommodations	48.5
Regional Parkland	26.3
Boat Facilities/Clubhouse	2.6
Interpretive Nature Center (1 Location) ²	—
Water Leases (2 Locations) ³	2.1
Active Recreation	60.1
Open Water	95.9
Open Beach	5.5
Road ⁴	1.6
Total	505.2

- Notes:** KFMR/NWP = Kendall-Frost Marsh Reserve/Northern Wildlife Preserve
- ¹ Expanded wetlands includes approximately 30.7 acres currently occupied by Campland and approximately 109.8 acres of other new wetlands.
- ² Area for the Interpretive Nature Center has not been determined, and programming for the center is assumed to occur after adoption of the amendment as part of a future GDP. Two alternative locations are shown, allowing for the final location to be determined in the GDP process.
- ³ Lease areas overlap with other land uses; therefore, acreages are not included in the total.
- ⁴ Service roads, vehicular access, and parking would be in areas proposed for low-cost visitor guest accommodations, regional parkland, boating, and active recreation, subject to future design and subsequent approvals.

Land Use	Enhanced Wetlands/Optimized Parkland Alternative (acres)	Proposed Project (acres)
KFMR/NWP	86.8	86.8
Expanded Marshland/Habitat	156.5 ¹	140.5
Upland Habitat (Dune, Sage) and Buffer Area	29.2	37.4
Low-Cost Visitor Guest Accommodations	40	48.5
Regional Parkland	40	26.3
Boat Facilities/Clubhouse	2.3	2.6
Interpretive Nature Center (1 Location) ²	—	—
Potential Water Lease ³	0.7	2.1
Active Recreation	52.6	60.1
Open Water	91.2	95.9
Open Beach	4.3	5.5
Road ⁴	2.3	1.6
Total	505.2	505.2

- Notes:** KFMR/NWP = Kendall-Frost Marsh Reserve/Northern Wildlife Preserve
- ¹ Expanded wetlands includes 35.5 acres currently occupied by Campland and 121 acres of other new wetlands.
- ² Area for the Interpretive Nature Center has not been determined, and programming for the center is assumed to occur after adoption of the amendment as part of a future General Development Plan.
- ³ Boat lease areas overlap with other land uses; therefore, acreages are not included in the total.
- ⁴ Service roads, vehicular access, and parking would be in areas proposed for low-cost visitor guest accommodations, regional parkland, and active recreation, subject to future design.

Land Use	Wetlands Optimized Alternative (acres)	Proposed Project (acres)
KFMR/NWP	86.8	86.8
Expanded Marshland/Habitat	164.1 ¹	140.5
Upland Habitat (Dune, Sage) and Buffer Area	46.1	37.4
Low-Cost Visitor Guest Accommodations	27.4	48.5
Regional Parkland	30.8	26.3
Boat Facilities/Clubhouse	2.9	2.6
Interpretive Nature Center (1 Location) ²	—	—
Potential Water Lease ³	1.2	2.1
Active Recreation	49.9	60.1
Open Water	93	95.9
Open Beach	2.3	5.5
Road ⁴	1.9	1.6
Total	505.2	505.2

- Notes:** KFMR/NWP = Kendall-Frost Marsh Reserve/Northern Wildlife Preserve
- ¹ Expanded wetlands includes 31.1 acres currently occupied by Campland and 133 acres of other new wetlands.
- ² Area for the Interpretive Nature Center has not been determined, and programming for the center is assumed to occur after adoption of the amendment as part of a future General Development Plan.
- ³ Potential water lease areas on the plan are diagrammatic. The intent is not to overlap with open beach.
- ⁴ Service roads, vehicular access, and parking would be in areas proposed for low-cost visitor guest accommodations, regional parkland, and active recreation, subject to future design.

Land Use	Resiliency Optimized Alternative (acres)	Proposed Project (acres)
KFMR/NWP	86.8	86.8
Expanded Marshland/Habitat	148.5 ¹	140.5
Upland Habitat (Dune, Sage) and Buffer Area	38.8	37.4
Low-Cost Visitor Guest Accommodations	45.3	48.5
Regional Parkland	32.3	26.3
Boat Facilities/Clubhouse	3.1	2.6
Interpretive Nature Center (1 Location) ²	—	—
Potential Water Lease ³	1.2	2.1
Active Recreation	49.9	60.1
Open Water	95.2	95.9
Open Beach	3.4	5.5
Road ⁴	1.8	1.6
Total	505.2	505.2

- Notes:** KFMR/NWP = Kendall-Frost Marsh Reserve/Northern Wildlife Preserve
- ¹ Expanded wetlands includes 31.4 acres currently occupied by Campland and 117.1 acres of other new wetlands.
- ² Area for the Interpretive Nature Center has not been determined, and programming for the center is assumed to occur after adoption of the amendment as part of a future General Development Plan.
- ³ Boat lease areas overlap with other land uses; therefore, acreages are not included in the total.
- ⁴ Service roads, vehicular access, and parking would be in areas proposed for low-cost visitor guest accommodations, regional parkland, and active recreation, subject to future design.

Attachment B:

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

	Recommendation (Rec.)/Mitigation Measures (MM)	Timing	Responsible Party
Rec. 1	For aspects of the proposed Project that have not been fully studied, findings of significance shall be set aside when certifying the PEIR until those aspects can be fully studied in a subsequent or supplemental CEQA document (see CEQA Guidelines §§ 15162 and 15163).	Before certification of Final PEIR	City of San Diego
Rec. 2	The Final PEIR, or a subsequent CEQA document, should provide specific details of the habitat types in the proposed wetland and marshland creation areas. Acreages for each habitat type such as open water, mudflat, low saltmarsh, mid-high saltmarsh, transitional habitat, and upland habitat should be identified. A summary table and detailed map should be included.	Before certification of Final PEIR	City of San Diego
Rec. 3	The Project design should include resilient marsh habitats that can adapt to changing sea levels. Transitional habitat, buffer zones, and climate-resilient elevation gradients should be incorporated. The PEIR should include an analysis of habitat changes and adaptations over time in response to rising sea levels, projected out to 2100, based on current climate models. Additionally, the Project Alternatives should consider the effects of potential sea level rise and climate change on marine habitat modifications, created wetlands, and created upland habitat, based on climate modeling and the City's Climate Change Vulnerability Assessment. Analysis should include discussion of infrastructure and long-term maintenance, type conversion of habitats, and describe how the Project is congruent with the Climate Resilient SD Plan.	Before certification of Final PEIR	City of San Diego
Rec. 4	<p>The Wetlands Optimized Alternative shall be further analyzed to demonstrate how 80 acres of additional functional wetland will remain in 2100, given sea level rise under current climate projections, to satisfy the requirements of the SEP funding. Additionally, to meet the SEP requirement to, "...maximize implementable wetland restoration reflective of existing feasibility studies for Mission Bay," the alternative should incorporate feasible design elements that were studied as a component of Audubon's ReWild Mission Bay.</p> <p>We continue to encourage the City to incorporate native habitat along the entire De Anza peninsula. Foremost in consideration should be the extent to which the SSA can contribute to the Park's [Mission Bay Park] water quality.</p>	Before certification of Final PEIR	City of San Diego

	Given the range of alternatives analyzed in the DPEIR, CDFW supports the Wetlands Optimized Alternative, as it maximizes wetland restoration along the De Anza Boot.		
Rec. 5	<p>CDFW recommends using a vibratory hammer for pile driving to the greatest extent feasible, or an alternative technology that produces the least amount of noise. If an impact hammer must be used (e.g., due to pile material, refusal at bedrock) as the Pre-Construction Hydroacoustic Study mitigation measure (MM BIO 5.3-6) proposes, multiple minimization measures are needed to reduce sound levels. CDFW recommends the following:</p> <ul style="list-style-type: none"> • A wood, or similar material, cushion block should be used between the pile and hammer during all pile driving using an impact hammer. • To further reduce hydroacoustic impacts to fish and marine mammals, a bubble curtain should be used to the greatest extent feasible during all impact pile driving to reduce sound below levels that have been shown to cause injury and/or mortality. • A sound attenuation and monitoring plan should be submitted to the resource agencies for review and approval prior to initiating pile driving activities. 	Before certification of Final PEIR	City of San Diego
Rec. 6	<p>Potential impacts to marine fish and invertebrate species, including both commercially and recreationally important species, should be identified and analyzed in the Final PEIR. Any significant impacts to marine fish and invertebrate species should be disclosed in the Final PEIR and avoided and minimized to below a level of significance. A list and description of fish species in the Bay may be found on Marine Bios (https://wildlife.ca.gov/Conservation/Marine/GIS/MarineBIOS). Fish and invertebrate species which should be addressed include but are not limited to:</p> <ul style="list-style-type: none"> • California spiny lobster (<i>Panulirus interruptus</i>) • California halibut (<i>Paralichthys californicus</i>) • Leopard shark (<i>Triakis semifasciata</i>) • Barred sand bass (<i>Paralabrax nebulifer</i>) • Spotted sand bass (<i>Paralabrax maculatofasciatus</i>) • Calico bass (<i>Paralabrax clathratus</i>) • Black croaker (<i>Cheilotrema saturnum</i>) • Yellowfin croaker (<i>Umbrina roncador</i>) • Spotfin croaker (<i>Roncador stearnsii</i>) • White croaker (<i>Genyonemus lineatus</i>) • California corbina (<i>Menticirrhus undulatus</i>) • Shovelnose guitarfish (<i>Rhinobatos productus</i>) • Shortfin corvina (<i>Cynoscion parvipinnis</i>) 	Before certification of Final PEIR	City of San Diego

MM 1	<p>The final PEIR shall provide evidence (e.g. scientific literature, monitoring reports documenting species-specific transplanted success) that the proposed mitigation will be feasible. The Conceptual Planting Plan and Long-term Maintenance and Preservation Plan shall be prepared by a biologist with expertise in southern California ecosystems and native plant restoration techniques and submitted to the Wildlife Agencies for review and approval prior to implementation. The Plans shall discuss the following, at a minimum: 1) species-specific planting (i.e. container or seed) methods; 2) species-specific measurable goals and success criteria (e.g. number of individuals, percent survival rate, absolute cover) for establishing self-sustaining populations; 3) long-term monitoring; 4) location of transplanted/restoration sites and assessment of appropriate reference sites; 5) a description of the irrigation methodology; 6) measures to control exotic vegetation; 7) contingency measures, should the success criteria not be met; and 8) conservation of the mitigation site in perpetuity. The Long-term Maintenance and Preservation Plan shall specify how it will be implemented, who the responsible party for overseeing the implementation is, and when it will be approved. Further coordination with USFWS may be necessary to ensure that proposed mitigation for the ESA-listed California seablite is adequate.</p>	Before certification of Final PEIR	City of San Diego
MM 2	<p>The following protocol shall be incorporated into the PEIR:</p> <ol style="list-style-type: none"> 1. An initial bat survey shall be conducted by a qualified bat biologist during the maternity season (March 1 to August 31) to confirm if any maternity colonies have been established within the Project site. Survey protocol should include a combination of suitable habitat inspection and sampling, as well as at least one evening emergence and acoustic survey. Any ground disturbance or removal of vegetation/suitable roosting habitat should be conducted no more than three days after pre-construction surveys are completed. Furthermore, eviction of any bats found day-roosting during the maternity season should be avoided. 2. If an active roost is identified during maternity season, CDFW requests the opportunity to review any mitigation and exclusion plans for concurrence prior to implementation. Removal of the roost should only occur outside of the maternity season, when the mitigation plan has been approved by CDFW, and only when bats are not present in the roost. The mitigation plan should detail the methods of excluding bats from the roost and the plans for a replacement roost in the vicinity of the Project site. 	Before certification of Final PEIR	City of San Diego

	<p>The plan shall include: (a) a description of the species targeted for mitigation; (b) a description of the existing roost or roost sites; (c) methods to be used to exclude the bats if necessary; (d) methods to be used to secure the existing roost site to prevent its reuse prior to removal; (e) the location for a replacement roost structure; (f) design details for the construction of the replacement roost; (g) monitoring protocols for assessing replacement roost use; (h) a schedule for excluding bats, demolishing of the existing roost, and construction of the replacement roost; and (i) contingency measures to be implemented if the replacement roosts do not function as designed.</p> <p>3. If special-status bat species or a maternity roost of any bat species is present, but no direct removal of active roosts will occur, specific avoidance measures should be determined by the bat biologist, which may include implementation of a construction-free buffer around the active roost. Combustion equipment such as generators, pumps, and vehicles should not be parked or operated under or adjacent to the roost habitat. Vibration and noise should be avoided, and personnel should not be present directly under the colony.</p> <p>4. If the pre-construction survey determines that no active roosts are present, then trees/suitable habitat should be removed within three days following the pre-construction survey. All potential roost trees should be removed in a manner approved by a qualified bat biologist, which may include presence of a biological monitor. Additionally, all construction activity in the vicinity of an active roost should be limited to daylight hours.</p>		
MM 3	<p>All mitigation for eelgrass impacts shall be in-kind mitigation in Mission Bay to the greatest extent feasible.</p> <p>Contaminated or high silt and organic content sediments shall not be placed in the marine environment that are not compatible with existing native sediment. CDFW recommends using compatible sediments when placing fill material in Mission Bay.</p> <p>Plans shall be developed to avoid and minimize potential impacts to eelgrass to the maximum extent feasible, since eelgrass beds or patches are identified within or adjacent to the Project area. The proposed Project shall avoid and minimize disturbance and damage or losses to eelgrass beds from placement of material fill, pile driving, potential shading from construction activities or new structures, and from associated barges and vessels to the maximum extent feasible. Impacts to avoid and minimize may include, at a</p>	Before certification of Final PEIR	City of San Diego

	<p>minimum, barge shading and anchoring within eelgrass habitat, pile driving and pile pulling bottom disturbances, demolition and construction turbidity, sedimentation, and falling debris. CDFW recommends the following should eelgrass beds or patches be identified within or adjacent to the Project area:</p> <ul style="list-style-type: none">• To avoid direct eelgrass impacts, locate pile driver barges and vessels and all barge anchoring outside of eelgrass habitat.• To avoid scouring of eelgrass and potential eelgrass habitat, anchor chain designs, and locations of barge and vessel moorings shall avoid eelgrass habitat impacts.• To avoid and minimize eelgrass impacts from demolition and construction debris, the City of San Diego shall use Best Management Practices (BMPs) such as perimeter debris booms. If debris is observed falling into the Mission Bay water, retrieve debris as soon as possible.• To minimize eelgrass impacts from water turbidity and sedimentation, install silt curtains around pile driving or demolition areas if applicable. Restrict the turbidity plumes to the smallest possible area during all phases of in-water construction. <p>If eelgrass habitat is identified in the Project area, comprehensive pre- and post-construction surveys for eelgrass beds or patches shall be conducted consistent with the CEMP and a map of the existing eelgrass wetland habitat shall be provided in the Final PEIR. If any unavoidable eelgrass impacts occur, these impacts shall be compensated using guidance described within the CEMP. Indirect eelgrass impacts such as shading from new piles shall also be avoided. Since pile driving work conducted outside of the peak eelgrass growing period may reduce shading impacts when eelgrass beds may have died back, pile location and time of year for pile driving shall be considered to avoid eelgrass and other fish and wildlife impacts generated by pile driving. If expected eelgrass losses are unavoidable, the City of San Diego shall use guidance from the CEMP to compensate for the losses. Final eelgrass losses shall be determined after construction and eelgrass impact monitoring surveys are complete. Draft pre-construction eelgrass Mitigation, Monitoring and Reporting Plans (Plan) shall be developed in consultation with CDFW and other permitting and resources agencies. Minimum Plan elements shall include:</p> <ul style="list-style-type: none">• Prior to construction, a draft mitigation Plan shall be developed based on updated eelgrass surveys. The Plan		
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	<p>shall be finalized along with the final eelgrass impacts analysis once post-construction and impacts monitoring surveys are completed.</p> <ul style="list-style-type: none"> • The Plan shall include a summary of eelgrass habitat impacts. The summary shall include conservation measures for eelgrass avoidance, minimization, and eelgrass compensatory mitigation if necessary. • If compensatory mitigation is required for eelgrass impacts, mitigation ratios shall be determined, at a minimum, in accordance with the CEMP, and as recommended by CDFW and other agencies. • The Plan shall identify CDFW as an agency to receive and review draft and final eelgrass mitigation and monitoring reports, surveys, and plans. • If eelgrass harvesting and transplanting is proposed, healthy eelgrass donor sites shall be identified during preliminary eelgrass impact surveys or during separate pre-harvest eelgrass donor site surveys. <p>If eelgrass harvest and transplanting is required for mitigation, a Scientific Collecting Permit (SCP) from CDFW will be required prior to harvest and transplanting activities. The SCP may include permit conditions such as donor eelgrass surveys, submittal of an eelgrass harvest and transplant plan, limits on number of turions collected, methods for collection and transplanting, notification of activities, and reporting requirements. Please visit CDFW's SCP webpage for more information: https://wildlife.ca.gov/Licensing/Scientific-Collecting.</p> <p>An eelgrass mitigation site is located just south of the Project footprint. The mitigation site was created to mitigate for eelgrass impacts related to the Mission Bay Navigational Channel Dredging Project completed three years ago. This eelgrass mitigation site shall be identified and addressed in the Final PEIR. Avoidance and minimization measures shall be proposed for the eelgrass mitigation site.</p>		
Rec. 7	<p>Development of trails within native habitat areas should be analyzed within the PEIR for potential habitat edge effects. Trail and path development footprints should be excluded from acreage calculations for upland habitat. Recreational activities in wetlands should be limited only to activities that will not disturb wildlife, particularly special-status birds, or activities for scientific/education purposes. The PEIR should discuss what activities will be allowed, what areas will be open for public access as opposed to activities more limited in their occurrence as may be allowed by special approval by the City, and how regulations will be enforced.</p>	Before certification of Final PEIR	City of San Diego

Rec. 8	The PEIR should analyze the proposed low-cost guest housing and RV use on the De Anza peninsula as an active recreational use and discuss how surrounding natural habitat will be impacted. To maximize habitat values and improve water quality, commercial and other land use developments should be strategically located farthest away from sensitive resources to include wetlands and open waters.	Before certification of Final PEIR	City of San Diego
Rec. 9	The DPEIR should elaborate on the specific buffers/safety measures that will delineate the non-motorized boat use area and include discussion on what measures will be taken to ensure that motorized watercraft do not enter De Anza Cove.	Before certification of Final PEIR	City of San Diego
Rec. 10	To ensure consistency with the MSCP’s conservation goals and objectives, the Final PEIR should provide full disclosure and functional equivalency analysis of the proposed BLA per Sections 1.1.1 and 5.42 of the MSCP SAP (City of San Diego 1997). The Wildlife Agencies will need to agree and provide written concurrence for the requested BLA after we have had the opportunity to review all information provided by the City. When evaluating a proposed BLA and habitat equivalency assessment, the Wildlife Agencies generally consider the following biological goals: <ul style="list-style-type: none"> • No net loss of MHPA acreage; • No net reduction of higher sensitivity vegetation communities (i.e., Tier I, II, IIIa and IIIb); • Net impacts/conservation of covered listed species resulting from the BLA; • Net impacts/conservation of covered non-listed sensitive species resulting from the BLA; and • Landscape configuration to minimize edge effects and maintain connectivity of the MHPA (i.e., net effects to ‘Preserve Design’) 	Before certification of Final PEIR	City of San Diego
Rec. 11	Table 2-5 in the DPEIR should be updated to include CDFW on the list of jurisdictional agencies, for consistency with Table 10 in the BRTR. We additionally look forward to further consultation with the City regarding submittal of a streambed notification package to the Lake and Streambed Alteration Program, per Fish and Game Code section 1600 <i>et seq.</i> , particularly for aspects of the Project that will occur in Rose Creek.	Before certification of Final PEIR	City of San Diego
Rec. 12	Any future plans should detail the success criteria of the habitat creation/restoration components of the Project, discuss how they will be preserved in perpetuity, and indemnify their success through financial sureties. CDFW recommends that any plans relating to habitat design elements or mitigation aspects of the Project be developed in coordination with, and be subject to review and approval by, the Wildlife Agencies.	Before impacts	City of San Diego

<p>Rec. 13</p>	<p>Without a scientifically based statewide artificial reef plan for California, CDFW does not recommend any new artificial reef or artificial habitat at this time, regardless of intent. CDFW recommends providing additional discussion within the Final PEIR as to why the treatment would be necessary to achieve the goal to improve water quality. In addition, CDFW recommends including alternatives to the constructed oyster beds that could still achieve similar shoreline protection goals.</p> <p>CDFW is concerned artificial reefs and habitat creation could attract invasive species. If the constructed oyster beds are implemented as currently described within the Draft PEIR, CDFW recommends that the Final PEIR include discussion on developing an invasive species monitoring plan that includes monitoring measures, adaptive management measures, and protocols if invasive species are identified.</p> <p>Additionally, CDFW is concerned that placement of the constructed oyster beds would potentially decrease the amount of habitat for further eelgrass expansion. CDFW recommends the Final PEIR include additional discussion on whether the installation of the oyster beds would be within current and/or future eelgrass habitat and whether it could prevent future expansion of eelgrass if it were to be implemented.</p>	<p>Before certification of Final PEIR</p>	<p>City of San Diego</p>
<p>Rec. 14</p>	<p>CDFW recommends including a mitigation measure detailing a pre-construction <i>Caulerpa</i> spp. survey to identify potential existence of invasive <i>Caulerpa</i> spp. as described in the <i>Caulerpa</i> Control Protocol https://www.fisheries.noaa.gov/west-coast/habitat-conservation/aquaticinvasive-species-west-coast. If <i>Caulerpa</i> spp. are found, do not disturb the species and contact CDFW and National Marine Fisheries Service within 24 hours as described in the <i>Caulerpa</i> Control Protocol.</p>	<p>Before certification of Final PEIR</p>	<p>City of San Diego</p>
<p>Rec. 15</p>	<p>CDFW recommends an analysis of the potential piles or rock that would be involved in the existing boat ramp removal construction in the Final PEIR. If no further analysis is done, CDFW assumes the analysis will be done in subsequent CEQA documents.</p>	<p>Before certification of Final PEIR</p>	<p>City of San Diego</p>
<p>Rec. 16</p>	<p>Future site-specific analysis should ensure that impacts to species designated as Fully Protected (FP), regardless of their status as covered species under the MSCP SAP, must be completely avoided. FP species may not be taken or possessed at any time per § 3511 of the Fish and Game Code. Avoidance measures for avian species may include phasing construction to occur outside of nesting season, conducting species-specific surveys when construction will occur within 500' of a nesting site, retaining a qualified</p>	<p>Before impacts</p>	<p>City of San Diego</p>

	biological monitor on-site during construction, and implementation of no-activity buffers around active nests.		
Rec. 17	<p>If any site-specific elements of the Project will result in take of a species designated as endangered or threatened, or as a candidate for listing under CESA, unless covered by the City's SAP permit, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options (Fish and G. Code §§ 2080.1, 2081, subs. (b), (c)). Early consultation is encouraged, as significant modification to a project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.</p>	Before impacts	City of San Diego



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CHARLTON H. BONHAM, Director



December 13, 2016

Mr. Craig Hooker
Project Manager
City of San Diego, Park Planning, Planning Department
1010 2nd Avenue, MS413
San Diego, CA 92101
CHooker@sandiego.gov

Subject: Comments on the De Anza Revitalization Plan, City of San Diego, San Diego County, California

Dear Mr. Hooker:

The Department of Fish and Wildlife (Department) has had an opportunity to review the City of San Diego's (City) De Anza Revitalization Plan (Revitalization Plan) and the three Concept Alternatives presented during the November 7, 2016, Community Workshop No. 3 in addition to comments on the Revitalization Plan provided by the U.S. Fish and Wildlife Service (Service) and the California Coastal Conservancy (Coastal Conservancy). We appreciate the City granting the Department an extension to provide preliminary comments on the Revitalization Plan in an email dated December 5, 2016. The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines § 15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (Fish and Game Code § 2050 *et seq.*) and Fish and Game Code section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP).

With the proposed Revitalization Plan, the City intends to repurpose and revitalize the De Anza project area. The City proposes to work with the community and stakeholders to develop Revitalization Plan alternatives that result in selecting a preferred plan and an amendment to the Mission Bay Park Master Plan and Environmental Impact Report. The Revitalization Plan includes the De Anza Special Study Area (as identified in the Mission Bay Park Master Plan), the De Anza Cove Park, and the land along North Mission Bay Drive, extending north to Grand Avenue and easterly to Mission Bay Boulevard.

The Department offers the following comments and recommendations to assist the City in avoiding, minimizing, and adequately mitigating project-related impacts to biological resources.

The California Fish and Game Commission has adopted a Wetlands Resources Policy (Commission Policy) which, in part, acknowledges that "California's remaining wetlands provide significant and essential habitat for a wide variety of important resident and migratory fish and wildlife species." In recognition of the importance of wetlands to the State of California, the Commission Policy establishes that "...the protection, preservation, restoration, enhancement and expansion of wetlands as migratory bird breeding and wintering habitat are justly

recognized as being critical to the long-term survival of such species” concluding that “...it is the policy of the Fish and Game Commission to seek to provide for the protection, preservation, restoration, enhancement and *expansion* [emphasis added] of wetland habitat in California.” In addition to the Commission Policy, the Department administers the NCCP, the Final Regional Plan for the Multiple Species Conservation Program (MSCP) umbrella plan and the City of San Diego’s Subarea Plan (SAP), all of which acknowledge the importance and protection of wetlands. The Department is therefore tasked with seeking opportunities to enhance and expand wetlands resources. The following recommendations are provided to assist the City in minimizing potential biological effects associated with the proposed project while also maximizing wetland creation and enhancement—a common theme among the Commission Policy, the NCCP, and the guidance found within multiple City planning documents.

In accordance with the 2002 Mission Bay Park Master Plan Update, the regional constituents expressed strong interest in Mission Bay Park with particular focus given to recreational opportunities and the quality of the natural environment. “In recognition of this generation’s increasing attention towards environmental issues, and of the region’s concern over the quality of the Bay’s natural environment in particular, this Plan [i.e., Mission Bay Park Master Plan] incorporates a decisive commitment to environmental health. This commitment is supported by comprehensive proposals aimed at improving the Bay’s water quality and continuing the conservation and enhancement of the Park’s wetland and upland habitats for the benefit of both wildlife and people. Key environmental recommendations include the establishment of an 80-acre wetland area at the outfall of Rose Creek, and the creation of an overflow parking lot in South Shores. If properly designed, the wetland will help filter pollutants entering the Bay through Rose Creek, which drains a 58-square mile area, provide increased habitat for wildlife along the Pacific Coast Flyway, and provide the setting for nature-oriented recreational activities such as bird-watching and canoeing (City 2002, p. 3).”

The marsh habitat associated with the Northern Wildlife Preserve (including the Kendall-Frost Reserve) is valued not only as a prime example of coastal salt marsh and an important regional resting, feeding, and migratory stop within the Pacific Flyway, but also as a significant bioremediation tool to improve water quality—a key focus of the Mission Bay Park Master Plan and the Mission Bay Natural Resources Management Plan (City of San Diego, 2002 and 1990 respectively). The City’s planning documents have long recognized the mutual benefits that improved water quality offer public recreation and habitat values in specifically stating that the De Anza Special Study Area (SSA) “...shall not be developed to the detriment of existing and/or future adjacent habitat areas. Foremost in consideration should be the extent to which the SSA can contribute to the Park’s [Mission Bay Park] water quality. In fact, additional wetlands creation *must be considered* [emphasis added] as part of the SSA.” (City, 2002, p. 53).

In light of the habitat, water quality, and subsequent recreation improvements detailed above, the Department recommends that the City revise the Revitalization Plan’s range of concept alternatives to incorporate native habitats extending from the existing marsh (Kendall-Frost) and at a minimum continuing to the far side of Rose Creek, if not the entirety of De Anza peninsula. We recommend that concept alternatives focus on providing large contiguous blocks of wetland and upland habitat rather than the narrow bands of habitat currently proposed in all three concept alternatives. These alternatives should utilize the ReWild Mission Bay Alternatives when developing concept alternatives for the Revitalization Project.

Mr. Craig Hooker
City of San Diego, Park Planning, Planning Department
December 13, 2016
Page 3 of 3

As a component of exploring the expansion of the current wetlands associated with the Northern Wildlife Preserve and the Kendall-Frost Marsh Reserve, the City should analyze the potential to commit the approximately 24-acre Campland Recreational Vehicle (RV) Park for future habitat creation following the expiration of its 2017 lease. In accordance with the Mission Bay Natural Resources Management Plan “[t]he restoration of the Rose Creek/Northern Wildlife preservation should be part of a resource management program submitted...” and “[a] determination concerning the addition of Campland to the Northern Wildlife Preserve and excavation of the site to allow marsh reestablishment, should be part of this program (City, 1990).”

To maximize habitat values and improve water quality, we recommend that commercial and other land use developments not directly dependent on bay access be strategically located furthest away from the most sensitive resources to include wetlands, and open waters of the bay.

Furthermore, as identified by the Coastal Conservancy and the Service, the current concept alternatives do not appreciably anticipate sea level rise. The Department is similarly concerned with the limited analysis provided for sea level rise and therefore recommends that each concept alternative incorporate climate resiliency within both planning and design aspects of the Revitalization Plan. Several climate change models indicate that areas of De Anza will be subject to sea level rise suggesting that absent major structural infrastructure, the redevelopment of De Anza may be in jeopardy.

We appreciate the opportunity to comment on the De Anza Redevelopment Plan. Questions regarding this letter and further coordination on these issues should be directed to Eric Weiss at (858-467-4289), or eric.weiss@wildlife.ca.gov.

Sincerely,



Gail K. Sevens
Environmental Program Manager

cc: State Clearinghouse, Sacramento
Carolyn Lieberman, U.S. Fish and Wildlife Service, Carlsbad

References

City of San Diego, May 1990. Final Mission Bay Park Natural Resources Management Plan. Prepared for the Park and Recreation Department by the Development and Environmental Planning, Planning Department, City of San Diego.

City of San Diego, March 1997. Multiple Species Conservation Program, City of San Diego Subarea Plan. City of San Diego Community and Economic Development Department.

City of San Diego, August 1998. Final Regional Plan for the Multiple Species Conservation Program.

City of San Diego, 2002. Mission Bay Park Master Plan Update, City of San Diego, Amended July 9, 2002.



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June 8, 2017

Rebecca Malone, Environmental Planner
City of San Diego, Planning Department
1010 Second Avenue, Suite 1200, MS 413
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PlanningCEQA@sandiego.gov

Subject: Comments on the Notice of Preparation of a Draft Program Environmental Impact Report for the Mission Bay Park Master Plan Update—Fiesta Island Amendment, SCH# 2017051034

Dear Ms. Malone:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Preparation (NOP) for the Mission Bay Park Master Plan Update—Fiesta Island (proposed project) Draft Programmatic Environmental Impact Report (PDEIR).

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the proposed project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the proposed project that the Department, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

Department Role

The Department 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; California Environmental Quality Act [CEQA] Guidelines § 15386, subd. (a).) The Department, 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, the Department 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.

The Department is also a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) The Department may need to exercise regulatory authority as provided by the Fish and Game Code. The Department also administers the Natural Community Conservation Planning (NCCP) program. The City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP).

Project Location

The proposed project is located on Fiesta Island, within the Mission Bay Park Master Plan, in the City of San Diego. Access to Fiesta Island is provided by a single causeway connecting Fiesta Island Road to East Mission Bay Drive.

Project Description/Objective

The proposed project would amend the existing Mission Bay Park Master Plan specifically incorporating the City's Concept Plan (Concept Plan) for the approximately 425-acre Fiesta Island. The City's Concept Plan identifies areas for developed park land, swimming areas, youth camping, primitive camping, an Over the Line sand arena, concessions, special event recreational vehicle parking, and launch areas for personal watercraft. The City's Concept Plan also identifies environmental areas including upland habitat, California least tern (*Sternula antillarum browni*; least tern) preserves, salt pans, marsh land, eelgrass (*Zostera marina*) beds, and native landscaping. The Concept Plan includes extending Fiesta Island Road along Hidden Anchorage cove, swimming opportunities in the channel south of the Island, developed parkland, a playground and restrooms, and increased pedestrian access to interior portions of the island.

The proposed project identifies two Options, Option A and Option B. Option A proposes to extend Fiesta Island Road south of Hidden Anchorage to access a parking area, picnic tables, paddling facility/storage, pier, ramp and floating dock, a designated swimming beach area, and developed park with a children's play area and restroom, while providing for habitat areas. This option will also provide for a dog special event area that includes an obstacle course, a dog competition area, and restrooms, for a total of approximately 87 acres of dog off-leash use within this southwest area. Option B supports a parking area that will not extend as far as Option A, and will provide for a view pavilion and view plaza; picnic tables; running trail; maintenance/emergency trail, habitat areas; and dog off leash non-native vegetation play areas, for a total of approximately 93 acres of dog off leash use within this southwest area.

We offer the following comments and recommendations to assist the City in adequately identifying, avoiding, minimizing, and/or mitigating the proposed project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Specific Comments

- 1) Mission Bay (Bay) has approximately 2,300 acres of mostly shallow water bay habitat and includes 27 miles of mostly unarmored shoreline. Eelgrass habitat has expanded over much of the Bay floor and currently provides one of the most abundant and unique fish nursery habitats of the Bay ecosystem (Merkel and Associates, 2016). Additionally, the shallow subtidal, intertidal, salt marsh, mud and sand flats along the shoreline of the Bay are locally important fish and bird habitats. The Department considers mud and sand flats to be important specialized forms of habitat that meets the needs of sensitive fish and wildlife species. The Bay also provides salt pan, coastal strand, and remnant dune habitats important to migratory birds for foraging, nesting, shelter, and rest. These habitats should be avoided and preserved since the majority of the shoreline and shallow bay areas in San Diego County have already been filled or armored.

Beyond the terrestrial and intertidal habitats, the Bay's open surface waters and eelgrass are locally important foraging habitat for many species of fish, birds, marine mammals and the Pacific green sea turtle (*Chelonia mydas*). The Bay's eelgrass habitat is valuable as a breeding and nursery ground for fish and invertebrates such as California halibut (*Paralichthys californicus*), spotted sand bass (*Paralabrax maculatofasciatus*) barred sand bass (*Paralabrax nebulifer*), northern anchovy (*Engraulis mordax*) and California spiny lobster (*Panulirus interruptus*) (City of San Diego, 1990).

- 2) The Mission Bay Park Master Plan goals and objectives should be expanded to develop policies specific to Fiesta Island and Mission Bay to avoid and minimize impacts to sensitive and listed species and their habitats, and to preserve, manage, and expand eelgrass habitat area, intertidal flats, salt pan, and salt marsh habitat areas of the Bay where feasible. For example, Environmental Goal 1.1 (City, 2002) should specify that the park's aquatic biological ecosystems should be managed to improve and protect their biological values, and allow recreation and aesthetic appreciation where those uses do not conflict with the ecosystem management.

Water dependent developments such as boat docks, piers, and launch/access ramps should be located to avoid or minimize habitat loss, wildlife disturbances, and to protect against degradation to existing sensitive Bay habitats. Loss of surface Bay habitat, shading impacts to existing eelgrass habitat, and impacts to least tern foraging areas near the nesting colonies should be avoided to the greatest extent feasible. We recommend the PDEIR consider project alternatives that avoid and/or minimize marine habitat impacts. For example, overwater structures could be located in areas that are least productive for eelgrass such as highly disturbed areas, and/or areas where limited or no eelgrass habitat currently exists. Additionally, an onshore facility above the high tide line may be feasible for non-motorized boating activities.

- 3) The California least tern is listed as endangered under the California Endangered Species Act and Federal Endangered Species Act and is designated as a fully protected species under Fish and Game Code section 3511. Least terns are known to seasonally occur throughout Mission Bay including locations on Fiesta Island. Regional monitoring efforts of least tern for 2016 recorded the lowest number of minimum breeding pairs (3,989) since 2002 while the minimum fledgling-to-maximum breeding pair ratio improved slightly from 2015 (Frost, 2016). Similar to year 2015, least tern population growth was negatively affected by direct limiting factors (e.g., lost to predation) and non-predation indirect factors (e.g., abandonment) (Frost, 2016). In addition to avian predators, "[a] lack of sufficient foraging resources is widely thought to be a significant factor limiting California least tern population growth." (Id.) The Department is unaware of least tern foraging studies for Fiesta Island nesting colonies. The Department recommends that the City consider a foraging study to assist the appropriate siting of recreational activities and facilities in a manner that minimize disturbances to least tern foraging activity.

Presently, Fiesta Island includes two areas managed for least terns—one in the southeast corner adjacent the existing dog park (Stony Point), and another within the northernmost finger of the island (north Fiesta Island). Both least tern areas are fenced, and include a buffer area (also fenced) to minimize sport and dog park (among other)

disturbances to least tern colonies. According to the NOP, both Options A and B appear to increase the total area dedicated for dog use. At a minimum, any alternative proposed by the Mission Bay Park Master Plan Update should maintain, if not increase, the current protections and their respective least tern colony buffer areas. Given the region's low reproductive success and pressures on local least tern colonies, the Department recommends that the PDEIR analyze project alternatives that include mitigation measures designed to increase least tern protections, improve foraging quality, and increase local reproductive success. Alternatives should include but not be limited to: 1) increasing the buffers to least tern colonies; 2) limiting access to least tern colonies during low tides by extending the current fence line further into the bay; 3) increasing least tern management activities; 4) disallowing off leash uses adjacent to least tern colonies; 5) precluding recreational uses within key foraging least tern foraging areas (based on the foraging study recommended above); and 6) reducing or eliminating perching opportunities for least tern predators including peregrine falcon (*Falco peregrinus*) and corvids. A range of feasible alternatives should be included to ensure that alternatives to the proposed project are fully considered and evaluated; the alternatives should avoid or otherwise minimize impacts to sensitive biological resources, particularly specific alternative locations should be evaluated in areas with lower resource sensitivity where appropriate.

- 4) The PDEIR should design the proposed Mission Bay Master Plan Update to complement existing and proposed habitat restoration efforts including: the De Anza Special Study Area (the topic of the City's 2016 De Anza Revitalization Plan); the existing Kendall-Frost Reserve; the northern wildlife preserve—including the potential habitat restoration associated with the Campland on the Bay site; and the San Diego Audubon's ReWild Mission Bay proposal. The PDEIR should analyze the cumulative effects of the various alternatives proposed by the De Anza Revitalization Plan, the lease expiry of the Campland on the Bay site and their respective impacts to Fiesta Island's and Mission Bay's natural resources.

General Comments

To enable the Department to adequately review and comment on the proposed project from the standpoint of the protection of plants, fish, and wildlife, we recommend the following information be included in the PDEIR.

Purpose and Need

- 5) The document should contain a complete discussion of the purpose and need for, and description of, the proposed project, including all staging areas and access routes to the construction and staging areas.

A range of feasible alternatives should be included to ensure that alternatives to the proposed project are fully considered and evaluated; the alternatives should avoid or otherwise minimize impacts to sensitive biological resources. Specific alternative locations should be evaluated in areas with lower resource sensitivity where appropriate.

Biological Resources within the Project's Area of Potential Effect

- 6) The document should provide a complete assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. This should include a complete floral and faunal species compendium of the entire project site, undertaken at the appropriate time of year. The PDEIR should include the following information.
 - a. CEQA Guidelines, section 15125(c), specifies that knowledge on the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.
 - b. A current inventory of the biological resources associated with each habitat type on site and within the area of potential effect. The Department's California Natural Diversity Data Base in Sacramento should be contacted at www.wildlife.ca.gov/biogeodata/ to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code.
 - c. An inventory of rare, threatened, endangered and other sensitive species on site and within the area of potential effect. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive fish and wildlife species. Seasonal variations in use of the project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and the U.S. Fish and Wildlife Service.

Analyses of the Potential Project-Related Impacts on the Biological Resources

- 7) To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the PDEIR.
 - a. A discussion of potential adverse impacts from lighting, noise, human activity, boat traffic, pet intrusion, exotic species, chronic turbidity, sedimentation, and drainage should also be included. The latter subject should address: project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site. The discussions should also address the proximity of the extraction activities to the water table, whether dewatering would be necessary, and the potential resulting impacts on the habitat, if any, supported by the groundwater. Mitigation measures proposed to alleviate such impacts should be included.
 - b. A shading (and coverage of Bay surface waters) analysis should be conducted to determine the impacted areas of Bay habitats. The analysis should include Bay

surface water, water column, benthic habitat, eelgrass habitats, and intertidal flat ecosystems important for fish and shorebird foraging.

- c. Discussions regarding indirect project impacts on biological resources Impacts on, and maintenance of, wildlife areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the PDEIR.
- d. The zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the environmental document.

Mitigation for the Project-related Biological Impacts

- 8) The PDEIR should include mitigation measures for adverse project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.
- 9) Department recommends that a habitat gain/loss table be included, which calculates the expected net habitat losses and gains of each type of habitat area lost, restored, enhanced and created.
- 10) The Department recommends that measures be taken to avoid project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Title 50, § 10.13, Code of Federal Regulations. Sections 3503.5 and 3513 of the California Fish and Game Code prohibit take of all raptors and other migratory nongame birds and section 3503 prohibits take of the nests and eggs of all birds. Proposed project activities (including, but not limited to, staging and disturbances to native and nonnative vegetation, structures, and substrates) should occur outside of the avian breeding season which generally runs from February 1- September 1 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, the Department recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

CONCLUSION

We appreciate the opportunity to comment on the referenced NOP. Questions and further coordination on marine issues should be directed to Loni Adams, Environmental Scientist at

Rebecca Malone, Environmental Planner
City of San Diego, Planning Department
June 8, 2017
Page 7 of 7

Loni.Adams@wildlife.ca.gov or 858-627-3985. Questions and further coordination on other issues should be directed to Eric Weiss, Senior Environmental Scientist, at Eric.Weiss@wildlife.ca.gov or 858-467-4289.

Sincerely,

A handwritten signature in blue ink that reads "Gail K. Sevens" followed by "for:".

Gail K. Sevens
Environmental Program Manager
South Coast Region

ec: William Paznokas (R7-CDFW)
State Clearinghouse, Sacramento

REFERENCES

City of San Diego, 1990. Mission Bay Park Natural Resources Plan.

City of San Diego, Amended 2002. Mission Bay Park Master Plan Update.

Frost, N. 2016. California least tern breeding survey, 2015 season. California Department of Fish and Wildlife, Wildlife Branch, Nongame Wildlife Program Report, 2016-01. Sacramento, CA. 24 pp + Appendices.

Merkel and Associates, Inc., 2016. Mission Bay Biological Resource Letter Report, Mission Bay Navigational Safety Dredging Project, Page 7.



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July 10, 2018

Ms. Sara Osborn
City of San Diego, Park Planning
9485 Aero Drive, MS 413
San Diego, CA 92123
PlanningCEQA@sandiego.gov

**Subject: Comments on the De Anza Cove Amendment to the Mission Bay Park
Master Plan NOP, SCH# 2018061024**

Dear Ms. Osborn:

The Department of Fish and Wildlife (Department) has reviewed the City of San Diego's (City) notice of preparation (NOP) of a draft program environmental impact report (PEIR) for the De Anza Cove Amendment to the Mission Bay Park Master Plan (De Anza AMBPMP). The Department previously provided the City with preliminary comments on the De Anza Revitalization Plan (dated December 13, 2016), and commented on the 2017 Mission Bay Park Master Plan Update-Fiesta Island Amendment (dated June 8, 2017, SCH# 2017051034). Our comments made therein are applicable to the current proposed project and are incorporated by reference (see attached). The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines § 15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA; Fish and Game Code § 2050 *et seq.*) and Fish and Game Code section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of San Diego participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP). The geographic boundary of Mission Bay Park Master Plan occurs within the Urban Areas of the City's SAP.

In accordance with the NOP, the proposed project seeks to implement the recommendations of the Mission Bay Park Master Plan (MBPMP). The MBPMP recommends that the revitalization of De Anza Cove should serve regional recreation needs, including guest housing (e.g., recreational vehicles and other low-cost camping facilities); contribute to the park's water quality, including creating additional wetlands; facilitate hydrologic improvements to safeguard the viability of marsh areas; provide a waterfront trail, viewing areas, and other passive recreational features; and ensure leaseholds support the Mission Bay recreation use. Mission Bay is a 4,660-acre park within the City. Mission Bay includes a diverse variety of biological resources and habitats including diverse marine habitats, coastal salt marsh, and three terrestrial habitats including salt pan, coastal strand, and disturbed habitat (City, 1990). Mission Bay provides habitats necessary for several CESA and federal Endangered Species Act (ESA) listed species, including the CESA- and ESA-listed endangered Ridgway's rail (*Rallus obsoletus*, also a state fully protected species [FPS]), the CESA-listed endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingi*), and the CESA- and ESA-listed

endangered California least tern (*Sterna antillarum browni*; FPS). In addition, Mission Bay hosts diverse numbers of avifauna and supports avian feeding, resting, and breeding. It is also habitat for a number of small mammals and reptile species. Its coastal salt marsh habitats improve the bay's water quality through bioremediation and filtering of pollutants and wastewater discharge.

The Department offers the following comments and recommendations to assist the City in adequately identifying, avoiding, minimizing, and/or mitigating the proposed project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

- 1) The PEIR should specify the CEQA documentation necessary for future project-specific projects to tier from the De Anza AMBMP PEIR. For example, the City should indicate whether it anticipates subsequent project-specific CEQA documents or if a consistency determination process will be followed when tiering from the PEIR. As circulated, the NOP does not provide sufficient detail how future projects tiering from the PEIR will be evaluated for consistency with the MBPMP. CEQA Lead Agencies may elect to prepare a program EIR as a high-level CEQA document addressing "...a series of actions that can be characterized as one large project..." (CEQA Guidelines § 15168). Absent a clear understanding of how the PEIR is intended to be used, the Department is unable to comment on the full breadth of environmental concerns and potential avoidance, minimization, or mitigation measures. Given the nature of a programmatic environmental document, the Department acknowledges that the CEQA Lead Agency is not obligated to fully analyze subsequent activities for which insufficient data exists. However, CEQA findings of significance should only be made when those findings are supported by substantial evidence in the record (CEQA § 15091(b)). For those aspects of the proposed project that have not been fully studied, findings of significance should be set aside when certifying the PEIR until those aspects can be fully studied in a subsequent or supplemental CEQA document (see CEQA Guidelines §§ 15162 and 15163).
- 2) The PEIR should specify which version of the MBPMP the De Anza AMBMP PEIR will use to evaluate the proposed project's consistency with applicable land use planning documents. The NOP states that "[t]he proposed project seeks to implement the recommendations of the MBPMP..." without first having identified if the NOP intends to implement the now-current MBPMP (1997) as amended on July 9, 2002, or the proposed (and unanalyzed/unadopted) amendment (i.e., the De Anza AMBMP) currently being evaluated by this PEIR (SCH# 2018061024). The version of the MBPMP establishes the baseline by which the De Anza AMBMP PEIR's CEQA analysis will be based upon and sets the objectives for achieving the goals of the MBPMP. If, as the project title suggests, the De Anza AMBMP would concurrently amend the MBPMP, the PEIR should identify the full scope of all proposed amendments to the MBPMP and provide a table comparing the differences between the current MBPMP (2002), the MBPMP Fiesta Island Amendment (SCH# 2017051034), and the De Anza AMBMP (SCH# 2018061021).
- 3) The Department recommends that the PEIR analyze opportunities to maximize the footprint of native habitats in conformance with the environmental objectives in the MBPMP. While the NOP identifies the De Anza Cove, the Campland leasehold, and the Kendall-Frost Marsh Reserve/Northern Wildlife Preserve (KFMR/NWP) within the NOP Figure 3, Site Plan, it does not detail the design, elements, timing, or phasing of the implementation of these critical project components. The implementation of the project

components, specifically the KFMR/NWP and the Wetland/Marshland/Natural Recreation, should precede other project components to ensure consistency with the MBPMP, and to safeguard Mission Bay's water quality for the biological resources, natural habitats, leaseholds interests, and improve the recreationalist's experience of Mission Bay. Implementing the habitat components of the proposed project prior to other construction components fulfills a longstanding goal of the MBPMP-Recommendation 26: Relocation of Campland, by protecting Mission Bay's water quality for biological resources and recreationalists alike during construction and operation of the future leaseholds. Additionally, where the information is available, the PEIR should detail the success criteria of the habitat creation/restoration components of the project and indemnify its success through financial sureties. Where the information necessary to establish specific success criteria is not known, the PEIR should identify the Audubon's ReWild Mission Bay as the framework for developing future success criteria.

- 4) Acknowledging that the proposed project intends to amend the MBPMP for De Anza Cove, and that another amendment to the MBPMP for Fiesta Island is being processed (SCH# 2017051034) concurrently, the Department recommends that the PEIR evaluate the full scope of potential actions germane to the MBPMP as part of the cumulative impacts analysis and discussion of related actions. For example, amongst other habitat creation areas (e.g., the Campland lease area), the MBPMP (pp. 43-44) specifically identifies an approximately 110-acre area "...supporting sludge beds on Fiesta Island west of the road, [that] should be considered for a new preserve." Both options A and B of the 2017 MBPMP amendment (SCH# 2017051034) expand dog-use areas (87 acres and 93 acres respectively), whereas the Mission Bay Park Natural Resources Management Plan (MBPNRMP, 1990)—Figure 3 Proposed Wildlife Preserve Additions identifies approximately 80 acres of the same area as "Additional Salt Marsh/Salt Pan Preserve." The Department recommends that the De Anza AMBPMP PEIR include measures to comprehensively address habitat improvement opportunities within the MBPMP planning area by expanding marshland habitats beyond what is currently identified by the NOP, offsetting the 87-93 acres of salt marsh/salt pan preserve that is proposed as a dog park by the 2017 MBPMP amendment. In accordance with the MBPNRMP "[w]ith the Natural Resource Management Plan, a comprehensive approach to habitat protection can clarify development expectations, and facilitate granting project permits which are in conformance with the Management Plan" (City, 1990, p. 1). Providing additional salt marsh habitat beyond what is identified by Figure 3-Site Plan of the De Anza MBPMP NOP would provide conservation elements needed as part of a comprehensive plan for Mission Bay Park, meeting the goals/objectives of the current MBPMP and MBPNRMP, and addressing cumulative impacts associated with the proposed project. For example, the biological objectives of the current MBPMP emphasize that "...no net loss of any salt marsh, salt pan, coastal strand associated with a sensitive species, or open water habitat will be permitted without replacement of equal or greater habitat value" and its conclusion that "[e]xpansion of salt marsh upland habitat is important for balancing the negative effect of potential future rises in sea level" (MBPNRMP, pp. 34 and 1, respectively).
- 5) Coastal habitats aid in the improvement of water quality through bioremediation; maximizing habitat restoration at the outfall of Rose Creek (as identified by the MBPMP's Special Study area) would improve Mission Bay's overall water quality—a key objective of the MBPMP. Improved water quality is of such importance to the economic,

recreational, and biological viability of Mission Bay that the very issue leads the document's recommendations citing:

"It is broadly recognized that the Park's [Mission Bay Park] economic and recreational future depends on the quality of the Bay water. In response to fluctuating quality of the Bay waters, this Plan proposes a comprehensive set of measures involving state-of-the-art biological, mechanical, public education and recreation management programs."

We recommend that all De Anza AMBPMP PEIR design alternatives restore contiguous areas of wetlands extending from Rose Creek to De Anza Cove (e.g., expanded marshland habitat). To protect these fragile environments and to maximize their economic, recreational, and biological values we recommend: a) wetland buffers be provided at a minimum of 100-foot wide adjacent to all wetlands within the Coastal Overlay Zone (City Biology Guidelines, 2012), b) the 100-foot minimum buffers do not include trails or other structures, and c) the habitat remains viable in the face of changing climate (e.g., sea level rise). Educational and/or passive recreational use proposals should occur outside of these wetland buffers.

- 6) Increasing the acreage of expanded marshland habitat associated with the De Anza AMBPMP fulfills the MBPMP's objective to expand habitat. It also has the added benefit of combating habitat loss due to sea level rise while also protecting Mission Bay's economic viability (e.g., infrastructure and leaseholds on the De Anza Cove) by alleviating structural/infrastructure flooding associated with sea level rise. By incorporating smart design and planning, the City is in lockstep with the City's Climate Action Plan "[i]nvesting in action now saves lives and provides long term cost savings. As we increase building and occupant resiliency today, we will better able to meet the challenges of a changing climate tomorrow" (City, 2015, p. 64).
- 7) Presently, the De Anza AMBPMP NOP includes only one project design, Figure 3-Site Plan. The NOP should include a range of alternatives that complement existing and proposed habitat restoration efforts including: the De Anza Special Study Area, the existing KFMR/NWP—including the potential habitat restoration associated with the Campland lease site, and the San Diego Audubon's ReWild Mission Bay Feasibility Study. We encourage the City to incorporate project design elements identified by the San Diego Audubon ReWild Mission Bay, as discussed in the Department's letter to the City regarding the 2017 Mission Bay Park Master Plan Update-Fiesta Island Amendment (SCH# 2017051034), the Department's preliminary comments on the De Anza Revitalization Plan, and during our April 17, 2018, meeting with the City, U.S. Fish and Wildlife Service (USFWS), California Coastal Commission (CCC), and San Diego Audubon. The Department believes that the Audubon's "Wildest" Alternative best maximizes habitat creation opportunities within Mission Bay and would restore a modest portion of the approximately 1,700 acres of intertidal habitat once present in Mission Bay. The Department acknowledges the City's need to balance diverse user groups and has therefore met with the City, USFWS, CCC, and the San Diego Audubon Society to discuss alternatives that blend these diverse interests. We look forward to continuing these discussions and finding a balance that meaningfully and successfully increases Mission Bay's natural habitats, improves its water quality, and buffers the effects of sea level rise.

Ms. Sara Osborn
City of San Diego, Park Planning
July 10, 2018
Page 5 of 5

We appreciate the opportunity to comment on the De Anza AMBPMP NOP. Questions regarding this letter and further coordination on these issues should be directed to Senior Environmental Scientist (Specialist) Eric Weiss at eric.weiss@wildlife.ca.gov or (858) 467-4289.

Sincerely,



Gail K. Sevens
Environmental Program Manager
South Coast Region

cc: State Clearinghouse, Sacramento
Carolyn Lieberman, U.S. Fish and Wildlife Service, Carlsbad

Attachments:

Attachment A: Department Comments on the De Anza Revitalization Plan. December 13, 2016.
Attachment B: Department comments on the Notice of Preparation of a Draft Program Environmental Impact Report for the Mission Bay Park Master Plan Update-Fiesta Island. June 8, 2017.

References

City of San Diego. May 1990. Final Mission Bay Park Natural Resources Management Plan. Prepared for the Park and Recreation Department by the Development and Environmental Planning, Planning Department, City of San Diego.

City of San Diego. 2002. Mission Bay Park Master Plan Update, City of San Diego, Amended July 9, 2002.

City of San Diego. 2012. San Diego Municipal Code Land Development Code—Biology Guidelines. Amended April 23, 2012.

City of San Diego. 2015. Climate Action Plan.
https://www.sandiego.gov/sites/default/files/final_july_2016_cap.pdf

City of San Diego. 2016. De Anza Revitalization Plan. <http://www.deanzarevitalizationplan.com/>



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GAVIN NEWSOM, Governor
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February 10, 2022

Jordan Moore
 Senior Environmental Planner
 City of San Diego
 9485 Aero Drive, MS 413
 San Diego, CA 92123
JTMoore@saniego.gov

Subject: De Anza Natural (Project), Notice of Preparation (NOP), SCH #2018061024

Dear Ms. Moore:

The California Department of Fish and Wildlife (CDFW) received a notice of preparation (NOP) of a draft program environmental impact report (PEIR) from the City of San Diego (City) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted comments in response to the De Anza Revitalization Plan in 2016, and the De Anza Cove Amendment to the Mission Bay Park Master Plan NOP in 2018.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related activities that have the potential to adversely affect fish and wildlife resources. CDFW also oversees implementation of the Natural Community Conservation Planning (NCCP) program. The City of San Diego participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP).

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 *et seq.*) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*) that is not a covered species under the City's SAP, the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: City of San Diego (City)

Objective: The objective of the Project is to revitalize De Anza Cove in accordance with the Mission Bay Park Master Plan (MBPMP). The MBPMP recommends that the revitalization should serve regional recreation needs, including providing guest housing, contributing to the improvement of the park's water quality, including creating additional wetlands, facilitating hydrological improvements to support marsh areas, providing a waterfront trail, viewing areas, and other recreational features for public use, and ensuring leaseholds support the Mission Bay recreation use. The Project will update the MBPMP to ensure consistency with the Climate Resilient SD Plan and account for sea level rise and climate change.

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.

Jordan Moore
 City of San Diego
 February 10, 2022
 Page 2 of 9

Key project components are outlined below:

Kendall-Frost Marsh Reserve/Northern Wildlife Preserve

The Project proposes to expand the existing 88.2 acres of wetland at Kendall-Frost Marsh Reserve/Northern Wildlife Preserve, through creation of an additional 29.0 acres of wetlands at the former Campland site, as well as an additional 103.8 acres of wetlands around De Anza Cove and along the outfall of Rose Creek.

De Anza Cove Area – North

Existing recreational facilities in the northern and eastern portions of the Project area will remain. The Project proposes an active recreation and aquatics facility in the north section of De Anza Cove, and states that additional opportunities for expanded recreational uses will be analyzed under a General Development Plan in the future.

De Anza Cove Area – South

Land uses proposed in this area include: replacement of the existing RV campground and mobile home park with low-cost visitor accommodations consisting of RV camping sites, cabins or other accommodations, and ancillary facilities; enhancement of existing regional parkland with new recreational amenities; creation of a supervised swimming beach; potential lease of a non-motorized boat rental facility/dock; expansion of existing wetland habitat to include marshes, mudflats, oyster beds, and open water; creation of upland areas to serve as a buffer zone to wetland habitat; parking; and a multi-use path with interpretive signage.



**De Anza Natural
 De Anza Cove Amendment to the Mission Bay Park Master Plan
 Figure 3: Site Plan**

(City of San Diego, De Anza Natural NOP, 2022)

Location: Mission Bay Park (Bay) is a 4,660-acre park within the City of San Diego. The proposed Project area is located in the northeast corner of Mission Bay and includes the following existing land uses: the Kendall-Frost Marsh Reserve/Northern Wildlife Preserve (Preserve), guest housing, athletic fields and tennis courts, a golf course, regional parkland, and the De Anza Cove Area, which is identified as the De Anza Special Study Area in the MBPMP.

Biological Setting: Mission Bay supports a wide variety of biological resources and habitats including diverse marine habitats, coastal salt marsh, and three terrestrial habitats: salt pan, coastal strand, and disturbed habitat (City, 1990). Special-status species include the CESA- and federal Endangered Species Act (ESA)- listed endangered light-footed Ridgway's rail (*Rallus obsoletus levipes*), which is also a California Fully Protected Species (FPS); the CESA-listed endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingii*); and the CESA- and ESA-listed endangered California least tern (*Sterna antillarum brownii*; FPS). Mission Bay also

Jordan Moore
 City of San Diego
 February 10, 2022
 Page 3 of 9

hosts diverse avifauna, small mammals, reptiles, and habitat for avian feeding, resting, and breeding. The coastal salt marsh habitats improve the Bay's water quality through bioremediation and filtering of pollutants and wastewater discharge.

Marine Biological Setting: Mission Bay is locally known for its bay, estuary, eelgrass and shallow bay habitats important for fish and wildlife habitat. The Bay is also important fish nursery habitat for fish spawning, shelter, and foraging. The Bay includes large areas (i.e., 'beds') of eelgrass (*Zostera marina*, *Z. pacifica*), which is a sensitive marine habitat type and is important to many aquatic and nearshore species.

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. Editorial comments or other suggestions may also be included to improve the document.

To enable CDFW to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, wildlife, and natural habitats, we recommend the following information be included in the PEIR:

General Comments

- 1) **Biological Resource Inventory:** The document should contain a complete description of the Project, including purpose and need, that describes all terrestrial and marine habitats within or adjacent to the Project area, all staging areas and access routes to the construction and staging areas. The Project area is described as the area in which potential effects may occur.

The document should also provide a complete assessment of the flora and fauna within and adjacent to the Project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. This should include a complete floral and faunal species compendium of the entire Project site, undertaken at the appropriate time of year. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive fish and wildlife species. Seasonal variations in use of the Project area by wildlife should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service.

- 2) **Biological Impacts:** To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the PEIR:
 - a) a discussion of potential adverse impacts from lighting, noise, human activity, exotic species, recreational uses, and drainage. The latter subject should address: Project-related changes to drainage patterns on, and downstream of, the Project site; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site. Mitigation measures proposed to alleviate such impacts should be included.
 - b) discussion regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., existing preserve lands or lands designated as Multi-Habitat Planning Area (MHPA) associated with the City's SAP).
 - c) the zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions. A discussion of possible wildlife conflicts and mitigation measures to reduce these conflicts should be included in the environmental document.
 - d) CDFW also recommends that a habitat gain/loss table be included, which calculates the expected net habitat losses and gains of each type of habitat area lost, restored, enhanced, and created.
- 3) **Marine Species and Habitats:** To better understand potential effects and impacts from the proposed Project, baseline surveys should be conducted, and the results included in the PEIR. Baseline surveys of native and artificial marine habitats, and native and non-marine species

Jordan Moore
 City of San Diego
 February 10, 2022
 Page 4 of 9

should include all marine areas within the Project area footprint such as the existing open water bay and estuary habitats of De Anza cove and Rose Creek outfall, mudflats, eelgrass beds, oyster beds, and sandy beach intertidal habitat. Invasive marine *Caulerpa* spp. should also be included in marine baseline surveys. All excavations and placement of sediment in Project areas within, and adjacent to, all existing natural wetland or eelgrass habitat should be included in a site-specific baseline marine resources survey and Project impacts/benefits assessment. This should be performed to accurately assess wetland restoration benefits and impacts to marine species and habitats. Historical marine biological species and habitats for the Project area may also be found in the Marine BIOS database on the CDFW's website (<https://wildlife.ca.gov/Conservation/Marine/GIS/MarineBIOS>).

CDFW recommends the marine biological survey and impact assessment reports include a listing of each Project component and the habitat that will be impacted, the total area of habitat impacted, and proposed mitigation measures for avoiding, and minimizing impacts. Additionally, the baseline assessment should include a habitat loss/gain summary indicating the total net gain or loss of each habitat impacted verses habitat restored. If impacts or net losses to sensitive, native marine habitats are unavoidable, additional mitigation plans should be developed to compensate for lost existing habitats.

- 4) **Special-status Species:** The PEIR should thoroughly analyze direct, indirect, and cumulative impacts to any special-status species likely to occur in the Project area. Impacts to species designated as Fully Protected must be completely avoided; FPS may not be taken or possessed at any time per § 3511 of the Fish and Game Code. Avoidance measures for avian species may include phasing construction to occur outside of nesting season, conducting species-specific surveys when construction will occur within 500' of a nesting site, retaining a qualified biological monitor on-site during construction, and implementation of no-activity buffers around active nests.

CDFW also considers adverse impacts to a species protected by the California Endangered Species Act (CESA), for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species not already covered by the City's SAP that results from the Project is prohibited, except as authorized by state law (Fish & G. Code, §§ 2080, 2085). Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, unless covered by the City's SAP permit, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options (Fish and G. Code §§ 2080.1, 2081, subs. (b),(c)). Early consultation is encouraged, as significant modification to a project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

- 5) **Marine Impacts:** The wetlands restoration Project activities may have direct and indirect impacts to marine species and habitats:
- a. direct loss or conversion of native marine habitats due to fill of open Bay waters;
 - b. burial or excavations/dredging of native eelgrass habitat and oyster beds;
 - c. turbidity and sedimentation, scouring, and reduced water quality; and,
 - d. significant impacts to sensitive and/or special-status resources including eelgrass beds, and associated eelgrass ecological communities such as benthic and epibenthic invertebrates, fish, and marine birds.

Contaminated or high silt and organic content sediments should not be placed in the marine environment that are not compatible with existing native sediment. High silt content sediments may cause marine soft substrates to be compacted and unsuitable for sustained growth of eelgrass, intertidal and subtidal benthic and epibenthic invertebrates. Compatible sediments are required for healthy marine invertebrate habitat needed for forage of the higher trophic levels such as fish and shorebirds.

Jordan Moore
 City of San Diego
 February 10, 2022
 Page 5 of 9

- 6) **Indirect Marine Impacts:** The Draft PEIR should include and address potential adverse indirect Bay water and marine habitat impacts from increased human and boat facilities (overwater structures) such as Bay water shading, lighting, underwater noise, increased non-native, invasive species, and proposed mitigation measures to alleviate such impacts.
- 7) **Sensitive Marine Species and Habitats:** Many important commercial and recreational fish species use the Project area for breeding, shelter, spawning, and foraging. Potential impacts to marine fish, including both commercially and recreationally important species, should be identified and any significant impacts should be avoided and minimized to below a level of significance. A list and description of fish and wildlife species and habitat in the Bay may be found on Marine Bios (<https://wildlife.ca.gov/Conservation/Marine/GIS/MarineBIOS>). Species and habitats which should be addressed include but are not limited to:
- a. the California spiny lobster (*Panulirus interruptus*) may utilize the open subtidal Bay habitats within or adjacent to the proposed Project. Spiny lobster use eelgrass for shelter which is present throughout the shallow area of the Bay. This species and their habitat are vulnerable to direct and indirect dredging, excavation, fill, burial, turbidity, and sedimentation impacts; and,
 - b. marine plant species which grow in extensive beds within shallow Bay waters are considered sensitive habitat types. In the vicinity of the proposed Project, this may include, but is not limited to, eelgrass (*Zostera marina*, *Z. pacifica*).

An eelgrass mitigation site is located just south of the Project footprint. The mitigation site was created to mitigate for eelgrass impacts related to the Mission Bay Navigational Channel Dredging Project completed three years ago. This eelgrass mitigation site should be identified and addressed in the PEIR. Avoidance and minimization measures should be proposed for the eelgrass mitigation site.

- 8) **Invasive Species:** Disturbance of the bottom sediments from dredging construction may redistribute non-native species that compete with native species. This could cause widespread adverse impacts to the marine ecosystem. The invasive algae *Caulerpa taxifolia* is listed as a federal noxious weed under the U.S. Plant Protection Act and while deemed eradicated in 2006 is monitored for potential future emergence. Another invasive algae species found recently in Southern California (Newport Bay) is *Caulerpa prolifera*, which is also a potential threat to the native marine ecosystem.

CDFW recommends including a mitigation measure detailing a pre-construction *Caulerpa* spp. survey to identify potential existence of invasive *Caulerpa* spp. as described in the *Caulerpa* Control Protocol <https://www.fisheries.noaa.gov/west-coast/habitat-conservation/aquatic-invasive-species-west-coast>. If *Caulerpa* spp. are found, do not disturb the species and contact CDFW and National Marine Fisheries Service within 24 hours as described in the *Caulerpa* Control Protocol.

- 9) **Mitigation for Project-related Biological Impacts:** The PEIR should include mitigation measures for adverse project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible, or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be discussed.
- 10) **Cumulative Effects Analysis:** A cumulative effects analysis should be developed as described under CEQA Guidelines, section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats. The PEIR should evaluate the full scope of potential actions germane to the MBPMP as part of the cumulative impact analysis and discussion of related actions.
- 11) **Range of Project Alternatives:** The PEIR should include a range of Project alternatives that complement existing and proposed habitat restoration efforts including: the De Anza Special Study Area, the existing KFMR/NWP – including the potential habitat restoration associated with the Campland lease site, and the San Diego Audubon's ReWild Mission Bay Feasibility Study. We continue to encourage the City to maximize incorporation of Project design elements identified by the San Diego Audubon's ReWild Mission Bay, as discussed in CDFW's 2017 and 2018 comment letters (CDFW 2017, CDFW 2018). The PEIR should fully consider and evaluate a range of alternatives that avoid or otherwise minimize impacts to marine and terrestrial biological resources.

Jordan Moore
 City of San Diego
 February 10, 2022
 Page 6 of 9

12) **Project Phasing:** As indicated in our 2018 comment letter in response to the De Anza Cove Amendment to the Mission Bay Park Master Plan NOP (CDFW 2018), CDFW recommends that the PEIR analyze opportunities to maximize the footprint of native habitats in conformance with the environmental objectives in the MBPMP. Critical Project components such as specific design elements, timing, and phasing of implementation are not detailed within the NOP. Implementation of Project components, specifically the Kendall-Frost Marsh Reserve/Northern Wildlife Preserve, wetland expansion, and upland and buffer creation, should precede other Project components to ensure consistency with the MBPMP, and to safeguard Mission Bay's water quality for the biological resources, natural habitats, leasehold interests, and recreational uses. Implementing the habitat components of the proposed Project prior to other construction components fulfills a longstanding goal of the MBPMP-Recommendation 26: Relocation of Campland, by protecting Mission Bay's water quality for biological resources and recreationalists alike during construction and operation of the future leaseholds. Additionally, where the information is available, the PEIR should detail the success criteria of the habitat creation/restoration components of the Project and indemnify its success through financial sureties. Where the information necessary to establish specific success criteria is not known, the PEIR should identify the Audubon's ReWild Mission Bay as the framework for developing future success criteria.

Specific Comments

- 13) **Wetland Expansion:** Although the De Anza Natural Project significantly improves focus on wetland expansion by comparison to the 2018 De Anza Cove Amendment to the MBPMP, we continue to encourage the City to analyze the possibility of incorporating native habitat along the entire De Anza peninsula. The marsh habitat associated with the Northern Wildlife Preserve (including the Kendall-Frost Reserve) serves an important regional resting, feeding, and migratory stop within the Pacific Flyway, and also acts as a significant bioremediation tool to improve water quality—a key focus of the MBPMP and the Mission Bay Natural Resources Management Plan (City of San Diego, 2002 and 1990 respectively). The City's planning documents have long recognized the mutual benefits that improved water quality offer public recreation and habitat values in specifically stating that the De Anza Special Study Area (SSA) "...shall not be developed to the detriment of existing and/or future adjacent habitat areas. Foremost in consideration should be the extent to which the SSA can contribute to the Park's [Mission Bay Park] water quality. In fact, additional wetlands creation *must be considered* [emphasis added] as part of the SSA." (City, 2002, p. 53).
- 14) **Eelgrass and Wetland Type Conversion:** CDFW does not recommend any development or conversion that would result in a reduction of wetland and/or eelgrass acreage or habitat values. If conversion of these habitats is unavoidable, the City should provide appropriate mitigation measures and compensation for lost habitat. Project mitigation should ensure there will be "no net loss" of either wetland or eelgrass habitat values or acreage. Development and conversion includes, but is not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, eelgrass and channelization or removal of substrate materials from the wetland or eelgrass bed. All eelgrass habitat and potential eelgrass habitat, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks that preserve the aquatic values and maintain their value to on-site and off-site wildlife populations. Mitigation measures to compensate for impacts to these aquatic resources should be included in the PEIR.
- 15) **Climate Change Resiliency:** The PEIR should address climate resiliency with both planning and design aspects of the Project. Several climate change models illustrate that areas of De Anza will be subject to sea level rise, which may jeopardize the redevelopment of De Anza, absent major structural infrastructure. The PEIR should clearly analyze how sea level rise will affect the plan, particularly the created wetlands. Project Alternatives should consider the effects of potential sea level rise and climate change on marine habitat modifications. Analysis should include discussion of infrastructure and long-term maintenance, as well as congruency with the Climate Resilient SD Plan.

16) Recreational Use:

a) Camping: The NOP indicates that,

"...the existing RV campground and vacant De Anza Mobile Home Park would be replaced with low-cost guest housing, allowing for approximately 600 camping sites for RV's, cabins or other eco-friendly accommodations and associated open space and facilities consistent with camping accommodations. Camping-oriented ancillary facilities and amenities, such as food services/concessions, would also be provided on site."

Jordan Moore
 City of San Diego
 February 10, 2022
 Page 7 of 9

CDFW does not consider RV camping to be a passive recreational use; the PEIR should analyze the proposed low-cost guest housing on the De Anza peninsula as an active recreational use and discuss how surrounding natural habitat will be impacted. To maximize habitat values and improve water quality, we recommend that commercial and other land use developments be strategically located farthest away from sensitive resources to include wetlands and open waters of the bay.

b) Watercraft: The NOP states that a small non-motorized boat lease area is proposed as part of the Project, and an existing boat ramp in De Anza Cove would be removed. Motorized watercraft access currently exists just east of the Project boundary at the De Anza Boat Launch. The NOP goes on to state that nonmotorized personal watercraft would have access in De Anza Cove from the new potential boat lease, while motorized boats could access De Anza Cove from the existing boat ramp east of the Project area. CDFW recommends that De Anza Cove be limited to non-motorized watercraft and swimming uses only. Allowing motorized watercraft activities in De Anza Cove risks damage to the proposed eastern wetlands, resulting from boats operating close to, or directly in, wetland areas. Noise from motors may also disturb nesting or foraging avian species. Indirect impacts to the wetlands could occur from pollution and increased turbidity caused by motorized watercraft.

17) **CEQA Document Tiering**: The NOP indicates that specific active recreation uses at the north section of De Anza Cove will be determined during future site planning efforts as part of a General Development Plan through a public process. While we appreciate additional public involvement in the future, the PEIR should specify what mechanisms under CEQA will be employed. As expressed in our 2018 comment letter (CFDW 2018), the City should indicate whether it anticipates subsequent Project-specific CEQA documents, or if a consistency determination process will be followed when tiering from the PEIR.

CEQA Lead Agencies may elect to prepare a Program EIR as a high-level CEQA document addressing "...a series of actions that can be characterized as one large Project..." (CEQA Guidelines § 15168). Absent a clear understanding of how the PEIR is intended to be used, CDFW is unable to comment on the full breadth of environmental concerns and potential avoidance, minimization, or mitigation measures. Given the nature of a programmatic environmental document, CDFW acknowledges that the CEQA Lead Agency is not obligated to fully analyze subsequent activities for which insufficient data exists. However, CEQA findings of significance should only be made when those findings are supported by substantial evidence in the record (CEQA § 15091(b)). For those aspects of the proposed Project that have not been fully studied, findings of significance should be set aside when certifying the PEIR until those aspects can be fully studied in a subsequent or supplemental CEQA document (see CEQA Guidelines §§ 15162 and 15163).

18) **Jurisdictional Delineation and 1600 Notification:**

- a) The Project area supports aquatic, riparian, and wetland habitats; therefore, a jurisdictional delineation of the wetlands, Rose Creek, and associated riparian habitats should be included in the PEIR. Please note that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers.
- b) The CDFW has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. CDFW as a Responsible Agency under CEQA may consider the City's PEIR for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSAA.

19) **Marine Mitigation Measures:**

At a minimum, the following marine mitigation measures should be incorporated into a Marine Impact Avoidance, Minimization and Monitoring plan for any proposed sediment placement cut and fill work within or adjacent to the marine habitats of Mission Bay.

Jordan Moore
 City of San Diego
 February 10, 2022
 Page 8 of 9

- a) Avoidance Measures: Equipment, vehicle routes, dump trucks, bulldozers, and workers should travel, set up and operate outside the Bay habitat boundaries to the extent feasible to avoid significant Project impacts to marine habitat, species, and water quality. All driving, dumping, bulldozing routes and locations should be referenced on maps and diagrams in relation to the marine habitat boundaries showing potential areas of impact.
- b) Avoidance Measures: The CDFW recommends avoidance of eelgrass and marine habitat impacts. Project alternatives and designs should include construction methods designed to fully avoid impacts to existing sensitive marine fish and wildlife and associated marine habitats.
- c) Minimization Measure: For Bay sandy beach and mudflat protection or creation, dredged or excavated sediments to be used as fill should be sampled under an approved sediment analysis plan, and only clean, beach or mudflat compatible sand should be placed on receiver beaches. Dredged sediments should be similar to receiver beach sediments in grain size, color, and percent silt content.
- d) Minimization Measure: Hydrological modeling should be done to identify appropriate sediment placement volumes and locations to minimize significant marine habitat and creek mouth impacts.
- e) Minimization Measure: Silt curtains and coffer dams should be used to the extent feasible to minimize turbidity and sedimentation impacts for all sensitive marine habitats and species.

Eelgrass and Shallow Water Habitat Mitigation Measures: Eelgrass is a sensitive habitat that is highly productive as a juvenile fish nursery, and used by adult fish and invertebrates for foraging, spawning, and shelter. Eelgrass beds are also considered a "special aquatic site" and given protections by the Clean Water Act. Additionally, the importance of eelgrass protection and restoration, as well as the ecological benefits of eelgrass, is identified in the California Public Resources Code (PRC§35630). Guidance for eelgrass habitat impact avoidance, minimization, and compensatory mitigation as well as guidance for eelgrass mitigation banking is provided by the California Eelgrass Mitigation Policy (CEMP), (NOAA, 2014). (https://media.fisheries.noaa.gov/dam-migration/cemp_oct_2014_final.pdf).

If transplanting of eelgrass is required for eelgrass compensatory mitigation, a Scientific Collecting Permit (SCP) from CDFW will be required prior to harvest and transplanting activities. The SCP may include conditions such as donor bed surveys, limits on number and density of turions collected, methods for collection and transplanting, notification of activities, and reporting requirements. Please visit the CDFW's SCP webpage for more information: <https://wildlife.ca.gov/Licensing/Scientific-Collecting>.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

Jordan Moore
City of San Diego
February 10, 2022
Page 9 of 9

CONCLUSION

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

Questions and further coordination on terrestrial issues should be directed to Jessie Lane, Environmental Scientist at Jessie.Lane@wildlife.ca.gov. Questions and further coordination on marine issues should be directed to Loni Adams, Marine Environmental Scientist at Loni.Adams@wildlife.ca.gov.

Sincerely,

DocuSigned by:



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David Mayer
Environmental Program Manager
South Coast Region

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Carolyn Lieberman, USFWS, Carlsbad – Carolyn.Lieberman@fws.gov

Attachments

Attachment A: CDFW Comments on the De Anza Revitalization Plan. December 13, 2016.

Attachment B: CDFW Comments on the Notice of Preparation of a Draft Program Environmental Impact Report for the Mission Bay Park Master Plan Update-Fiesta Island. June 8, 2017.

Attachment C: Comments on the De Anza Cove Amendment to the Mission Bay Park Master Plan NOP. July 10, 2018.

References

California Department of Fish and Wildlife (CDFW). December 13, 2016. Comments on the De Anza Revitalization Plan.

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City of San Diego. 2016. De Anza Revitalization Plan. <http://www.deanzarevitalizationplan.com/>

NOAA (National Oceanic and Atmospheric Administration) Fisheries, West Coast Region. 2014. California Eelgrass Mitigation Policy and Implementing Guidelines.