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SUBJECT: DE ANZA NATURAL (PROJECT), FINAL PROGRAM ENVIROMENTAL IMPACT REPORT (FPEIR), SCH #2018061024

Dear Jordan Moore:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Final PEIR from the City of San Diego (City) for the Project pursuant 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 Notice of Preparation (NOP) in 2018, the NOP of the De Anza Natural Draft PEIR (DPEIR) in 2022, and the De Anza Natural DPEIR in April of 2023.

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,

[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.

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 FPEIR for the proposed Project must ensure that all requirements and conditions of the SAP and IA are met. The FPEIR should also address any biological issues that are not addressed in the SAP and IA, such as specific impacts and 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)

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.

Proposed Land Use Acreages for the Project were updated in the FPEIR. Changes are summarized in the below table (FPEIR, Table 3-2):

Table 3-2. Proposed Land Use Acreages	
Land Use	**Acres**
KFMR/NWP	86.8
Expanded Marshland/Habitat[1]	~~140.5~~ 138.3
Upland Habitat (Dune, Sage) and Buffer Area	~~37.4~~ 36.7
Low-Cost Visitor Guest Accommodations	48.5
Regional Parkland	~~26.3~~ 23.4
Boat Facilities/Clubhouse	2.6
Interpretive Nature Center (1 Location)[2]	—
Water Lease Area [2~~3~~]	~~2.1~~ 1
Active Recreation	~~60.1~~ 66.5
Open Water	95.~~95~~5
Open Beach	5.5
Road[3~~4~~]	1.~~6~~4
Total	**505.2**

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

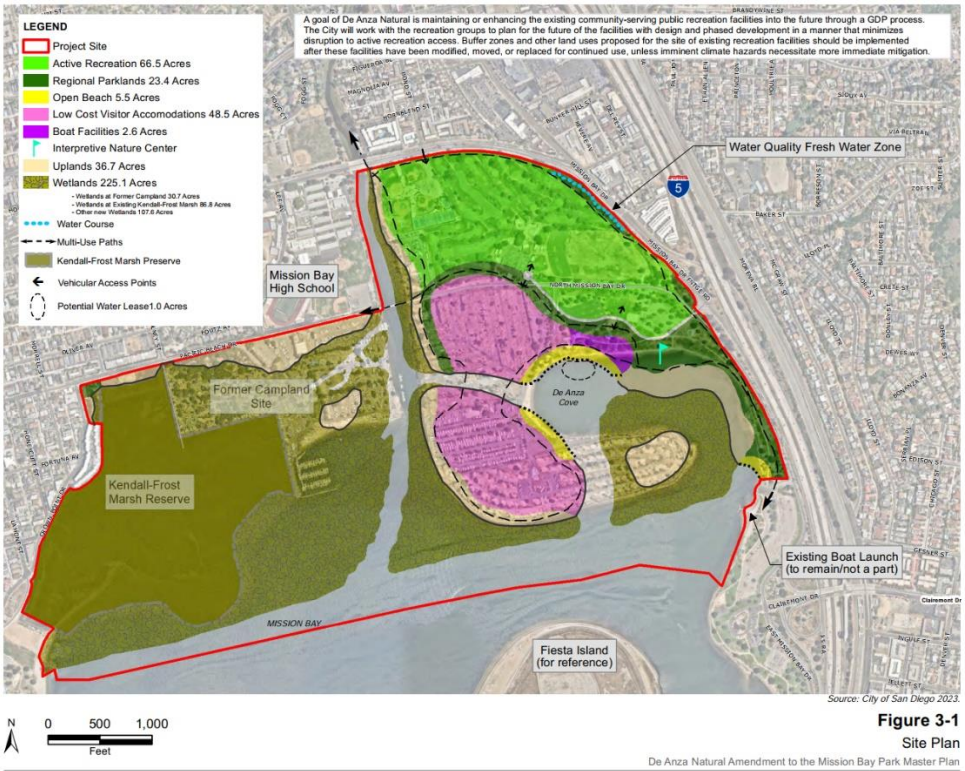
[1] Expanded wetlands includes approximately 30.7 acres currently occupied by Campland and approximately 107.6 ~~109.8~~ acres of other new wetlands.

~~[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.~~

[2~~3~~] Lease areas overlaps with other land uses; therefore, acreages are not included in the total.

[3~~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.

Project Site Plan (FPEIR Figure 3-1, November 2023):



Source: City of San Diego 2023.

Figure 3-1
Site Plan
De Anza Natural Amendment to the Mission Bay Park Master Plan

(City of San Diego, De Anza Natural FEIR, November 2023)

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 Kendall-Frost Marsh/Northern Wildlife Preserve (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.

COMMENTS AND RECOMMENDATIONS

COMMENT #1: Sea Level Rise Analysis

The City incorporated the Sea Level Rise Assessment Technical Report (Appendix N) into the FPEIR, as a requirement of the Supplemental Environmental Project (SEP) grant funding received from the Regional Water Quality Control Board. The City additionally added the following language in Section 3.4 of the FPEIR:

> *"As discussed in Chapter 1.0, Introduction, the City received a Supplemental Environmental Project (SEP) grant from the Regional Water Quality Control Board, which required an extreme sea level rise assessment for both the proposed project and the Wetlands Optimized Alternative. To satisfy the requirements of the SEP grant, a Sea Level Rise Assessment Technical Report (Appendix N) was prepared to demonstrate how 80 acres of additional functional wetlands (low-high salt marsh and mudflat habitat) could persist at year 2100 based on current models used by the City, under a 7-foot sea level rise scenario by the end of the century. A conceptual grading plan was developed by generating a minimum elevation that included all active land use types and considered how the site would be developed (i.e., earthwork cut and fill) in order to support the proposed land uses and wetland habitat areas under an extreme future water level scenario (i.e., sea level rise and extreme tide). Based on the defined habitat elevation bands, habitat areas were established within the grading plans that allow the wetland habitat to transgress upslope with sea level rise. The project was then modeled assuming simplistic grading (i.e., level graded pads up to proposed developed areas). The Sea Level Rise Assessment Technical Report concluded that the project would result in 85.6 acres of viable wetland habitat and that the Wetlands Optimized Alternative would result in 87.3 acres of viable wetland habitat with 7 feet of sea level rise modeled. The Sea Level Rise Assessment Technical Report will inform the future design of the project. Refer to Appendix N for further details."*

Although the report concludes that the De Anza Natural plan results in 85.6 acres of viable wetland habitat under the modeled 7-foot sea level rise scenario, the proposed Grading Plan (Figure 11, below) <u>is not representative of the Site Plan that has been analyzed in the PEIR for the Project</u>. Significant changes to the Project design were incorporated to achieve the viable wetland acreage goal under a 7-foot sea level rise scenario, including filling a large area of open water in the southeast corner of the site to create upland, to allow for transition to wetland habitat. An upland peninsula was also

added in the former Campland site to act as transitional habitat. The Sea Level Rise report indicates, “due to the size of the low-cost visitor accommodations in the southern portion of the Project area, space was limited to allow for transition of wetland habitat without creating additional upland areas.”

The report emphasizes that the design in the Conceptual Grading Plan is just one of many approaches that can be taken during the General Development Plan process to achieve 80+ acres of remaining wetland under a 7-foot sea level rise scenario. While CDFW understands that the Conceptual Grading Plan is not necessarily the final Project design, we do not agree that it represents the Project as analyzed elsewhere in the document and in Figure 3-1. We are concerned with the major design changes, particularly the area of fill to create upland habitat in the southeastern portion of the Project area. CDFW does not support creation of new upland habitat in current areas of open water. Upland habitat is integral to providing a transitional zone to accommodate sea level rise; however, creation of upland habitat should be limited to areas that are currently on land, not in subtidal/open water areas.

<u>Conceptual Grading Plan (Sea Level Rise Technical Report, Figure 11):</u>

Figure 11. De Anza Natural Conceptual Grading Plan under Existing Water Levels

COMMENT #2: Wetlands Optimized Alternative

The Wetlands Optimized Alternative was also analyzed under a 7-foot sea level rise scenario, which resulted in 87.3 acres of viable wetland. Whereas the Conceptual Grading Plan for the De Anza Natural Project required significant grading modifications

and cut-and-fill both on land and in the water, the Wetlands Optimized Alternative Conceptual Grading Plan required only minimal grading modifications to achieve the goal of 80+ acres of functional wetland after 7 feet of sea level rise.

As indicated in our comment letter in response to the DPEIR (CDFW, 2023), we continue to encourage native habitat incorporation along the entire De Anza peninsula. The marsh habitat serves as an important regional resting, feeding, and migratory stop within the Pacific Flyway. The created wetland habitat will act as a significant bioremediation tool to improve water quality in Mission Bay, which is a key element of the MBPMP and 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). CDFW continues to support the Wetlands Optimized Alternative, as it maximizes wetland restoration along the De Anza 'Boot.'

COMMENT #3: CEQA Process

In our comment letter in response to the DPEIR (CDFW, 2023) we recommended that, for aspects of the Project that have not been fully studied at the Program level, 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 (CEQA Guidelines §§ 15162 and 15163). The City responded to our comment and provided additional clarification about their General Development Plan (GDP) process, as defined by City Council Policy 600-33. The response indicates that precise engineering and construction plans will be developed during the GDP process, which involves public scoping and meetings. Once the Project design is finalized and prior to approval, the City will route the Project through the Public Project Assessment process, which will include preparation of the appropriate environmental documentation in accordance with CEQA. The City indicates that specific mitigation measures will be developed based on site-specific impacts of the proposed GDP and the mitigation strategy outlined in the PEIR. The City also acknowledged that, "due to lack of detail and site design in the PEIR, many future projects will undergo site-specific CEQA review, which is the appropriate time to evaluate site-specific impacts. CDFW will have the opportunity to comment on CEQA documents addressing future site-specific projects." The City also edited the FPEIR to strike the following language: "~~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.~~" CDFW looks forward to ongoing coordination with the City at the Project specific design level, through GDP engagement as well as the opportunity to review and comment on CEQA documents, for elements of the Project involving biological resources.

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 (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/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 FEIR.

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,

DocuSigned by:
Dave Mayer
D700B4520375406...

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