

CALIFORNIA COASTAL COMMISSION

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F8a

DATE: November 29, 2018

TO: Commissioners and Interested Persons

FROM: Steve Hudson, Deputy Director
Barbara Carey, District Manager

SUBJECT: Partial Remand of County of Los Angeles Land Use Plan Amendment (No. LCP-4-LAC-14-0108-4) and Local Implementation Plan (No. LCP-4-LAC-14-0109-4) for the Santa Monica Mountains Segment of the County's Coastal Zone for Public Hearing and Commission Action at the December 2018 Commission Meeting in Newport Beach.

DESCRIPTION OF THE AMENDMENT

This report concerns a partial remand of the Commission's decisions approving with suggested modifications the County of Los Angeles Santa Monica Mountains Local Coastal Program (Land Use Plan Amendment and Local Implementation Plan) resulting from the trial court decision in Ramirez Canyon Preservation Fund v. California Coastal Commission. In that decision, the court found that the policies and provisions of the Local Coastal Program (LCP) that permit low-impact campgrounds as a resource-dependent use in H1 and H2 habitat (environmentally sensitive habitat areas), based on the standard of avoiding impacts to the maximum extent feasible, must be set aside as void and reconsidered by the Commission. Three revised LUP policies, and one revised LIP provision relating to low-impact campgrounds and other resource dependent uses, will replace those that were ordered to be set aside. All other policies and provisions of the certified Land Use Plan and Local Implementation Plan remain in full force and effect.

SUMMARY OF STAFF RECOMMENDATION

The Commission must take new action to certify the LCP provisions that are in violation of the court's ruling. This staff report treats those provisions as though the County had submitted them to the Commission again, and it recommends that the Commission modify them to comply with the Court's ruling. Commission staff recommends that the Commission **deny** the proposed LUP amendment as submitted and **approve** the LUP amendment with three suggested modifications on the grounds that only as modified does the amendment conform with the policies of Chapter 3 of the Coastal Act. Commission staff further recommends that the Commission **deny** the proposed County of Los Angeles LIP as submitted, and **approve** the proposed LIP with one suggested modification. The modification is necessary because the proposed LIP does not conform with and is inadequate to carry out the provisions of the certified Land Use Plan, as amended. The motions to accomplish these recommendations are found on **Pages 6-9** of this staff report.

The County of Los Angeles Santa Monica Mountains Local Coastal Program (LCP) is comprised of two portions that were approved by the Commission in two separate actions. The Land Use Plan (LUP) portion of the LCP (LUP Amendment No. LCP-4-LAC-14-0108-4) was approved with suggested modifications by the Commission at the April 10, 2014 hearing. On July 10, 2014, the Commission approved the Local Implementation Plan (LIP) portion of the LCP (LIP No. LCP-4-LAC-14-0109-4) with suggested modifications.

On August 26, 2014, the Los Angeles County Board of Supervisors held one hearing regarding both the LUP Amendment and the LIP in which it adopted a Resolution acknowledging receipt of the Commission's certification of the LCP and accepting and agreeing to all modifications suggested by the Commission. The Executive Director determined the County's action accepting the suggested modifications was legally adequate, and the Commission concurred with this determination on October 10, 2014, resulting in effective certification of the entire LCP.

Coastal Act Section 30240 requires that environmentally sensitive habitat areas (ESHA) be protected against any significant disruption of habitat values. No uses other than those dependent on ESHA are allowed within it. The biological resource protection approach certified by the Commission for the Santa Monica Mountains LCP designates three habitat categories: H1 habitat, H2 habitat, and H3 habitat. H1 and H2 habitats are collectively described as Sensitive Environmental Resource Areas (SERA). H1 and H2 habitats also meet the definition of ESHA under the Coastal Act. The LCP policies and provisions require that H1 and H2 habitat must be protected against any significant disruption of habitat values, and they generally only allow resource dependent uses in H1 and H2 habitat, consistent with Section 30240 of the Coastal Act.

The LCP provides that low-impact campgrounds, public accessways, and trails are considered resource-dependent uses, and as such are allowed in H1 and H2 habitat areas. The LCP states that such uses must be located, designed, and maintained to avoid significant disruption of habitat values in H1 and H2 habitat areas. However, three LUP policies (Policies CO-42, CO-93, and CO-164 subpart e) and one LIP provision (Section 22.44.1920.M) contain language that requires public accessways, trails, and low-impact campgrounds to "avoid and minimize impacts to H1 and H2 habitat to the maximum extent feasible." The court rejected a claim that low-impact campgrounds are not resource-dependent uses and should therefore not be allowed in H1 and H2 habitat. However, it ruled that the LCP failed to ensure that low-impact campgrounds would avoid significant disruption of habitat values as required by Section 30240. In particular, it held that the language requiring avoidance and minimization of impacts to H1 and H2 habitat to the maximum extent feasible allows for disruption of ESHA, in violation of the Coastal Act.

In order to ensure that the three LUP policies are consistent with Section 30240 of the Coastal Act, it is necessary to require **Suggested Modifications 1-3** to modify the policies to clearly state that resource dependent uses must avoid significant disruption of habitat values in H1 and H2 habitat. Only if modified as suggested will the LUP meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act, as well as conform with the court's order. **Suggested Modification No. 4** is needed to ensure that the LIP development standard for resource dependent uses is that they avoid significant disruption of habitat values. Only if modified as suggested will the LIP conform with and be adequate to carry out the LUP policies, as well as conform with the court's order.

Staff recommends that the Commission, after public hearing, deny Los Angeles County LUP Amendment No. LCP-4-LAC-14-0108-4, as submitted, and approve only if modified pursuant to the suggested modifications. Staff further recommends that the Commission, after public hearing, reject Los Angeles County LIP No. LCP-4-LAC-14-0109-4 and approve only if modified pursuant to the suggested modifications. The motions and resolutions for Commission action on the amendment to the LUP can be found starting on page 6. The motions and resolutions for Commission action on the amendment to the LIP can be found starting on page 8.

Additional Information: For further information, please contact Barbara Carey at the South Central Coast District Office of the Coastal Commission at (805) 585-1800.

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EXHIBITS

Exhibit 1 Final Decision in Ramirez Canyon Preservation Fund v. California Coastal Commission

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The Coastal Act provides:

The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)...” (Section 30512(c))

The Coastal Act further provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter.

...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)

The Commission may suggest modifications... (Section 30513)

The standard of review that the Commission uses in reviewing the adequacy of the Land Use Plan, is whether the Land Use Plan, as amended, would remain consistent with, and meet the requirements of, the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed Implementation Plan of the certified Local Coastal Program, pursuant to Section 30513 and 30514 (regarding amendments) of the Coastal Act, is whether the Implementation Plan, with the proposed amendment, would be in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the County of Los Angeles’ certified Local Coastal Program, as amended.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

In this case, the County of Los Angeles conformed to the Coastal Act’s public participation requirements. The County held several public meetings on the proposed LCP, seven of which

were public hearings (Regional Planning Commission Hearings on October 25, 2006, November 6, 2006, January 24, 2007, and March 7, 2007, and Board of Supervisors Hearings on October 23, 2007, October 30, 2007, and February 11, 2014). In addition, the County made the draft documents available to the public on their website, and hard copies of the draft documents were made available to the public at various public locations at no cost, on January 7, 2014, six weeks prior to the Board hearing and action on the LCP on February 18, 2014. Public notice of availability of the documents was sent to approximately 6,000 property owners and interested parties on January 3, 2014, at least six weeks before the Board hearing of February 11, 2014. The Board formally adopted a resolution to approve the LCP and submit it to the Coastal Commission on February 18, 2014. The hearings were noticed to the public by publishing the notice in two local newspapers and by mailing notice to interested parties, consistent with Section 13515 of Title 14 of the California Code of Regulations. The County received written comments regarding the draft LCP from concerned parties and members of the public.

Notice of the Coastal Commission April 2014 (LUP) and July 2014 (LIP) hearings as well as the subject hearing was distributed to all known interested parties and published in local newspapers.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551(b) of Title 14 of the California Code of Regulations, the County resolution for submittal may specify that a Local Coastal Program Amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves the proposed LUP amendment and the LIP pursuant to the staff recommendation, the County must act to accept the certified suggested modifications within six months from the date of Commission action in order for the amendment to become effective (California Code of Regulations, Title 14, Sections 13544 & 13544.5; and Sections 13542(b) and 13537(b)). If the Commission certifies the proposed LUP Amendment and LIP with suggested modifications and the County acts on those suggested modifications, then pursuant to Section 13544 of the Code of Regulations, the Executive Director shall determine whether the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the County, and the LCP amendment is not effective.

II. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS ON THE LAND USE PLAN AMENDMENT

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided prior to each resolution.

D. DENIAL OF THE LUP AMENDMENT AS SUBMITTED

Motion:

I move that the Commission certify Land Use Plan Amendment No. LCP-4-LAC-14-0108-4 as submitted by Los Angeles County for the Santa Monica Mountains segment of the County's Coastal Zone.

Staff recommends a **NO** vote. Following this staff recommendation will result in denial of the land use plan amendment as submitted and adoption of the following resolution. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

Resolution to Deny the LUP Amendment as Submitted:

The Commission hereby denies certification of the Land Use Plan Amendment submitted by Los Angeles County for the Santa Monica Mountains segment of the County's coastal zone and adopts the findings set forth below on grounds that the land use plan amendment as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan amendment as submitted.

E. CERTIFICATION OF THE LUP AMENDMENT WITH SUGGESTED MODIFICATIONS

Motion:

I move that the Commission certify Land Use Plan Amendment No. LCP-4-LAC-14-0108-4, submitted by Los Angeles County for the Santa Monica Mountains segment of the County's Coastal Zone, if modified as suggested in this staff report.

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

Resolution to Certify with Suggested Modifications:

The Commission hereby certifies the Land Use Plan Amendment submitted by Los Angeles County for the Santa Monica Mountains segment of the County's coastal zone, if modified as suggested, and adopts the findings set forth below on grounds that the land use plan amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California

Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan amendment if modified as suggested.

III. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS ON THE IMPLEMENTATION PLAN

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolutions and a staff recommendation is provided prior to each resolution.

A. DENIAL OF THE IMPLEMENTATION PLAN AS SUBMITTED

Motion:

*I move that the Commission **reject** County of Los Angeles Implementation Plan LCP-4-LAC-14-0109-4 as submitted.*

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Plan LCP-4-LAC-14-0109-4 as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby **denies** certification of County of Los Angeles Implementation Plan LCP-4-LAC-14-0109-4, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan, as submitted, does not conform with and is inadequate to carry out, the provisions of the certified Land Use Plan, as amended. Certification of the Implementation Plan would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan as submitted.

B. CERTIFICATION OF THE IMPLEMENTATION PLAN WITH SUGGESTED MODIFICATIONS

Motion:

*I move that the Commission **certify** County of Los Angeles Implementation Plan LCP-4-LAC-14-0109-4 if it is modified as suggested in this staff report.*

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Plan LCP-4-LAC-14-0109-4 with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby *certifies* the County of Los Angeles Implementation Plan LCP-4-LAC-14-0109-4, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, as amended. Certification of the Implementation Plan if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

IV. SUGGESTED MODIFICATIONS

A. SUGGESTED MODIFICATIONS TO THE LAND USE PLAN

The language proposed in the County's LUP is shown in straight type. Language recommended by Commission staff to be inserted is shown underlined and language proposed to be deleted is shown in ~~overstrike~~.

Suggested Modification No. 1

CO-42 Resource-dependent uses are only allowed in H1 and H2 habitats where sited and designed to avoid significant disruption of habitat values, consistent with the policies of the LUP. Low-impact campgrounds, public accessways, and trails are considered resource-dependent uses. Resource-dependent uses shall be sited and designed to avoid ~~or minimize impacts to~~ significant disruption of habitat values in H1 and H2 habitat to the maximum extent feasible. ~~by implementing M~~ measures such as, including but not necessarily limited to, minimizing removal of native vegetation, installing signage, placement of boardwalks, utilizing established trail corridors or existing disturbed areas, following natural contours to minimize grading, and using limited fencing ~~shall be implemented as necessary to protect H1 and H2 habitat.~~ Accessways to and along the shoreline that are located in H1 or H2 habitat areas shall be sited, designed, and managed to avoid significant disruption of habitat values, including by ~~and/or~~ protecting marine mammal hauling grounds, seabird nesting and roosting sites, sensitive rocky points and intertidal areas, and coastal dunes.

Suggested Modification No. 2

CO-93 Public accessways, trails, and low-impact campgrounds shall be an allowed use in H1 and H2 habitat areas. Accessways to and along the shoreline that are located in H1 or H2 habitat areas shall be sited, designed, and managed to avoid significant disruption of habitat values, including by and/or protecting marine mammal hauling grounds, seabird nesting and roosting sites, sensitive rocky points and intertidal areas, and coastal dunes. Inland public trails and low-impact campgrounds shall be located, designed, and maintained to avoid ~~or minimize impacts to~~ significant disruption of habitat values in H1 or H2 habitat areas and to protect other coastal resources, including by utilizing established trail corridors or existing disturbed areas, following natural contours to minimize grading, and avoiding naturally-vegetated areas with significant native plant species to the maximum extent feasible. Trails shall be constructed in a manner that minimizes grading and runoff.

Suggested Modification No. 3

CO-164(e)

Overnight campgrounds, including “low-impact” campgrounds, are permitted uses in parklands and are encouraged within park boundaries for public use to provide a wider range of recreational opportunities and low-cost visitor-serving opportunities for visitors of diverse abilities, where impacts to coastal resources are minimized, significant disruption of habitat values in H1 and H2 habitat is avoided, and where such sites can be designed within site constraints and to adequately address public safety issues. These campgrounds help provide recreational opportunities and low-cost visitor-serving opportunities for visitors. Low-impact campgrounds constitute a resource-dependent use. Access to low-impact campgrounds shall be supported by parking areas and designated ADA drop-offs that may be located in H2 or H3 habitat areas, where it is infeasible to site such facilities in non-habitat areas.

B. SUGGESTED MODIFICATIONS TO THE LOCAL IMPLEMENTATION PLAN

The language of the proposed Local Implementation Plan is shown in straight type. Language recommended by Commission staff to be inserted is shown underlined and language proposed to be deleted is shown in ~~overstrike~~.

Suggested Modification No. 4

Section 22.44.1920.M, Subsections 1 and 2 (a through c only)

Resource-dependent Uses. Resource-dependent uses are uses that are dependent on SERA's to function. Resource-dependent uses include: nature observation, research/education, habitat restoration, interpretive signage, and passive recreation, including horseback riding, low-

impact campgrounds, picnic areas, public accessways, and hiking trails, but excluding trails for motor vehicles. Residential or commercial uses are not resource-dependent uses.

1. Resource-dependent uses are allowed in H1 habitat, H2 habitat, and H3 habitat, including H1 habitat buffer and H1 habitat quiet zone buffer, where sited and designed to avoid significant disruption of habitat values, consistent with the following development standards and all other applicable standards of the LIP.

2. Development Standards.

a. Resource-dependent uses shall be sited and designed to avoid significant disruption of habitat values ~~or minimize adverse impacts to~~ in H1 and H2 habitat and to minimize all impacts to other habitat to the maximum extent feasible. The development shall be the minimum design necessary to accommodate the use in order to minimize adverse impacts to H1 and H2 habitat;

b. Accessways to and along the shoreline that are located in H1 or H2 habitat shall be sited, designed, and managed to avoid significant disruption of habitat values, including by and/or protecting marine mammal hauling grounds, seabird nesting and roosting sites, sensitive rocky points and intertidal areas, and coastal dunes. Inland public trails shall be located, designed, and maintained to avoid significant disruption of habitat values in ~~or minimize impacts to~~ H1 and ~~or~~ H2 habitat, and to protect other coastal resources, by utilizing established trail corridors or other disturbed areas, following natural contours to minimize grading, and avoiding naturally vegetated areas with significant native plant species to the maximum extent feasible. Trails shall be constructed in a manner that minimizes grading and runoff;

c. Low-impact campgrounds shall be located, designed, and maintained to avoid significant disruption of habitat values ~~or minimize impacts to~~ in H1 ~~and~~ H2 Habitat areas, and to avoid or minimize impacts and to other coastal resources, by utilizing established disturbed areas where feasible, following natural contours to minimize grading, and avoiding naturally vegetated areas with significant native plant species to the maximum extent feasible. Such campgrounds shall be located a minimum of 50 feet from the top bank of all

streams or from the outer edge of riparian vegetation, whichever is the most protective of biological resources as determined by the staff biologist or the ERB unless those areas are developed and/or disturbed by historic uses (e.g., recreation). Access to low-impact campgrounds shall be supported by parking areas and designated ADA drop-offs that may be located in H2 habitat areas, where it is infeasible to site such facilities in H3 habitat areas;

...

V. FINDINGS FOR DENIAL OF THE LUP AMENDMENT AND LIP AS SUBMITTED, AND APPROVAL OF THE LUP AMENDMENT AND LIP, IF MODIFIED AS SUGGESTED

The following findings support the Commission's denial of the proposed Land Use Plan Amendment as submitted and approval of the Land Use Plan if modified as suggested in Section IV (Suggested Modifications) above. Additionally, the findings detail the Commission's denial of the proposed Local Implementation Plan as submitted, and approval of the Local Implementation Plan if modified as indicated in Section IV (Suggested Modifications) above.

The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION AND BACKGROUND

This report concerns a partial remand of the Commission's decisions approving with suggested modifications the County of Los Angeles Santa Monica Mountains Local Coastal Program (Land Use Plan Amendment and Local Implementation Plan) resulting from the trial court decision in Ramirez Canyon Preservation Fund v. California Coastal Commission ([Exhibit 1](#)). In that decision, the court found that the policies and provisions of the Local Coastal Program (LCP) that permit low-impact campgrounds as a resource-dependent use in H1 and H2 habitat (environmentally sensitive habitat areas), based on the standard of avoiding impacts to the maximum extent feasible, must be set aside as void and reconsidered by the Commission. Three revised LUP policies and one revised LIP provision relating to low-impact campgrounds, trails, and public accessways are proposed to replace those that were ordered to be set aside. All other policies and provisions of the certified Land Use Plan and Local Implementation Plan remain in full force and effect.

The County of Los Angeles Santa Monica Mountains Local Coastal Program (LCP) is comprised of two portions that were approved by the Commission in two separate actions. The Land Use Plan (LUP) portion of the LCP (LUP Amendment No. LCP-4-LAC-14-0108-4) was approved with suggested modifications by the Commission at the April 10, 2014 hearing. On July 10, 2014, the Commission approved the Local Implementation Plan (LIP) portion of the LCP (LIP No. LCP-4-LAC-14-0109-4) with suggested modifications.

On August 26, 2014, the Los Angeles County Board of Supervisors held one hearing regarding both the LUP Amendment and the LIP in which it adopted a Resolution acknowledging receipt of the Commission's certification of the LCP and accepting and agreeing to all modifications suggested by the Commission. The Executive Director determined the County's action accepting the suggested modifications to be legally adequate and the Commission concurred with this determination on October 10, 2014, resulting in effective certification of the entire LCP.

The Ramirez Canyon Preservation Fund filed a petition for writ of mandate after the Commission's April 2014 action on the Santa Monica Mountains Land Use Plan. The petition alleged that the Commission's approval of the LUP violated Section 30240 of the Coastal Act by permitting campgrounds within ESHA. It further alleged that campgrounds are not a resource-dependent use and the support facilities necessary for a campground are likely to disturb the plant and animal life within ESHA. The Commission's July 2014 action on the Santa Monica Mountains Local Implementation Plan was later added to the case and also considered by the Superior Court.

The Superior Court decision in Ramirez Canyon Preservation Fund v. California Coastal Commission determined that the Commission's interpretation of Coastal Act Section 30240 to permit low-impact campgrounds in ESHA as a resource-dependent use is correct as a matter of law. The court further found that those LUP policies and LIP provisions that require low-impact campgrounds to avoid impacts to ESHA to the maximum extent feasible are inconsistent with Section 30240 of the Coastal Act, which requires that resource dependent uses in ESHA must avoid significant disruption of habitat values. The court ordered that the policies and provisions permitting low-impact campgrounds in H1 and H2 habitat (ESHA) based on the standard of avoiding impacts to the maximum extent feasible must be set aside as void and reconsidered by the Commission.

B. ENVIRONMENTAL SETTING AND DESCRIPTION OF THE PLAN AREA

The Santa Monica Mountains segment of Los Angeles County's coastal zone extends inland from the shoreline approximately five miles and encompasses approximately 50,000 acres. The Santa Monica Mountains, an east-west trending mountain range, is geologically complex and characterized by generally steep, rugged terrain of mountain slopes and canyons, with elevations ranging from sea level to over 3,000 feet. Numerous deep, parallel canyons drain south into Santa Monica Bay. An extraordinary feature of this section of coast is the large number of watersheds. Most of these watersheds originate at or near the northern plan area boundary and connect to habitats within the adjacent coastal City of Malibu and ultimately discharge into the ocean. Malibu Creek, however, extends well inland to the Simi Hills and drains approximately 67,000 acres of watershed into Malibu Lagoon in the City of Malibu. The upper reaches of these streams are relatively undisturbed and consist of steep canyons containing riparian oak-sycamore bottoms, with coastal sage scrub and chaparral ascending the canyon walls. This topographic and geologic complexity has contributed to tremendous ecological diversity. A variety of vegetation types occur within the mountains including oak woodlands, walnut woodlands, riparian woodlands, valley oak savannas, grasslands, coastal sage scrub, several types of chaparral, southern willow scrub, wetlands, and coastal marshes. This vegetation diversity provides habitat for abundant wildlife. Fifty species of mammals are found in the mountains, including bobcats,

mountain lions, mule deer, badgers and other smaller mammals. In addition, nearly 400 species of birds are recorded from the area and over 35 species of reptiles and amphibians are known to occur. Overall, these vegetation types and wildlife species are part of a diverse and increasingly rare complex of natural ecosystems adapted to the southern California Mediterranean-type climate of wet winters and warm, dry summers. The Santa Monica Mountains still include large areas of intact habitat, an extraordinary fact given the dense urban development that surrounds the area.

More than half of the 50,000-acre plan area is public parkland (approximately 29,500 acres), which includes, but is not limited to, Leo Carrillo State Park, Charmlee Wilderness Park, Malibu Creek State Park, and Topanga State Park. The entire plan area is within the larger Santa Monica Mountains National Recreation Area (SMMNRA), which encompasses more than 153,000 acres within and adjacent to unincorporated Los Angeles and Ventura Counties and the cities of Agoura Hills, Calabasas, Los Angeles, Malibu, Thousand Oaks, Westlake Village, and others. The SMMNRA is cooperatively managed by the National Park Service, California Department of Parks and Recreation, the Santa Monica Mountains Conservancy, and the Mountains Recreation and Conservation Authority. The SMMNRA was established by Congress in 1978 to protect the largest expanse of mainland Mediterranean ecosystem in the national park system and to provide for the recreational and educational needs of the visiting public.

The remainder of the plan area is composed primarily of rural residential lots ranging from parcels of less than 10,000 square feet to parcels of 80 acres or more. There is limited small-scale commercial development in the area of Topanga Canyon Boulevard and Pacific Coast Highway, as well as the area of Topanga Canyon Boulevard and Old Topanga Canyon Road. Those commercial developments consist primarily of neighborhood grocery stores or restaurants and local-serving retailers. There are also various public or semi-public facilities and private visitor-serving commercial and/or recreational-type developments scattered throughout the plan area such as private camps and a golf course.

C. BIOLOGICAL RESOURCES

Section **30240** of the Coastal Act states that:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

1. INTRODUCTION

Coastal Act Section 30240 requires that environmentally sensitive habitat areas (ESHA) be protected against any significant disruption of habitat values. No uses other than those dependent

on ESHA are allowed within it. The Coastal Act does not define “resource dependent” or provide examples of resource dependent uses. The Commission has interpreted resource dependent uses to be those that depend on the area or resources within ESHA to function. Examples include nature study, habitat restoration, trails, accessways, and low impact camping. Any development adjacent to ESHA must be sited and designed to avoid impacts that would significantly degrade ESHA and to be compatible with the continuance of the habitat area.

2. ESHA DESIGNATION

The Coastal Act provides a definition of “environmentally sensitive area” as: “Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments” (Section 30107.5).

There are three important elements to the definition of ESHA. First, a geographic area can be designated ESHA either because of the presence of individual species of plants or animals or because of the presence of a particular habitat. Second, in order for an area to be designated as ESHA, the species or habitat must be either rare or it must be especially valuable. Finally, the area must be easily disturbed or degraded by human activities.

The first test of ESHA is whether a habitat or species is rare. Rarity can take several forms, each of which is important. Within the plan area, rare species and habitats generally fall within one of two categories. Most rare species or habitats within the plan area are globally rare, but locally abundant. They have suffered severe historical declines in overall abundance and currently are reduced to a small fraction of their original range, but where present, may occur in relatively large numbers or cover large local areas. This is probably the most common form of rarity for both species and habitats in California and is characteristic of coastal sage scrub, for example. Some other habitats are geographically widespread, but occur everywhere in low abundance. California’s native perennial grasslands fall within this category.

A second test for ESHA is whether a habitat or species is especially valuable. Areas may be valuable because of their “special nature,” such as being an unusually pristine example of a habitat type, containing an unusual mix of species, supporting species at the edge of their range, or containing species with extreme variation. For example, reproducing populations of valley oaks are not only increasingly rare, but their southernmost occurrence is in the Santa Monica Mountains. Generally, however, habitats or species are considered valuable because of their special “role in the ecosystem.” For example, some areas within the plan area may meet this test because they provide habitat for endangered species, protect water quality, provide essential corridors linking one sensitive habitat to another, or provide critical ecological linkages such as the provision of pollinators or crucial trophic connections. Of course, all species play a role in their ecosystem that is arguably “special.” However, the Coastal Act requires that this role be “especially valuable.” Within the plan area, this test is met for those areas that are integral parts of the Santa Monica Mountains Mediterranean ecosystem because of the demonstrably rare and extraordinarily special nature of that ecosystem as detailed below. Other areas within the plan area may meet this test for other reasons, for example for especially valuable roles in marine systems.

Finally, ESHAs are those areas that could be easily disturbed or degraded by human activities and developments. Within the plan area, as in most of urban southern California, all natural habitats are in grave danger of direct loss or significant degradation as a result of many factors related to anthropogenic changes.

The Commission made extensive findings to support its April 2014 LUP decision regarding the habitat types in the Santa Monica Mountains that meet this definition of environmentally sensitive habitat areas. These findings, which are incorporated here by reference, include detailed information regarding the rarity, special nature, and susceptibility to disturbance or degradation that applies to each habitat type. The habitats found to constitute ESHA include but are not limited to riparian, coastal sage scrub, chaparral, wetlands, woodlands and savannas, grasslands, rock outcrops, and dunes. The designation of ESHA was not challenged in the Ramirez litigation and is not at issue in this LCP action; however, this background provides context for the habitat issues and policies before the Commission in this action.

3. DESIGNATION OF BIOLOGICAL RESOURCES IN THE LCP

The biological resource protection approach certified by the Commission for the Santa Monica Mountains LCP designates three habitat categories: H1 habitat, H2 habitat, and H3 habitat. H1 and H2 habitats are collectively described as Sensitive Environmental Resource Areas (SERA). H1 and H2 habitats meet the definition of ESHA under the Coastal Act. The LCP policies and provisions distinguish between H1 and H2 habitats in order to carry out a different regulatory approach for the protection of each category of habitat.

H1 habitat consists of areas of highest biological significance, rarity, and sensitivity. H1 habitats include alluvial scrub; dunes; coastal bluff scrub; native grassland and scrub with a strong component of native grasses or forbs; riparian; native oak, sycamore, walnut and bay woodlands or savannas; and rock outcrop habitat types. Wetlands, including creeks, streams, marshes, seeps and springs are also H1 habitat.

H2 habitat consists of areas of high biological significance, rarity, and sensitivity that are important for the ecological vitality and diversity of the Santa Monica Mountains Mediterranean Ecosystem, but which don't qualify as H1. H2 habitat includes large, contiguous areas of coastal sage scrub and chaparral-dominated habitats. A subcategory of H2 habitat is H2 "High Scrutiny" habitat, which comprises H2 habitat species/habitats containing rare species associated with H2 habitat.

Finally, the H3 habitat designation consists of all other areas within the plan area that are not H1 or H2 habitats (and not meeting the definition of ESHA). H3 habitat includes areas of native habitat that has been significantly disturbed, fragmented, isolated, or removed by existing, lawfully established development. While H3 habitat does not constitute a "SERA", or ESHA, the LCP recognizes that these areas may provide important biological functions that warrant specific development standards for the siting and design of new development.

Biological resource mapping.

H1, H2 and H3 habitat categories are depicted on the LUP Biological Resources Map. The precise boundaries of these habitat categories shall be determined on a site-specific basis, based on substantial evidence and a site-specific biological survey inventory and/or assessment required by the LCP when a development proposal is submitted. This LCP contains a procedure to both confirm the habitat types and locations depicted on the map and establish on the basis of substantial evidence the appropriate habitat category. Any area not designated as a habitat category on the Biological Resources Map that meets the criteria of a habitat category must be accorded all the protection provided for that habitat category in the LCP. The LCP also provides for the County Environmental Review Board, which is comprised of qualified professionals with technical expertise in resource management, to serve as an advisory body to County decision makers, both in the site-specific determination of habitat types and locations and the review of development proposals and their effects on biological resources.

4. ESHA PROTECTION

The biological resource protection approach of the certified LCP consists of (1) the preservation of the habitats of highest biological significance and sensitivity (H1 habitat, which constitutes ESHA as explained previously) through a policy that prohibits most new development (other than resource-dependent development) in H1 habitat, and (2) the protection of habitats of high biological significance and sensitivity (H2 habitat, which constitutes ESHA as explained previously) that are critical to the ecological vitality and diversity of the Santa Monica Mountains by strict development regulations to avoid, or minimize and fully mitigate, impacts to the habitat from new development in order to protect the habitat from significant disruption of habitat values.

New development is generally prohibited in H1 habitat in order to protect these most sensitive environmental resource areas from disruption of habitat values. The only exceptions are resource dependent uses, and the following two non-resource dependent uses: (1) public works projects required to repair or protect existing public roads when there is no feasible alternative, and impacts to H1 habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, and impacts to H1 habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated.

As submitted, the LCP requires that new development avoid H2 Habitat (including H2 “High Scrutiny” habitat), where feasible, in order to protect the sensitive environmental resource areas from disruption of habitat values. Where it is infeasible to avoid H2 habitat, the policy requires that new development be sited and designed to minimize impacts to H2 habitat. If there is no feasible alternative that can eliminate all impacts to H2 habitat, then the alternative that would result in the fewest or least significant impacts to H2 habitat shall be selected. Further, the policy requires that impacts to H2 habitat that cannot be avoided through the implementation of siting and design alternatives be fully mitigated. H2 “High Scrutiny” habitat is considered a rare and

extra sensitive subcategory of H2 habitat that shall be given protection priority over other H2 habitat and shall be avoided to the maximum extent feasible.

The LCP requires the protection of H1 habitat through the provision of buffers between the habitat areas and new development. Natural vegetation buffer areas must be provided around H1 habitat that are of sufficient size (in general no less than 100 feet wide) to prevent impacts that would significantly degrade that area. The LCP also requires an H1 Quiet Zone, which is an additional buffer beyond the H1 buffer, where feasible.

In addition, the LCP policies and provisions establish the order of prioritization for siting new development in consideration of the LUP's habitat categories. New development is required to be sited in a manner that avoids the most biologically-sensitive habitat onsite where feasible, while assuring consistency with other LCP policies, in the following order of priority: H1, H2 High Scrutiny, H2, H3. Priority shall be given to siting development in H3 habitat, but outside areas that contain undisturbed native vegetation that is not part of a larger contiguous habitat area. If infeasible, priority shall be given to siting new development in such H3 habitat. If it is infeasible to site development in H3 habitat areas, development may be sited in H2 habitat if it is consistent with the specific limitations and standards for development in H2 habitat and all other provisions of the LCP. New development is prohibited in H1 habitat unless for a use that is specifically provided for pursuant to Policy CO-41. However, it is important to clarify that resource dependent uses are allowed in ESHA (H1 and H2 habitats) pursuant to Coastal Act Section 30240, but such uses must still avoid significant disruption of habitat values.

The LCP policies and provisions provide other development standards to protect ESHA. This includes maximum development area standards where development must be allowed in H2 habitat in order to provide a reasonable economic use on a legally created parcel. Other standards require onsite H1 and H2 habitat to be protected through open space conservation easements. Further, the LCP requires new development to be sited and designed to minimize grading, the removal of vegetation, fencing, lighting, and the use of rodenticides in order to avoid impacts to H1 and H2 habitat.

5. RESOURCE DEPENDENT USES

As described previously, H1 and H2 habitats as designated in the LCP constitute ESHA, as defined by the Coastal Act. The LCP policies and provisions require that H1 and H2 habitat must be protected against any significant disruption of habitat values and resource dependent uses are allowed in H1 and H2 habitat, consistent with Section 30240 of the Coastal Act. The LCP defines "resource-dependent" uses as:

Uses that are dependent on sensitive environmental resource areas (SERA's) to function. Resource dependent uses include nature observation, research/education and passive recreation, including horseback riding, low-impact campgrounds, and hiking trails, but excluding trails for motor vehicles. Residential or commercial uses are not resource-dependent uses.

The LCP provides that low-impact campgrounds, public accessways, and trails are considered resource-dependent uses and as such are allowed in H1 and H2 habitat areas. Such uses must be

located, designed, and maintained to avoid significant disruption of habitat values in H1 and H2 habitat areas and avoid impacts to other coastal resources to the maximum extent feasible.

Land Use Plan

LUP Policy CO-42 states that resource dependent uses are only allowed in H1 and H2 habitat where sited and designed to avoid significant disruption of habitat values. However, this policy also requires that resource dependent uses be sited to avoid impacts to H1 and H2 habitat to the maximum extent feasible. By incorporating two different standards for habitat protection, LUP Policy CO-42 was viewed by the court as internally inconsistent and not in conformity with Section 30240 of the Coastal Act. In order to resolve the potential inconsistency as ordered by the court, **Suggested Modification No. 1** is recommended to clarify that resource dependent uses must avoid significant disruption of habitat values in H1 and H2 habitat by implementing measures that avoid impacts, including but not limited to: minimizing removal of native vegetation; installing boardwalks; utilizing established trail corridors or existing disturbed areas; following natural contours to minimize grading; and installing limited fencing.

The LUP requires that public accessways to and along the shoreline are sited, designed, and managed to avoid and/or protect marine mammal hauling grounds, seabird nesting and roosting sites, sensitive rocky points and intertidal areas, and coastal dunes. However, Policies CO-42 and CO-93 do not specifically state that accessways in H1 or H2 habitat areas must also avoid significant disruption of habitat values, as required by Section 30240 of the Coastal Act. In order to ensure that this is the standard applied to accessways within H1 and H2 habitat, **Suggested Modification No. 1** is necessary to modify the last sentence of CO-42 with regard to accessways. Further, **Suggested Modification No. 2** is required to add clarification to Policy CO-93 with regard to accessways in H1 or H2 habitat.

Inland public trails are required by LUP Policy CO-93 to avoid or minimize impacts to H1 and H2 habitat to the maximum extent feasible by utilizing established trail corridors, following natural contours to minimize grading, and avoiding naturally-vegetated areas with significant native plant species. Additionally, trails must be constructed in a manner that minimizes grading and runoff. However, Section 30240 of the Coastal Act requires that ESHA (H1 and H2 habitat) be protected against any significant disruption of habitat values. **Suggested Modification No. 2** is necessary to revise the standard contained in Policy CO-93 to clarify that trails will avoid significant disruption of habitat values, as required by Section 30240, rather than avoid or minimize impacts to H1 and H2 habitat.

The LUP defines low-impact campgrounds as resource-dependent uses which are allowed in H1 and H2 habitat. The LCP defines low-impact campgrounds as areas of land designed or used for “carry-in, carry-out” tent camping accessed by foot or wheelchair, including associated support facilities, including where appropriate, picnic areas, potable water, self-contained chemical or composting restrooms, shade trees, water tanks, portable fire suppression apparatus, and fire-proof cooking stations, but excluding any structures for permanent human occupancy and excluding roads. LUP Policy CO-93 requires low-impact campgrounds to be sited, designed and maintained to avoid or minimize impacts to H1 and H2 habitat to the maximum extent feasible. **Suggested Modification No. 2** is necessary to revise the standard contained in Policy CO-93 to

state that low-impact campgrounds will avoid significant disruption of habitat values in H1 and H2 habitat in order to be consistent with Section 30240. Further, Policy CO-164 (subpart e) also addresses low-impact campgrounds. This policy states that: “Overnight campgrounds, including “low-impact” campgrounds, are permitted uses in parklands and are encouraged within park boundaries for public use to provide a wider range of recreational opportunities and low-cost visitor-serving opportunities for visitors of diverse abilities, where impacts to coastal resources are minimized...”. **Suggested Modification No. 3** is needed in order to add the requirement to Policy CO-164 (subpart e) that in the case of H1 and H2 habitat, campgrounds must avoid significant disruption of habitat values.

Local Implementation Plan

The LIP allows resource dependent uses in H1 and H2 habitat, including public accessways, trails, and low-impact campgrounds. New development of such uses is subject to all applicable provisions of the LIP, including Section 22.44.1920.M, which contains specific development standards regarding resource dependent uses. One of the requirements is that such uses must be sited and designed to avoid significant disruption of habitat values. However, this LIP provision also requires that resource dependent uses be sited to avoid impacts to H1 and H2 habitat to the maximum extent feasible. By incorporating two arguably different standards for habitat protection, LIP Section 22.44.1920.M is internally inconsistent and does not conform with Policy CO-42 as amended. **Suggested Modification No. 4** includes changes to 22.44.1920.M (subsection (2)(a)) to require resource dependent uses to avoid significant disruption of habitat values in H1 and H2 habitat and to minimize all impacts to other habitat to the maximum extent feasible. As modified, this LIP section will conform to the policies of the LUP, as amended.

The LIP also contains development standards for public accessways and trails within H1 and H2 habitat. Section 22.44.1920.M (subsection (2)(b)) requires that public accessways to and along the shoreline are sited, designed, and managed to avoid and/or protect coastal and marine resources, but does not specifically state that accessways must avoid significant disruption of habitat values. Additionally, this section requires inland trails to avoid or minimize impacts to H1 and H2 habitat to the maximum extent feasible. In order to ensure that this subsection of the LIP will conform to and be adequate to carry out LUP Policies CO-42 and CO-93, **Suggested Modification No. 4** is necessary to change the wording of Section 22.44.1920 (subsection (2)(b)) to require accessways and trails to avoid significant disruption of habitat values.

Finally, the LIP, in Section 22.44.1920.M (subsection (2)(c)), requires that low-impact campgrounds must be sited, designed, and managed to avoid or minimize impacts to H1 habitat, H2 habitat, and other coastal resources by utilizing established disturbed areas where feasible, following natural contours to minimize grading, and avoiding naturally vegetated areas with significant native plant species to the maximum extent feasible. However, as previously discussed, the LUP as amended requires resource dependent uses to avoid significant disruption of habitat values in H1 and H2 habitat. Therefore, **Suggested Modification No. 4** is required to make changes to Section 22.44.1920.M (subsection (2)(c)) to require that low-impact campgrounds avoid significant disruption of habitat values in H1 and H2 habitat and avoid impacts to other coastal resources. Only as modified will the LIP conform to and be adequate to carry out LUP Policies CO-93 and CO-164 (subpart e).

Conclusion

Coastal Act Section 30240 requires that environmentally sensitive habitat areas (ESHA) be protected by avoiding any significant disruption of habitat values. No uses other than those dependent on ESHA are allowed within it. For the reasons discussed in this section, the Commission finds that it is necessary to require modifications to LUP Policies CO-42, CO-93, and CO-164 (subpart e) to ensure that these policies require resource dependent uses to avoid significant disruption of habitat values in H1 and H2 habitat. The Commission further finds that only if modified as suggested will the LUP be consistent with Section 30240 of the Coastal Act.

The LUP as amended requires resource dependent uses to avoid significant disruption of habitat values in H1 and H2 habitat. As discussed in this section, the Commission finds it necessary to modify LIP Section 22.44.1920.M with regard to the development standards regarding resource dependent uses in H1 and H2 habitat. The Commission further finds that only if modified as suggested will the LIP conform to and be adequate to carry out the LUP as amended.

Together, these changes will also satisfy the court decision, which invalidated the certified LCP provisions to the extent they permitted low-impact campgrounds based on a feasibility/mitigation standard of development, rather than affirmatively allowing them only if they avoided any significant disruption of habitat values. The court only ordered the Commission to revisit the policies permitting low-impact campgrounds based on a feasibility/mitigation standard of development, and it did not set aside any other provisions of the previously certified LCP. Thus, those other provisions are not at issue here and remain in full force and effect.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code (PRC) - within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with their activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, because the California Natural Resources Agency found the Commission's LCP review and approval program to be functionally equivalent to the EIR process (see 14 C.C.R. Section 15251(f)), PRC Section 21080.5 relieves the Commission of the responsibility to prepare an EIR for its actions on proposed LCP amendments. Nevertheless, some elements of CEQA continue to apply to this review process.

Specifically, pursuant to CEQA and the Commission's regulations (see 14 C.C.R. Sections 13540(f), 13542(a), and 13555(b)), the Commission's certification of this LCP amendment must be based in part on a finding that it meets the CEQA requirements listed in PRC Section 21080.5(d)(2)(A). That section requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed amendment is to the County of Los Angeles' certified Santa Monica Mountains Local Coastal Program Land Use Plan and Local Implementation Plan. For the reasons discussed in this report, the LUP amendment must be modified as suggested to ensure it is consistent with the applicable policies of the Coastal Act. The proposed amendment to the LIP does not conform with the certified Land Use Plan, as amended. Additionally, feasible alternatives are available that would lessen potentially significant adverse effects that the approval would have on the environment. The Commission has, therefore, modified the proposed LIP amendment to include such feasible measures adequate to ensure that such potentially significant environmental impacts are minimized. As discussed in the preceding section, the Commission's suggested modifications and its balancing of the impacts of the different options, brings the Land Use Plan into conformity with the Coastal Act and brings the Local Implementation Plan into conformity with the Land Use Plan as amended, and incorporates all feasible mitigation measures and alternatives in a manner that substantially lessens any significant adverse effects of the LCP amendment on the environment. Therefore, the Commission finds that the subject LCP amendment, as modified, has no remaining significant environmental impacts and is consistent with CEQA.