

**CALIFORNIA COASTAL COMMISSION**

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# W11a

## **County of Los Angeles Santa Monica Mountains LCP Amendment**

**LCP-4-MMT-19-0166-1**

**JULY 7, 2021**

### **EXHIBITS**

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# Los Angeles County Department of Regional Planning

*Planning for the Challenges Ahead*



**Amy J. Bodek, AICP**  
Director of Regional Planning

**Dennis Slavin**  
Chief Deputy Director,  
Regional Planning

## EXHIBIT 1

LCP-4-MMT-19-0166-1  
Resolution and Proposed  
Amendment

December 17, 2019

California Coastal Commission  
South Central Coast District Office  
Attn: Barbara Carey, District Manager  
89 South California Street, #200  
Ventura, CA 93001

Dear Ms. Carey:

**PROJECT NO 2012-000224-(3)  
ADVANCE PLANNING PROJECT NO. RPPL2019000396  
SANTA MONICA MOUNTAINS LOCAL COASTAL PROGRAM AMENDMENT  
RAMIREZ CANYON**

On behalf of the County of Los Angeles (County), I am submitting the attached amendments to the Santa Monica Mountains Local Coastal Program (LCP) for the California Coastal Commission's (Commission) consideration and certification. The amendments consist of text changes to the Santa Monica Mountain Land Use Plan (LUP) and Local Implementation Program (LIP). If certified, these amendments will implement changes resulting from the trial court decision in Ramirez Canyon Preservation Fund v. California Coastal Commission.

Consistent with California Code of Regulations (CCR) §13518-13519, we are submitting the hearing record for the amendments, which includes:

- A resolution from the County Board of Supervisors that approves and submits the LCP amendments to the Coastal Commission for consideration and certification.
- A complete copy of the amendments.

Ms. Carey  
December 17, 2019  
Page 2

The amendments ensure that resource dependent uses avoid significant disruption of habitat values consistent with the provisions of the California Coastal Act. Should you have any questions or require additional materials, please coordinate with Kevin Finkel, AICP, Supervising Regional Planner, at (213) 974-0051 or [kfinkel@planning.lacounty.gov](mailto:kfinkel@planning.lacounty.gov). We look forward to working with you and your staff on these amendments.

Sincerely,

AMY J. BODEK, AICP  
Director of Regional Planning



Robert Glaser, Supervising Regional Planner  
Coastal Permits Section

AJB:RG:KF:LD

Enclosures: Adopted Board of Supervisors Order  
Adopted Board of Supervisors Resolution  
Adopted LUP Amendments  
Adopted LIP Amendments



**STATEMENT OF PROCEEDINGS FOR THE  
REGULAR MEETING OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF LOS ANGELES HELD IN ROOM 381B  
OF THE KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012**

**Tuesday, December 10, 2019**

**9:30 AM**

**13. Resolution for Project No. 2019-000224-(3), Amending the Santa Monica Mountains Local Coastal Program**

Recommendation: Adopt a resolution approving Project No. 2019-000224-(3) and Advance Planning Project No. RPPL2019-00396-(3); finds that the proposed amendments to the Santa Monica Mountains Local Coastal Program (LCP), including the LCP's Land Use Plan and its Local Implementation Program, amending County Code, Title 22 - Planning and Zoning, comprised of a portion of an equivalent regulatory program under the California Environmental Quality Act; approves proposed amendments to the LCP requested by the California Coastal Commission and additional modifications to the LCP requested by the Board; and instructs the Director of Regional Planning to submit the resolution to the Coastal Commission for its consideration and effective certification of the proposed LCP amendments. (On September 24, 2019, the Board directed County Counsel to prepare the necessary documents to approve the proposed LCP amendments for submittal to the Coastal Commission.) **(County Counsel)** (19-3575)

**Doug Carstens, Barry Haldeman, Victoria Hand, Ellen Francisco and Lloyd Ahern addressed the Board.**

**On motion of Supervisor Ridley-Thomas, seconded by Supervisor Hahn, this item was adopted.**

**Ayes: 5 - Supervisor Solis, Supervisor Ridley-Thomas, Supervisor Kuehl, Supervisor Hahn and Supervisor Barger**

**Attachments:**     [Resolution](#)

The foregoing is a fair statement of the proceedings of the regular meeting, December 10, 2019, by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

Celia Zavala, Executive Officer  
Executive Officer-Clerk  
of the Board of Supervisors

By 

Celia Zavala  
Executive Officer





COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012-2713

MARY C. WICKHAM  
County Counsel

December 10, 2019

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

TELEPHONE

(213) 974-6441

FACSIMILE

(213) 613-4751

TDD

(213) 633-0901

E-MAIL

Elemke@counsel.lacounty.gov

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

13 December 10, 2019

CELIA ZAVALA  
EXECUTIVE OFFICER

Agenda No. 1  
09/24/19

**Re: Resolution Approving Proposed Amendments to the  
Santa Monica Mountains Local Coastal Program Related to  
Low-Impact Campgrounds, Project No. 2019-000224-(3),  
Advance Planning Project No. 2019-00396-(3)**

Dear Supervisors:

Your Board previously held a duly-noticed public hearing regarding the above-referenced project—amendments to the Santa Monica Mountains Local Coastal Program ("LCP"), including amendments to the LCP's Land Use Plan ("LUP") and Local Implementation Program ("LIP"), a part of the Los Angeles County Code, Title 22 – Planning and Zoning, to incorporate modifications requested by the California Coastal Commission and to also add County-proposed amendments. At the conclusion of the hearing, you indicated your intent to approve the proposed changes to the LCP and instructed our office to prepare documents making those amendments and for submittal to the Coastal Commission for its consideration and effective certification of the amendments. Enclosed for your consideration is a resolution that approves the LUP and LIP amendments and which attaches the ordinance for the LIP amendments.

Very truly yours,

MARY C. WICKHAM  
County Counsel

By

ELAINE M. LEMKE  
Assistant County Counsel  
Property Division

APPROVED AND RELEASED:

THOMAS J. FAUGHNAN  
Senior Assistant County Counsel

EML:ss  
Enclosure

c: Sachi A. Hamai, Chief Executive Officer  
Celia Zavala, Executive Officer, Board of Supervisors  
Amy J. Bodek, Director, Department of Regional Planning

HOA.102735970.1

**A RESOLUTION OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF LOS ANGELES  
RELATING TO PROJECT NO. 2019-000224-(3)  
ADVANCE PLANNING PROJECT NO. RPPL2019-00396-(3)  
TO ACKNOWLEDGE AND ACCEPT COASTAL COMMISSION SUGGESTED  
MODIFICATIONS TO THE SANTA MONICA MOUNTAINS LOCAL COASTAL  
PROGRAM ("LCP") AND TO APPROVE AND SUBMIT ADDITIONAL LCP  
MODIFICATIONS TO THE COASTAL COMMISSION**

**WHEREAS**, section 30000 et seq. of the California Public Resources Code (the California Coastal Act) ("Coastal Act") provides for the preparation, certification, and amending of a jurisdiction's local coastal program ("LCP"); and

**WHEREAS**, the Coastal Act provides for local jurisdictions with certified local programs to amend such LCPs and all policies and implementing ordinances, regulations, and other actions, provided that no such amendment shall take effect until it has been certified by the California Coastal Commission ("Coastal Commission"); and

**WHEREAS**, the County of Los Angeles ("County") has divided its coastal zone into three areas: Santa Monica Mountains, Marina del Rey, and Santa Catalina island; and

**WHEREAS**, the County Board of Supervisors ("Board") adopted the Santa Monica Mountains LCP on August 26, 2014, and the Coastal Commission subsequently certified the Santa Monica Mountains LCP on October 10, 2014; and

**WHEREAS**, the Santa Monica Mountains LCP consists of both a land use plan ("LUP") that includes policy provisions and a local implementation program ("LIP") that includes regulations in an implementing zoning code ordinance; and

**WHEREAS**, on June 4, 2014, Ramirez Canyon Preservation Fund commenced writ of mandate proceedings in County Superior Court to compel the Coastal Commission to set aside its certification of the Santa Monica Mountains LUP, and the Coastal Commission's July 2014 action on the Santa Monica Mountains LIP was later added to the case and considered by the Superior Court; and

**WHEREAS**, in August 2017, a trial court decision was rendered in Ramirez Canyon Preservation Fund v. California Coastal Commission ("Trial Court Decision"), modifying the standard of review under which resource-dependent uses, including low-impact campgrounds, may be established in H1 and H2 habitat in the Santa Monica Mountains Coastal Zone; and

**WHEREAS**, on December 14, 2018, the Coastal Commission approved amendments to the Santa Monica Mountains LUP and LIP to address the Trial Court Decision, and on January 9, 2019, the Coastal Commission transmitted notice of said approval to the County; and

**WHEREAS**, the Board conducted a duly-noticed public hearing on September 24, 2019 to consider the proposed amendments, at which more than 20 constituents that reside in the Santa Monica Mountains raised concerns about the dangers that campfires could have in the Santa Monica Mountains, as well as a proposal to have the Mountains Recreation Conservation Agency patrol such campsites; and

**WHEREAS**, the Board weighed those concerns in juxtaposition with the Coastal Act's policy goal of providing access to the public to the Santa Monica Mountains and the need to balance this goal with safety concerns; and

**WHEREAS**, the Board proposed amendments to the LIP, in addition to those proposed by the Coastal Commission to address the concerns regarding monitoring campsites and fires and directed that camping areas should be inspected at all times, including on red flag days when camping is prohibited, while still allowing low-impact campgrounds in the Santa Monica Mountains to protect public access; and

**WHEREAS**, the Board proposed one additional change in the LUP regarding parking areas for low-impact campgrounds; and

**WHEREAS**, consistent with section 30514(b) of the California Public Resources Code, the proposed Santa Monica Mountains LCP amendments are being submitted to the Coastal Commission, pursuant to this Resolution and, if certified by the Coastal Commission, are intended to be carried out in a manner in full conformity with the California Coastal Act; and

**WHEREAS**, the Board finds as follows:

1. The Project is located in the Santa Monica Mountains Coastal Zone ("Coastal Zone"), which is the unincorporated portion of the Santa Monica Mountains, located west of the City of Los Angeles, east of Ventura County, south of the Coastal Zone boundary, and north of the City of Malibu.
2. In August 2017, a Trial Court Decision was reached in Ramirez Canyon Preservation Fund v. California Coastal Commission, which requires modifying the standard of review, under which resource-dependent uses, including low-impact campgrounds, may be established in H1 and H2 habitat in the Santa Monica Mountains Coastal Zone.
3. The Coastal Commission prepared suggested modifications to the Santa Monica Mountains LCP to comply with the judgment rendered after the Trial Court Decision. With respect to the LUP, the Coastal Commission suggested minor text changes to three policies in the Conservation and Open Space element of the LUP, specifically Policies 42, 93, and 164(e), to revise the standard of review under which resource-dependent uses, including low-impact campgrounds, may be established in H1 and H2 habitat, all of which are accepted by the Board. Upon final certification of the amendments to the LCP, the standard of review will change to require that low-impact campgrounds development avoid significant



disruption of habitat values, rather than allowing minimizing impacts to H1 and H2 habitat, if impacts could not be avoided. The County proposed one additional change to Policy 164(e), changing the word "shall" to "may" with respect to provision of parking facilities for low-impact campgrounds. The proposed changes to the LUP are reflected in Exhibit A attached to this Resolution.

4. The combined proposed changes by the Coastal Commission and County for the Project will also amend portions of the LIP. Revisions to the LIP, a part of Title 22 of the County Code – the Zoning Ordinance – proposed by the County contain four parts: (1) incorporation of a new definition of "camping, carry-in, carry-out" in Section 22.44.630; (2) revisions to the existing definition of "campground, low-impact," also in Section 22.44.630; (3) revisions to existing provisions regarding the standard of review for the establishment of low-impact campgrounds, which are also proposed by the Commission, in Section 22.44.1920.M.1 through 22.44.1920.M.2(c), with the County proposing minor changes to the Commission language for Section 22.44.1920.M.2; and (4) addition of development and operational provisions for low-impact campgrounds and support facilities. The ordinance effecting those changes is attached as Exhibit B to the Resolution.
5. Upon final certification of the amendments to the LCP by the Coastal Commission, the standard of review will change from minimizing impacts to H1 and H2 habitat to avoidance of significant disruption of habitat values.
6. The proposed amendments to the Santa Monica Mountains LCP are consistent with the California Coastal Act and with the Countywide chapters and elements of the County General Plan adopted October 6, 2015.
7. Sections 30500 through 30522 of the Coastal Act and the California Environmental Quality Act ("CEQA"), provide that the process of preparing an LCP, and amendments thereto, is functionally equivalent to the preparation of an Environmental Impact Report. Therefore, the County is not required to prepare a CEQA document for the proposed LCP amendment.
8. Pursuant to the provisions of Section 22.44.700 of the County Code, the community, interested parties, and public agencies were appropriately notified of the public hearing by mail and newspaper posting on this matter.
9. The location of the documents and other materials constituting the record of proceedings upon which the Board's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Community Studies West Section, Los Angeles County Department of Regional Planning.

**NOW THEREFORE, THE BOARD OF SUPERVISORS:**

1. Finds that Santa Monica Mountains LCP amendments, as proposed by the Coastal Commission, and the additional modifications proposed by the County are exempt from the requirements of CEQA, pursuant to State CEQA Guidelines section 15251(f) and Public Resources Code section 21080.5 because the preparation, approval, and certification of an LCP and amendments thereto are an equivalent regulatory program;
2. Acknowledges that it received the Coastal Commission's suggested modifications to the Santa Monica Mountains LCP and agrees to implement the amendments as approved and transmitted by the Commission, as set forth herein;
3. Finds that the Santa Monica Mountains LCP amendments, as recommended by the Coastal Commission and proposed by the County, are consistent with other Santa Monica Mountains LUP policies, the LIP, and the Coastal Act;
4. Certifies its intent that, upon transmittal of this Resolution and the attached Santa Monica Mountains LCP amendments to the Coastal Commission, and upon effective certification of the amendments by the Executive Director of the Coastal Commission, the Board will carry out the Santa Monica Mountains LUP amendments, including all modifications suggested by the Coastal Commission, in full conformity with the Coastal Act;
5. Adopts the Santa Monica Mountains LUP and LIP amendments, including, suggested modifications in the Coastal Commission's resolution of certification, as set forth in Exhibits A and B, attached hereto; and
6. Directs the Director of the Department of Regional Planning to transmit this Resolution and the Santa Monica Mountains LCP amendments, as adopted by the Board, to the Coastal Commission for approval and effective certification of the amendments.

/

/

/(Signature page follows)

The foregoing resolution was on the tenth day of December 2019, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies, and authorities for which said Board also acts.



CELIA ZAVALA  
Executive Officer-Clerk of the Board of  
Supervisors of the County of Los Angeles

By

A handwritten signature in black ink, appearing to read "Celia Zavala", is written over a horizontal line. Below the line, the word "Deputy" is printed.

Deputy

APPROVED AS TO FORM:

MARY C. WICKHAM  
County Counsel

By

A handwritten signature in black ink, appearing to read "Mary C. Wickham", is written over a horizontal line.

Assistant County Counsel

Attachments:

Exhibit A: Amendments to the Santa Monica Mountains LUP

Exhibit B: Ordinance incorporating amendments to the Santa Monica Mountains LIP

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# EXHIBIT A

# **Santa Monica Mountains Land Use Plan**

**A Component of the Santa Monica Mountains Local Coastal Program County of  
Los Angeles  
Department of Regional Planning**

**Project Management:**  
Richard J. Bruckner, Director  
Dennis Slavin, Chief Deputy Director  
Mark Child, Deputy Director

**Santa Monica Mountains Local Coastal Program Project Team:**  
Gina M. Natoli, AICP, MURP, Supervising Regional Planner Joshua S.  
Huntington, AICP, Principal Planner

**Production of Land Use Policy Maps:**  
Christopher J. Morneau Geographic  
Information Systems Section



## II. CONSERVATION AND OPEN SPACE ELEMENT

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...

### D. Biological Resources

...

#### SERA and H3 Habitat Protection Policies

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 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.

...

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 and 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.

...

### H. Recreation and Trails

...

CO-164 Encourage opportunities for recreation throughout the Plan area when consistent with environmental values and protection of natural resources.

...

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~~ may 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.

# EXHIBIT B

## ANALYSIS

This ordinance amending Title 22 – Planning and Zoning of the Los Angeles County Code, incorporates amendments to the Santa Monica Mountains Local Implementation Program requested by the California Coastal Commission and by the County, relating to low-impact campgrounds in the Santa Monica Coastal Zone.

MARY C. WICKHAM  
County Counsel

By



ELAINE M. LEMKE  
Assistant County Counsel  
Property Division

EML:ss

Requested: 11/21/19

Revised: 11/26/19

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Title 22 – Planning and Zoning of the Los Angeles County Code, incorporates amendments to the Santa Monica Mountains Local Implementation Program requested by the California Coastal Commission and by the County, relating to low-impact campgrounds in the Santa Monica Coastal Zone.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 22.44.630 is hereby amended to read as follows:

**22.44.630 Definitions.**

• • •

- "Campground, low-impact" means an area of land designed or used for "carry-in, carry-out" tent camping accessed by foot or wheelchair, including and may include associated support facilities ~~such as, 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 as defined in Subsection M.2.c of Section 22.44.1920 and excluding any structures for permanent human occupancy and excluding roads. Low-impact campgrounds constitutes a resource-dependent use.
- "Camping, carry-in, carry-out" means camping in which campers arrive at a campground by foot or other non-motor vehicle transportation from associated parking areas, ADA compliant



drop-off areas, trails or bikeways, rely upon only that which can be carried to the site, and leave nothing behind at the campground upon departure.

...

**SECTION 2.** Section 22.44.1920 is hereby amended to read as follows:

**22.44.1920 Development Standards.**

...

M. Resource-dependent Uses. Resource-dependent uses are uses that are dependent on SERAs 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 ~~or minimize adverse impacts to~~ significant disruption of habitat values 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 and

avoid significant disruption of habitat value 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 ~~and/or~~ significant disruption of habitat values, including by 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 ~~or minimize impacts to~~ significant disruption of habitat values in H1 or H2 Habitat areas 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 ~~or minimize impacts to~~ significant disruption of habitat values in H1 or H2 Habitat areas and. Low-impact campgrounds must also minimize impacts 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~~ 100 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~~may 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;

i. Development and Operational Standards.

Low-impact campgrounds shall comply with all of the following:

- In addition to the locational criteria above, campsites shall be sited near or along existing or proposed trails or access routes to supporting parking areas.
- Firepits, fires, flammable devices, and smoking shall be prohibited at all low-impact campgrounds.
- Pets shall be prohibited in low-impact campgrounds.
- Low-impact campground capacity shall be based on site-specific evidence and in no event shall exceed four tents and shall be limited to no more than 12 persons.
- Camping is prohibited during "red-flag" wildfire warning days.
- Campers are limited to a maximum length of stay of 14 days.
- Campground management staff shall inspect the low-impact campground at least once per day, including on red flag days when camping is otherwise prohibited.

ii. Low-impact campgrounds may be supported by the following facilities, and if established, consistent with the included standards:

- Parking and Drop-Off Areas. Parking areas and designated ADA drop-offs shall be located in H3 habitat areas, where feasible, but may be established in H2 habitat areas, where it is infeasible to site such facilities in H3 habitat areas. Parking areas and designated ADA drop-offs are prohibited in H1 habitat areas. Trash receptacles may be provided in parking or drop-off areas.
- Restroom Facilities. Restroom facilities shall be single-stall, self-contained, and of a chemical or composting type. They shall not be permanently affixed to a foundation or the ground and cannot have associated plumbing infrastructure. All waste materials shall be disposed of off-site. All restroom facilities shall be consistent with the height, colors, and materials required by this LIP. No more than one such facility is allowed per low-impact campground.
- Fencing. All fencing shall be wildlife permeable (see definition in Section 22.44.630). Placement of fencing is limited to the perimeter of the campground or where necessary to protect nearby sensitive habitat.
- Water Storage. Water storage tanks for use in fire suppression or as an on-site potable water supply shall be located within the boundaries of an established low-impact campground. Said storage tanks shall not be permanently affixed to the ground or



other permanent structure, shall be easily moved, and emptied and filled outside of the campsite or H1 habitat areas. Water storage tanks shall be limited to no more than three, 55-gallon containers. There shall be no plumbing infrastructure built or associated with water dispensing facilities.

- Signage. Informational and interpretative signage that identifies the low-impact campground, directs hikers to nearby trail(s), or identifies local floral/fauna is allowed. The signage must be located within the perimeter of an authorized low-impact campground or along an authorized trail near a low-impact campground. Signs shall not be attached to a permanent foundation.
- Fire extinguishers or other portable fire suppression equipment may be stored on temporary stands within a low-impact campground.

iii. All coastal development permits for low-impact

campgrounds shall include the following conditions of approval:

- Permittee shall prepare a drainage and runoff pollution control plan for the low-impact campground and associated support facilities. Said plan shall be provided to the Directors of Regional Planning and Public Works for their review and sign off prior to the operation of the low-impact campground.
- Permittee shall prepare a reservation/registration and operations/maintenance plan for the low-impact campground. Said



plan shall include, at a minimum, details regarding the reservation system to be used for the campground, a requirement that campers register prior to using campground facilities, a log of each campers contact and travel information, and campground monitoring and maintenance parameters. The camper log shall include the name, phone number, arrival date and departure date (length of stay), and a log of each camper's origin before reaching the campground and their destination upon leaving the campground. The maintenance parameters shall detail the disposal and refilling of potable water storage facilities and the maintenance of on-site restroom facilities. The plan shall be submitted to the Director for review and approval prior to the operation of the low-impact campground.

- Permittee shall prepare an emergency management plan. Said plan shall include, at a minimum, a camper notification system and campground evacuation procedures in the event of an emergency. Said plan shall also include details such as the nearest evacuation shelter and evacuation route(s). The plan shall be submitted to the Director for review and sign off prior to the operation of the low-impact campground.

...

[2244630JJCC]

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

**F8a**

**DATE:** December 14, 2018  
**TO:** Commissioners and Interested Persons  
**FROM:** Steve Hudson, Deputy Director  
Barbara Carey, District Manager

**EXHIBIT 2**  
**LCP-4-MMT-19-0166-1**  
**Adopted Findings for**  
**Partial Remand**

**SUBJECT:** ADOPTED FINDINGS FOR 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.

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## **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.

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## **SUMMARY OF STAFF RECOMMENDATION**

The Commission must take action to certify modifications to the LCP provisions that are in violation of the court's ruling. Commission staff recommends that the Commission **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 **approve** the proposed LIP amendment with one suggested modification. The modification is necessary because the proposed LIP policy 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 6-8** 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, approve Los Angeles County LUP Amendment No. LCP-4-LAC-14-0108-4 as modified pursuant to the suggested modifications. Staff further recommends that the Commission, after public hearing, approve Los Angeles

County LIP No. LCP-4-LAC-14-0109-4 as modified pursuant to the suggested modifications. The motion and resolution for Commission action on the amendment to the LUP can be found starting on page 6. The motion and resolution for Commission action on the amendment to the LIP can be found starting on page 7.

<p><b>Additional Information:</b> For further information, please contact Barbara Carey at the South Central Coast District Office of the Coastal Commission at (805) 585-1800.</p>
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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, MOTION, & RESOLUTION ON THE LAND USE PLAN AMENDMENT**

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

#### **A. CERTIFICATION OF THE LUP AMENDMENT WITH SUGGESTED MODIFICATIONS**

##### **Motion:**

*I move that the Commission certify the policies of Land Use Plan Amendment No. LCP-4-LAC-14-0108-4 identified in this staff report, 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 provisions outlined in this staff report, 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, MOTION, & RESOLUTION ON THE IMPLEMENTATION PLAN**

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

#### **A. CERTIFICATION OF THE IMPLEMENTATION PLAN WITH SUGGESTED MODIFICATIONS**

##### **Motion:**

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

Staff recommends a **YES** vote. Passage of this motion will result in certification of amendments to 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*** amendments to the County of Los Angeles Implementation Plan LCP-4-LAC-14-0109-4 provisions outlined in this staff report, 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 currently certified 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~~.

<b>Suggested Modification No. 1</b>
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**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~~ 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 currently certified 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 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 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 APPROVAL OF THE LUP AMENDMENT AND LIP, IF MODIFIED AS SUGGESTED**

The following findings support the Commission's approval of the Land Use Plan amendment if modified as suggested in Section IV (Suggested Modifications) above. Additionally, the findings detail the Commission's 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.

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF LOS ANGELES**

13 RAMIREZ CANYON PRESERVATION  
14 FUND,

15 Petitioner/Plaintiff,

16 v.

17 CALIFORNIA COASTAL COMMISSION  
18 and DOES 1 through 10, inclusive,

19 Respondent/Defendant;

20 COUNTY OF LOS ANGELES and ROES 1  
21 through 10, inclusive,

22 Real Party in Interest.  
23  
24  
25  
26

**FILED**

Superior Court of California  
County of Los Angeles

SEP 26 2017

Sherrin R. Cangel, Executive Officer/Clerk

By Jennifer De Luna, Deputy

RECEIVED  
SEP 21 2017  
DEPT. 85

CASE NO.: BS149044

**[REDACTED] JUDGMENT**

Petition Filed: June 4, 2014

Department: 85

Judge: Hon. James C. Chalfant

Hearing: August 17, 2017

LCP-4-LAC-14-0108-4 AND  
LCP-4-LAC-14-0109-4  
Exhibit 1

~~Proposed~~ Judgment

1 [REDACTED] JUDGMENT

2 On August 17, 2017 in Department 85 of the above-entitled Court, the Honorable James  
3 C. Chalfant presiding, the Verified Petition for Writ of Mandate of Petitioner Ramirez Canyon  
4 Preservation Fund came on regularly for hearing. Douglas P. Carstens appeared for Petitioner,  
5 Christina Bull-Arndt appeared for Respondent California Coastal Commission, and Scott Kuhn  
6 appeared for Real Party in Interest County of Los Angeles.

7 The Court, having received and considered all of the papers, evidence and argument  
8 submitted by the parties, enters judgment as follows:

9 It is HEREBY ORDERED ADJUDGED AND DECREED THAT:

- 10 1. The Verified Petition for Writ of Mandate and related requests for relief are granted in  
11 part, and judgment is entered in favor of Petitioner, Ramirez Canyon Preservation  
12 Fund.  
13 2. The Court adopts as its final statement of decision its tentative ruling issued on  
14 August 17, 2017 and orders Respondent California Coastal Commission and Real  
15 Party in Interest County of Los Angeles to take the actions necessary to bring the  
16 Santa Monica Mountains Local Coastal Program into conformity with the California  
17 Coastal Act in a manner consistent with this ruling.  
18 3. Petitioner is awarded costs against Respondents in the amount of \$\_\_\_\_\_.

19 Dated: 9/26/17, 2017

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21 Judge of the Los Angeles Superior Court,  
22 Hon. James C. Chalfant  
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Petitioner Ramirez Canyon Preservation Fund ("Preservation Fund") seeks a writ of mandate to compel Respondent California Coastal Commission ("Commission") to set aside its certification of the Santa Monica Mountains Land Use Plan ("LUP").

The court has read and considered the moving papers, opposition, and reply, and renders the following tentative decision.

**A. Statement of the Case**

Petitioner Preservation Fund commenced this proceeding on June 4, 2014. The Petition alleges in pertinent part as follows.

In early 2014, Los Angeles County ("County") submitted a proposed Local Coastal Program ("LCP") for the Santa Monica Mountains segment of the County's coastal zone to the Commission for certification. The LCP is comprised of a Land Use Plan ("LUP"), which provides the general overarching planning policies and programs for the plan area, and a Local Implementation Program ("LIP"), which contains the more detailed zoning or implementing ordinances designed to carry out the policies of the LUP. The County requested an amendment to replace its existing certified LUP - the Malibu-Santa Monica Mountains LUP certified by the Commission in 1986 -- with an updated LUP.

The County's LUP places habitat areas into three 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 constitute environmentally sensitive habitat areas ("ESHA"). H3 habitats are developed or legally disturbed areas that may retain some residual habitat values, but are not considered to be ESHA.

One of the primary objectives of the Coastal Act is the preservation, protection, and enhancement of coastal resources, including land and marine habitats. The rare and most ecologically important habitats are protected from development. No use of an ESHA may occur that is not dependent on resources that exist in the ESHA.

In the Conservation and Open Space Element of the LUP, Policies CO-42 and CO-93 permit campgrounds within even the most sensitive and geographically constrained habitats. Policy CO-42 provides that 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. Policy CO-93 similarly provides that accessways, trails, and low-impact campgrounds are allowed uses in H1 and H2 habitat areas.

On February 5, 2014, Preservation Fund provided the County with a comment letter expressing concerns about the siting of campgrounds within ESHA, and included information demonstrating that campgrounds within ESHA would require trenching for water lines and removal of vegetation to create fuel clearance areas, among other objections.

The County approved the LCP on February 11, 2014 and forwarded it to the Commission for certification. On March 3, 2014, Preservation Fund provided its objections to the Commission.



On April 10, 2014, the Commission denied approval of the LUP as submitted by the County, but granted approval of the LUP subject to 60 modifications set forth in the Commission's staff report. Neither the County nor the Commission modified the policies to which Preservation Fund objected.

Petitioner Preservation Fund alleges that the Commission's approval of the LUP violates Coastal Act section 30240 by permitting campgrounds within ESHA. 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 the ESHA.

### **B. Standard of Review**

CCP section 1094.5 is the administrative mandamus provision which structures the procedure for judicial review of adjudicatory decisions rendered by administrative agencies. Topanga Ass'n for a Scenic Community v. County of Los Angeles, ("Topanga") (1974) 11 Cal.3d 506, 514-15.

CCP section 1094.5 does not in its face specify which cases are subject to independent review, leaving that issue to the courts. Fukuda v. City of Angels, (1999) 20 Cal.4th 805, 811. In cases reviewing decisions which affect a vested, fundamental right the trial court exercises independent judgment on the evidence. Bixby v. Pierno, (1971) 4 Cal.3d 130, 143. See CCP §1094.5(c). In other cases, the substantial evidence test applies. Mann v. Department of Motor Vehicles, (1999) 76 Cal.App.4th 312, 320; Clerici v. Department of Motor Vehicles, (1990) 224 Cal.App.3d 1016, 1023. Decisions of the Coastal Commission are governed by the substantial evidence standard. Ross v. California Coastal Comm., ("Ross") (2011) 199 Cal.App.4th 900, 921.

"Substantial evidence" is relevant evidence that a reasonable mind might accept as adequate to support a conclusion (California Youth Authority v. State Personnel Board, ("California Youth Authority") (2002) 104 Cal.App.4th 575, 585) or evidence of ponderable legal significance, which is reasonable in nature, credible and of solid value. Mohilef v. Janovici, (1996) 51 Cal.App.4th 267, 305, n.28. The petitioner has the burden of demonstrating that the agency's findings are not supported by substantial evidence in light of the whole record. Young v. Gannon, (2002) 97 Cal.App.4th 209, 225. The trial court considers all evidence in the administrative record, including evidence that detracts from evidence supporting the agency's decision. California Youth Authority, *supra*, 104 Cal.App.4th at 585.

The agency's decision must be based on the evidence presented at the hearing. Board of Medical Quality Assurance v. Superior Court, (1977) 73 Cal.App.3d 860, 862. The hearing officer is only required to issue findings that give enough explanation so that parties may determine whether, and upon what basis, to review the decision. Topanga, *supra*, 11 Cal.3d at 514-15. Implicit in section 1094.5 is a requirement that the agency set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order. Topanga, 11 Cal.3d at 515.

The court may reverse the Commission's fact decision only if, based on the evidence before it, a reasonable person could not have reached the Commission's conclusion. Ross, *supra*, 199 Cal.App.4th at 922; Bolsa Chica Land Trust v. Superior Court, ("Bolsa Chica") (1999) 71 Cal.App.4th 493, 503. The court may not disregard or overturn an administrative finding of fact simply because it considers that a contrary finding would have been equally or more reasonable. Boreta Enterprises, Inc. v. Department of Alcoholic Bev. Control, (1970) 2 Cal.3d 85, 94. Any reasonable doubts must be resolved in favor of the Commission. Paoli v. California Coastal

Comm., (1986) 178 Cal.App.3d 544, 550; City of San Diego v. California Coastal Comm., (1981) 119 Cal.App.3d 228, 232.

The court independently reviews questions of law, including statutory interpretation. McAllister v. California Coastal Commission, (“McAllister”) (3008) 169 Cal.App.4<sup>th</sup> 912, 921-22. Given its Commission’s special familiarity with the regulatory and legal issues, the Commission’s interpretation of the statutes and regulations under which it operates is entitled to deference. Ross v. California Coastal Comm., *supra*, 199 Cal.App.4<sup>th</sup> at 938; Hines v. California Coastal Comm., (2010) 186 Cal.App.4<sup>th</sup> 830, 849.

An agency is presumed to have regularly performed its official duties (Evid. Code §664), and the petitioner therefore has the burden of proof. Steele v. Los Angeles County Civil Service Commission, (1958) 166 Cal.App.2d 129, 137. “[T]he burden of proof falls upon the party attacking the administrative decision to demonstrate wherein the proceedings were unfair, in excess of jurisdiction or showed prejudicial abuse of discretion. Afford v. Pierno, (1972) 27 Cal.App.3d 682, 691.

### **C. Coastal Act**

The Coastal Act of 1976 (Pub. Res. Code<sup>1</sup> §30000 *et seq.*) (the “Coastal Act” or the “Act”) is the legislative continuation of the coastal protection efforts commenced when the People passed Proposition 20, the 1972 initiative that created the Coastal Commission. See Ibarra v. California Coastal Comm., (“Ibarra”) (1986) 182 Cal.App.3d 687, 693. One of the primary purposes of the Coastal Act is the avoidance of deleterious consequences of development on coastal resources. Pacific Legal Foundation v. California Coastal Comm., (1982) 33 Cal.3d 158, 163. The Supreme Court described the Coastal Act as a comprehensive scheme to govern land use planning for the entire coastal zone of California. Yost v. Thomas, (1984) 36 Cal.3d 561, 565. The Act must be liberally construed to accomplish its purposes and objectives. §30009.

The Coastal Act’s goals are binding on both the Commission and local government and include: (1) maximizing, expanding and maintaining public access (§§ 30210-14); (2) expanding and protecting public recreation opportunities (§§ 30220-24); 3) protecting and enhancing marine resources including biotic life (§§ 30230-37); and (4) protecting and enhancing land resources (§§ 30240-44). The supremacy of these statewide policies over local, parochial concerns is a primary purpose of the Coastal Act, and the Commission is therefore given the ultimate authority under the Act and its interpretation. Pratt Construction Co. v. California Coastal Comm., (2008) 162 Cal.App.4<sup>th</sup> 1068, 1075-76.

The Coastal Act includes a number of coastal protection policies, commonly referred to as “Chapter 3 policies,” which are the standards by which the permissibility of proposed development is determined. §30200(a). The Coastal Act must be liberally construed to accomplish its purposes (§30009), and any conflict between the Chapter 3 policies should be resolved in a manner which on balance is the most protective of significant coastal resources. §30007.5.

The Coastal Act provides for heightened protection of ESHAs, defined 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.” §30107.5. ESHAs “shall be protected against any significant

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<sup>1</sup> All further statutory references are to the Public Resources Code unless otherwise stated.

disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. §30240(a). Development in areas adjacent to EHSAs shall be sited and designed to prevent impacts which would significant degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas. *Id.* Thus, the Coastal Act places strict limits on the uses which may occur in an ESHA and carefully controls the manner in which uses around the ESHA are developed. *Bolsa Chica, supra*, 71 Cal.App.4th at 506-08. *See also Feduniak v. California Coastal Commission*, (2007) 148 Cal.App.4th 1346, 1376.

Another pertinent Chapter 3 policy of the Coastal Act is to provide “maximum access... and recreational opportunities shall be provided for all the people” and “[l]ower cost visitor and recreation facilities shall be protected, encouraged, and where feasible, provided.” §§ 30210, 30213. Where conflicts occur between one or more Chapter 3 policies of the Coastal Act, the conflict shall be resolved in a manner which on balance is the most protective of significant coastal resources. §30007.5.

Because local areas within the coastal zone may have unique issues not amenable to centralized administration, the Coastal Act “encourage[s] state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development” in the coastal zone. §30001.5; *Ibarra, supra*, 182 Cal.App.3d at 694-96. To that end, the Act requires that “each local government lying, in whole or in part, within the coastal zone” prepare a LCP. §30500(a). A local government must prepare its LCP in consultation with the Commission and with full public participation. §§ 30500(a), (c), 30503; *McAllister, supra*, 169 Cal.App.4th at 930, 953.

The Act defines a LCP as:

“[A] local government’s (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) within sensitive coast resource areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of this division [the Coastal Act] at the local level.” §30108.6.

Thus, the LCP consists of a land use plan (“LUP”)<sup>2</sup> and the implementing actions of zoning ordinances, district maps, and other implementing actions (“LIP”). *Yost v. Thomas, supra*, 36 Cal.3d at 571-72. These may be prepared together or sequentially, and may be prepared separately for separate geographical areas or “segments” of a local coastal zone. §30511. The LCP provides a comprehensive plan for development within the coastal zone with a focus on preserving and enhancing the overall quality of the coastal zone environment as well as expanding and enhancing public access. *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553, 571.

When a local government completes its draft LCP, it is submitted to the Commission for

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<sup>2</sup>The LUP is defined in section 30108.5 as: “[T]he relevant portions of a local government’s general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions.”

certification. §30510. The Commission reviews the LUP for consistency with the Chapter 3 Coastal Act policies, and reviews the LIP for consistency with the LUP. §§ 30512(c), 30512.2, 30513. The Commission may grant or deny certification, or it may certify the LCP contingent on suggested modifications. §30512(b). Once the Commission has certified the LCP, the Commission delegates its permit-issuing authority to the local government. §30519.

#### **D. Statement of Facts**

##### **1. Santa Monica Mountains Coastal Zone**

The Santa Monica Mountains segment of the County's coastal zone is an unincorporated area west of the City of Los Angeles and east of Ventura County, excluding the City of Malibu and Pepperdine University. AR 9422. The area extends inland from the shoreline approximately five miles and encompasses approximately 50,000 acres. AR 9422.

The Santa Monica Mountains coastal zone is geologically complex, characterized by generally steep, rugged terrain of mountain slopes and canyons, with elevations ranging from sea level to over 3,000 feet. AR 9422-23, 9435. One feature of this coastal area is a number of watersheds, in which the upper reaches of streams are relatively undisturbed in steep canyons containing riparian oak-sycamore bottoms, coastal sage scrub and chaparral. AR 9422, 9435-36. The wildlife and vegetation in the Santa Monica Mountains are part of diverse ecosystem due to the interaction of a Mediterranean climate, rugged topography, warm Santa Ana winds, and varied soils supporting a rich mosaic of plant communities. AR 9436.

A memorandum written by the Coastal Commission's staff ecologist stated:

"In a past action, the Coastal Commission found [footnote citation omitted] that the Santa Monica Mountains Mediterranean Ecosystem, which includes the undeveloped native habitats of the Santa Monica Mountains, is rare and especially valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. The undeveloped native habitats within the Santa Monica Mountains that are discussed above are ESHA because of their valuable roles in that ecosystem, including providing a critical mosaic of habitats required by many species of birds, mammals, and other groups of wildlife, providing the opportunity for unrestricted wildlife movement among habitats, supporting populations of rare species, and preventing the erosion of steep slopes and thereby protecting riparian corridors, streams and, ultimately, shallow marine waters." AR 13159-60.

The Mediterranean climate in the Santa Monica Mountains has fostered native vegetation, primarily chaparral and coastal sage scrub, both of which are drought-adapted. AR 1719. Chaparral is one of the most volatile fuel types in the world, and the Mountains and surrounding communities are considered to be among the most fire-prone landscapes in North America. AR 9510, 847. The entire Santa Monica Mountains coastal zone is as a "Very High Fire Hazard Severity Zone" because of long, dry summer seasons, frequent "Santa Ana" winds, dense vegetation that provides fuel for fire, steep canyon and hillside terrain, inappropriate development siting and design, and often inadequate road access. AR 847, 1719, 13218, 13220.

## **2. 2014 Proposed LCP**

### **1. Submission to Commission**

In 1986, the Commission certified the County's LUP for Malibu-Santa Monica Mountains ("1986 Malibu LUP"). AR 1574. The County did not obtain a certified LIP at that time because of Commission staff concern about the County's habitat protection approach, and the Commission retained permit-issuing authority as guided by the certified LUP. AR 1574.

On February 11, 2014, the County Board of Supervisors approved a proposed LCP consisting of a Santa Monica Mountains LUP replacing the 1986 Malibu LUP and an LIP consisting of amendments to the County Code and zone changes. AR 7. On February 19, 2014, the County submitted the LCP to the Commission for approval. AR 3.

### **2. ESHA Study**

In 2003, contemporaneously with a County effort to update the 1986 Malibu LCP, the Commission's staff ecologist wrote a memo titled "Designation of ESHA in the Santa Monica Mountains." AR 13137-60. The memo highlighted the types of ESHA in the area and the impacts on that ESHA of human activity, including brush clearance. AR 13157-58.

In October 2012, as part of its LCP preparation, County consultants prepared a new delineation of ESHA and other habitat classifications in the Santa Monica Mountains ("Biota Report"). AR 583. The Biota Report acknowledged that, for the past decade, the Commission has delineated nearly all undeveloped land in the Santa Monica Mountains coastal zone as ESHA. AR 583. After performing a comprehensive analysis of the biodiversity in the Santa Monica Mountains, the Biota Report determined that "roughly 6,000 acres... in the Study Area satisfy the ESHA criteria in Section 30107.5." AR 583.

In addition to the ESHA designation, the Biota Report proposed two additional resource-protection designations: (1) "stewardship habitat", meaning areas that are not ESHA but still provide high ecological value; and (2) "restoration habitat", meaning habitat that likely satisfied ESHA criteria in the past, but is periodically disturbed for authorized or mandated activities such as fire and flood control. "Since habitat disturbance is incompatible with the very definition of ESHA, such areas cannot be properly designated as ESHA." AR 583.

## **3. The LUP**

### **a. Staff Recommendation**

On March 27, 2014, Commission staff recommended denial of the LUP as submitted, but approval with 60 suggested modifications. AR 1532, 1541. As part of the suggested modifications, the Commission required clarification that the LUP's Sensitive Environmental Resource Areas ("SERAs") designated as H1 and H2 habitat must be protected from significant disruption. AR 1542. The Commission also described H1 and H2 habitat consistently with the characteristics of ESHA. AR 1544-46.

### **b. Public Comment**

On February 5, 2014, Petitioner Preservation Fund provided a written comment letter on the Proposed LCP. AR 842. Preservation Fund argued that the proposed LCP was not consistent with the Coastal Act because it did not use the ESHA designation, and attempts to avoid the mandate to protect ESHA by using the SERA designation. AR 842. The Biota Report reclassified

certain types of vegetation as non-ESHA, which had the effect of downgrading the level of protection afforded to the Santa Monica Mountains. AR 843. The reclassification of areas designated as ESHA did not include any map identifying the ESHA locations. AR 844. Without a map or explanation, it is impossible to know which areas remain ESHA, and which have been assigned new classifications. AR 844. The map refers only to the new "SERA" designation. AR 844.

Preservation Fund also contested the Proposed LCP's definition of campgrounds as a resource dependent use. AR 844. Preservation Fund argued that campgrounds will destroy the resource, as the installation of facilities for campers will necessitate the removal of ESHA. AR 845. The Coastal Act's directive to maximize public access does not trump the mandatory duty to protect ESHA. AR 846. Finally, Preservation Fund pointed out that camping in the Santa Monica Mountains would pose an unacceptable risk of wildfire. AR 847.

**c. Staff Report Addendum**

On April 9, 2014, Commission staff issued an Addendum to its staff report responding to comments received on the proposed LUP. AR 1906. Staff responded to Preservation Fund's arguments, stating that H1 and H2 habitats constitute EHSA as defined by the Coastal Act. AR 1907. Low-impact campgrounds are considered a resource-dependent use because they are specifically designed to expose the public to the resource while avoiding significant disruption of habitat values. AR 1907.

**d. The Hearing**

The Commission considered the LUP in a public meeting on April 10, 2014. After Commission staff and the County presented the LUP, the Commission heard from the public. The LUP received support from the community as well as conservation groups such as the Sierra Club, Heal the Bay, Los Angeles Waterkeeper, the Mountains Restoration Trust, Surfrider Foundation, and the California Coastal Protection Network. *See* AR 9202-9222, 12992-94, 12996-97, 13021, 13025-26, 13049-50. Speakers commented on the importance of the recreational opportunities in the Santa Monica Mountains for constituents from Los Angeles's urban core. AR 12974, 12992, 13026.

Petitioner Preservation Fund addressed the Commission. AR 13015-16. Preservation Fund objected to the proposed LUP's failure to use the EHSA designation. AR 13016. It also objected to the inclusion of low-impact campgrounds as a resource-dependent use. AR 13016.

The Commission voted to approve the LUP subject to the staff's suggested modifications. AR 13056, 13085.

**4. The LIP**

**a. Draft LIP**

The draft LIP defines a low-impact campground as "an area of land designed or used for "carry-in, carry-out" tent camping accessed by foot or wheelchair. AR 355. No structures for permanent human occupancy or roads are permitted. AR 355. However, the campgrounds may contain the following facilities, where appropriate, provided the facilities comply with all biological, water, and visual resource protection provisions in the LIP: potable water, self-contained chemical or composting restrooms, shade trees, water tanks, portable fire suppression

apparatus, and fire-proof cooking stations. AR 356. Low-impact campgrounds are considered a resource-dependent use. AR 356.

**b. LIP Staff Recommendation**

On June 26, 2014, Commission staff released a report on the draft LIP. AR 11067. The Commission staff recommended denying the draft LIP as submitted, but certifying it with suggested modifications. AR 11067, 11074. The staff noted that although the draft LIP designated low-impact campgrounds, public accessways, and trails as resource-dependent uses, it did not contain development standards for them to ensure that they avoid significant disruption of habitat values. AR 11092. The Commission staff therefore suggested modifying the LIP to add specific development standards regarding resource dependent uses, including the requirements that such uses be sited and designed to avoid or minimize impacts to H1 and H2 habitats to the maximum extent feasible. AR 11092.

**c. The Hearing on the LIP**

The Commission considered the LIP at its public hearing on July 10, 2014. AR 9404. Commission staff and the County made presentations, and the public commented. AR 13088-112. The Commission voted to approve the LIP subject to suggested modifications. AR 12360, 13118.

**5. Certification**

On August 26, 2014, the County adopted the Commission's suggested modifications to the LUP and the LIP. AR 9403-04. On October 10, 2014, the Commission's Executive Director reported the County's acceptance. AR 9402. The Executive Director found that the County's action were legally adequate to satisfy the terms and requirements of the Commission's certification. AR 9402.

**6. The Approved LUP**

The approved LUP divides the Santa Monica Mountains coastal zone into three habitat categories: H1, H2, and H3 habitat. AR 9444. Together, H1 and H2 habitat are designated as SERA. AR 9447.

"H1 habitat" consists of areas of highest biological significance, rarity, and sensitivity. AR 9444, 10067-69. Development is prohibited in H1 habitat in order to protect the habitat in those areas from disruption. AR 9445, 10275. However, resource-dependent uses shall be allowed in H1 habitat. AR 9445, 10275. Other uses are limited to public works projects required to protect existing roads when there is no feasible alternative, and for an access road to lawfully-permitted new development when there is no other feasible alternative. AR 9445, 10275. Such development must avoid impacts to the H1 habitat to the maximum extent feasible. AR 9445, 10276.

"H2 habitat" consists of areas of high biological significance, rarity, and sensitivity that are particularly important to the Santa Monica Mountains ecosystem but do not qualify as H1 habitat. AR 9445. A subcategory of H2 habitat is H2 High Scrutiny habitat, which is H2 habitat that contains officially-identified rare species. AR 9446, 10069-70. New development shall avoid H2 habitat where feasible, and will only be allowed within H2 habitat if it is consistent with the specific limitations and mitigation requirements for development permitted in H2 habitat. AR 9446.



H3 habitat consists of areas that would otherwise be designated as H2 habitat, but the native vegetation communities have been significantly disturbed or removed as part of lawfully-established development. AR 9448. The category also includes areas that have not been significantly disturbed, but have been substantially fragmented or isolated by existing legal developments. AR 9448. While H3 habitat does not constitute a SERA, the habitat provides important biological functions that warrant specific development standards for siting and design of new development. AR 9448.

Policy CO-42 provides that resource-dependent uses are allowed in H1 and H2 habitats only where sited and designed to avoid significant disruption of habitat values, consistent with the policies of the LUP. AR 9450, 10280. Low-impact campgrounds are considered a resource-dependent use. AR 9450, 10280.

Policy CO-43 provides that, where it is infeasible to avoid H2 habitat, new development shall 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 significant impacts to H2 habitat must be selected. Impacts to H2 habitat that cannot be avoided must be fully mitigated. AR 10280-81.

Policy CO-93 provides that public accessways, trails, and low-impact campgrounds shall be an allowed use in H1 and H2 habitats. AR 10293. Low-impact campgrounds shall be located, designed, and maintained to minimize impacts to H1 or H2 habitat areas. AR 10293.

## **7. The Approved LIP**

The approved LIP provides that protection of H1 and H2 habitats and public access shall take priority over other LIP development standards. AR 9600, 10099. New development shall avoid H2 habitat where feasible. AR 10099. H2 High Priority habitat has protection priority over other H2 habitat. AR 10099. Priority is given to siting development in H3 habitat, but outside of areas that contain undisturbed native vegetation. AR 10099.

The LIP defines a "campground" as land used for tent camping other than a low-impact campground. AR 9604. Fire pits or open fires of any kind are strictly prohibited. AR 9604. A "low-impact campground" is defined as an area of land designed or used for "carry-in, carry-out" tent camping, including associated support facilities such as picnic areas, potable water, self-contained chemical or composting restrooms, shade trees, water tanks, portable fire suppression apparatus, and fire-proof cooking stations. AR 9604. A low-impact campground excludes any structures for permanent human occupancy and roads. AR 9604. The definition of low-impact campground in the approved LIP removed permission for multiple tent sites and the permission for facilities that comply with the biological, water, and visual resource protection provisions of the LIP. AR 9605.

The LIP defines a resource-dependent use as a use that is dependent on a SERA to function. AR 9611. Resource-dependent uses include nature observation, research/education, and passive recreation such as low-impact campgrounds. AR 9611. Resource dependent uses are permitted in the following zones: R-1 Residential (AR 10000-02), R-C Rural Coastal (AR 10027-29), R-R Resort and Recreation (AR 10041-43), O-S Open Space (AR 10053-54), and IT Institutional (AR 10062-63). Resource-dependent uses are also allowed in H1 habitat, H2 habitat, and H3 habitat when sited and designed to avoid significant disruption of habitat values. AR 10118.

Low-impact campgrounds must be located, designed, and maintained to avoid or minimize

impacts to H1 or H2 habitat areas. AR 10118. The low-impact campground must use disturbed areas where feasible, following natural contours to minimize grading, and avoiding areas with significant native plant species to the maximum extent feasible. AR 10118. Such campgrounds must be located a minimum of 50 feet from either the top bank of streams, or the outer edge of riparian vegetation, whichever is most protective. AR 10118. If H2 habitat is permanently removed or impacted as a result of approved resource-dependent development, the loss shall be mitigated. AR 10119.

The approved LIP requires a Coastal Development Permit ("CDP") for grading of 30 cubic yards or less located within a H1 or H2 habitat area. AR 9778. New development must provide a 100-foot buffer from the canopy of riparian vegetation associated with a stream/drainage course, unless the use is a resource-dependent use and the 100-foot buffer is infeasible. AR 9816.

The LIP permits low-impact campgrounds "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 and where such sites can be designed within site constraints and to adequately address public safety issues." AR 9869. Access to low-impact campgrounds shall be supported by parking areas and ADA drop-offs that may be located in H2 or H3 habitat areas if it is infeasible to site the facilities in non-habitat areas.

The LIP addresses trails and public access together, stating that permit applications for such projects shall be reviewed "to ensure protection of trails and public access to the maximum extent feasible under state and federal law, consistent with public safety needs, and the need to protect public rights, rights of private property owners, and natural resources from overuse." AR 9856. Projects supporting public access to the mountains will be permitted depending on the facts and circumstances of each project, including the physical characteristics of the site and the capacity of the site to sustain public use. AR 9856-57.

The LIP supports "a wide range" of recreational opportunities such as hiking and camping. The LIP encourages a "full range of recreational experiences to serve local, regional and national visitors with diverse backgrounds, interests, ages, and abilities." AR 9868. It provides that permission for recreational uses must consider the "protection of biological, scenic, and other resources," as well as "public safety issues. AR 9869.

Any development projects in environmentally sensitive areas are reviewed by the Environmental Review Board, an independent body of qualified professionals. AR 10077. Any new development in the coastal zone will be reviewed for effects on biological resources for projects involving H1 and H2 habitat. AR 10077.

### **E. Analysis**

Petitioner Preservation Fund alleges that the LCP certified by the Commission violates the Coastal Act by failing to provide heightened protection of ESHA resources. Preservation Fund contends that low-impact campgrounds (1) are not a resource-dependent use of ESHA under the Coastal Act and (2) will significantly disrupt ESHA habitat values.

#### **1. H1 and H2 Habitat are Protected ESHA**

ESHA is defined in the Coastal Act 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."

§30107.5. The County's approved LCP does not use the term ESHA, and instead divides the Santa Monica Mountains coastal zone into three habitat categories: H1, H2, and H3 habitat. AR 9444. H1 habitat consists of areas of highest biological significance, rarity, and sensitivity. AR 9444, 10067-69. H2 habitat consists of areas of high biological significance, rarity, and sensitivity that are particularly important to the Santa Monica Mountains ecosystem but do not qualify as H1 habitat. AR 9445. Together, H1 and H2 habitat are designated as SERA. AR 9447. H3 habitat consists of areas that would otherwise be designated as H2 habitat, but the native vegetation has been significantly disturbed, removed, or fragmented/isolated by existing development. H3 habitat does not constitute SERA. AR 9448.

The County's Biota Report performed a comprehensive analysis of the biodiversity in the Santa Monica Mountains and determined that "roughly 6,000 acres... in the Study Area satisfy the ESHA criteria in Section 30107.5." AR 583. In its April 9, 2014 Addendum, Commission staff responded to Petitioner's comment that the proposed LCP does not expressly identify ESHA, stating that H1 and H2 habitats constitute ESHA as defined by the Coastal Act. AR 1907. Thus, it is undisputed for purposes of this case that H1 and H2 are ESHA and subject to the protections of the Coastal Act.

Section 30240 mandates that ESHAs shall be "protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." Case law holds that the Coastal Act's protection of ESHA is "heightened." Bolsa Chica, *supra*, 71 Cal.App.4<sup>th</sup> at 506. Development in ESHA areas is limited to uses dependent on those resources, and the ESHA shall be protected against any significant disruption of habitat values. Sierra Club v. California Coastal Commission, ("Sierra Club") (1993) 12 Cal.App.4<sup>th</sup> 602, 611. The Coastal Act protects the area of an ESHA from uses which threaten the habitat values that exist in the ESHA. Bolsa Chica, *supra*, 71 Cal.App.4<sup>th</sup> at 507. Thus, Section 30240 establishes two restrictions on development in habitat areas: (1) there can be no significant disruption of habitat values; and (2) only resource-dependent uses are allowed. McAllister, *supra*, 169 Cal.App.4<sup>th</sup> at 928-29. The only exception for a development within ESHA that significantly disrupts habitat values occurs where compliance with ESHA protection would constitute a taking. *Id.* at 938 (Commission may grant CDP despite disruption of ESHA if necessary to avoid a taking, but must make appropriate findings under section 30100).

## **2. Resource Dependent**

A "low-impact campground" is defined as an area of land designed or used for "carry-in, carry-out" tent camping, including associated support facilities such as picnic areas, potable water, self-contained chemical or composting restrooms, shade trees, water tanks, portable fire suppression apparatus, and fire-proof cooking stations. AR 9604. A low-impact campground excludes any structures for permanent human occupancy and roads. AR 9604.

Petitioner argues that a low-impact campground in an ESHA does not meet Section 30240's requirement of a resource dependent use. Pet. Op. Br. at 10. Petitioner notes that the term "resources" in section 30240 refers to "the resources that make an area a protected habitat—i.e., 'plant or animal life or their habitats [that] are either rare or especially valuable because of their special nature or role in an ecosystem....'" McAllister, *supra*, 169 Cal.App.4<sup>th</sup> at 928-29. Pet. Op. Br. at 11. The courts have been scrupulous in precluding non-resource dependent uses in ESHA. *See id.* at 933 (residential development in in Blue Butterfly or coastal bluff scrub ESHA not

permitted because it was not resource dependent even if it arguably would not disrupt habitat because the existing habitat was deteriorating and the project would be required to plant new habitat); Bolsa Chica, *supra*, 71 Cal.App.4<sup>th</sup> at 507-08 (residential development not permitted in eucalyptus grove containing a raptor habitat and identified as ESHA).

Petitioner asserts that a “resource dependent use” means that the proposed use cannot exist without the valuable plant and animal habitat within the ESHA. Conversely, if the use can exist without the valuable plant and animal habitat, it is not resource dependent. Pet. Op. Br. at 11. This definition is consistent with other Coastal Act references to resource dependent uses, such as nature study and aquaculture, which could not be performed without access to the respective resources of plant and animal life and freshwater or marine animals. §§ 30233(a)(7), 30101. A campground, in contrast, does not require any particular plant or animal resources in order to function. Low-impact campgrounds may be sited within a wide range of environments, as recognized by the LIP, which permits campgrounds in Resort and Recreation and Open Space. AR 10041, 10053-54.

The LUP and LIP define “resource dependent uses” as those “that are dependent on [SERAs] to function.” AR 11822, 11931, 9611. The Commission staff report stated that low-impact campgrounds are resource dependent because they are specifically designed to expose the public to the resource. AR 1907. Petitioner disagrees, noting that the Coastal Act only requires maximized public access “consistent with sound resource conservation principles (§30001.5), and depending on the fragility of the natural resources in the area. §30214(a)(3). Petitioner contends that there is no evidence that the Commission considered the impact of public access on ESHA, and section 30007.5, which requires conflicts between Chapter 3 policies to be resolved in favor of protecting resources, would not have not have permitted it to resolve a conflict in favor of access. Indeed, section 30240 does not permit a balancing of Coastal Act policies against ESHA protection, unless it is for long-term resource protection that the expense of short-term protection. Bolsa Chica, *supra*, 71 Cal.App.4<sup>th</sup> at 509. Pet. Op. Br. at 12.

The issue of whether a low-impact campground is a resource-dependent use is an issue of statutory interpretation for the court to decide. In construing section 30240, the court must ascertain the intent of the Legislature so as to effectuate its purpose. Brown v. Kelly Broadcasting Co., (1989) 48 Cal.3d 711, 724. The court first looks to the language of the statute, attempting to give effect to the usual, ordinary import of the language and seeking to avoid making any language mere surplusage. *Id.*, at 724. Significance, if possible, is attributed to every word, phrase, sentence and part of an act in pursuance of the legislative purpose. Orange County Employees Assn. v. County of Orange, (1991) 234 Cal.App.3d 833, 841. The various parts of the Coastal Act must be harmonized by considering each particular clause or section in the context of the statutory framework as a whole. Lungren v. Deukmejian, (1988) 45 Cal.3d 727, 735. The enactment must be given a reasonable and commonsense interpretation consistent with the Legislature’s apparent purpose and intent, practical rather than technical in nature, and which, when applied, will result in wise policy rather than mischief or absurdity. To that end, the court must consider, in addition to the particular language at issue and its context, the object sought to be accomplished by the statute, the evils to be remedied, and public policy. *Id.* at 735. If a statute is ambiguous, the construction given it by the agency charged with its enforcement is entitled to consideration if such construction has a reasonable basis. Ontario Community Foundations, Inc. v. State Bd. of Equalization, (1984) 35 Cal.3d 811, 816. The Commission’s interpretation of the Coastal Act is entitled to deference. Ross, *supra*, 199 Cal.App.4<sup>th</sup> at 938; Hines v. California Coastal Comm.,

(2010) 186 Cal.App.4th 830, 849.

The purpose of section 30240, harmonized with the rest of the Coastal Act, and as interpreted by the Commission which enforces it, is dispositive of this issue. Both sides agree that a resource-dependent use is one that is dependent on the ESHA. *Compare* Pet. Op. Br. at 11 *and* Opp. at 13. The Coastal Act contains no express definition of resource-dependent, and provides no comprehensive list of examples. The examples cited by Petitioner of resource-dependent uses are examples that could not be performed without access to the pertinent resources (§§ 30233(a)(7), 30101), but they in no way purport to be exhaustive.

Section 30240 must be interpreted consistent with the Chapter 3 policy of maximizing public access, if possible. *See* §§ 30210, 30213. As the Commission argues, low-impact campgrounds are similar to hiking trails, which the McAllister court mentioned as a Commission-approved resource dependent use. 169 Cal.App.4th at 933. Low-impact campgrounds would allow people to enjoy the rare ecosystems of the Santa Monica Mountains, and that this use cannot occur in any other location. Low-impact campgrounds are totally distinguishable from the residential developments and golf courses that the courts have found to be not resource-dependent. While those developments could be sited anywhere, a low-impact campground exposing the public to the unique ecosystem of an ESHA can only be situated in the ESHA. While a campground can exist outside of an ESHA – such as in an urban park – that does not mean that the low-impact campground is not dependent on the ESHA. Just like a trail, the low-impact campground permits one to experience the ecosystems of the Santa Monica Mountains. The low-impact campground is resource-dependent because it is impossible to have the same experience at any other location. Opp. at 13-14.

Petitioner replies that section 30240 does not define resource-dependent as “dependent on being located in the ESHA area”; it limits the use of ESHA to uses that are dependent on the resource itself. Low-impact campgrounds are not dependent on the plants and wildlife in the ESHA. According to Petitioner, ESHA is not synonymous with nature or wilderness, and there is no reason why low-impact campgrounds cannot be relegated to non-ESHA locations. Reply at 8. This argument is disposed of by Bolsa Chica, which expressly stated that section 30240 protects the area in which the threatened plants and wildlife exist. 71 Cal.App.4th at 507. A campground may be resource dependent if it is dependent on the area in which the ESHA unique and rare plants and wildlife exist.

Petitioner also argues that a campground is not analogous to a hiking trail. Campgrounds serve the purpose of living temporarily outdoors. *See* 14 CCR §4301(u). This includes the cooking, eating, sleeping, and bodily functions involved with daily life. Campground users may require associated support facilities (chemical or composting restrooms, potable water tanks and pipes, fire suppression apparatus, and cooking stations). AR 9602, 9604. These support facilities are not dependent on the ESHA to function, nor are the cleared spaces required to accommodate these support facilities. Reply at 9.

This argument trends into the issue of significant disruption, addressed *post*. The Commission need not find that the Santa Monica Mountains ESHAs contains unique ecosystems such that low-impact campers could not observe the rare plants and animals anywhere else. It is sufficient that the “rare ecosystems” exist in the H1 and H2 habitat that persons may enjoy through low-impact camping. It is true that camping also is permitted in H3 habitat and in Rural Coastal and Resort and Recreation zones (AR 10029, 10043), but that does not make the camping in the

ESHA area any less resource dependent on that area. To the extent that associated support facilities are necessary for low-impact camping in ESHA areas, by definition they are collateral to, and necessary for, such camping. As such, they are resource dependent on the ESHA area.

Finally, the interpretation of section 30240's requirement of resource-dependent use to include low-impact campgrounds does not create a conflict between the Chapter 3 policies of maximum public access and the protection of ESHA, which then would require the subjugation of public access to resource conservation under section 30007.5. Both public access to ESHA areas through low-impact camping and protection of the ESHA can be achieved, depending on the specific requirements for the low-impact campgrounds. If there were any doubt, the court must defer to the Commission's interpretation of section 30240 unless the interpretation violates the clear purpose and language of the statute. *See Ross, supra*, 199 Cal.App.4th at 938.

The Commission's interpretation of section 30240 to permit low-impact campgrounds in ESHA areas as a resource-dependent use is correct as a matter of law.

### **3. Significant Disruption**

Given that low-impact campgrounds are permissible in ESHA as a resource-dependent use, the issue becomes whether the LCP unlawfully permits the campgrounds to be a significant disruption of H1 and H2 habitat values. This is an issue of law based on interpretation of the pertinent LUP and LIP provisions.

Preservation Fund notes that the requirement for ESHA protection is heightened, and argues that low-impact campgrounds within H1 and H2 habitats, both of which are ESHA, necessarily will disrupt and destroy those habitats, and therefore this use cannot be permitted under section 30240. Pet. Op. Br. at 8-9. Low-impact campgrounds are defined to include support facilities such as restrooms, water facilities, and cooking stations. AR 9604-05. Installation of these facilities will require excavation, grading, and clearance of vegetation, all of which are destructive to ESHA resources. The LIP acknowledges and authorizes this destruction by permitting grading for low impact campgrounds within SERA-designated space. AR 10057. Up to 30 cubic yards may be graded in H1 and H2 habitat with an administrative CDP. AR 9778. Even more grading may be performed with other types of CDPs. AR 10057. Petitioner further contends that use of the low-impact campground will result in more "significant disruption" of habitat values prohibited by section 30240, including human caused fires, which are a very serious risk in the Santa Monica Mountains. Pet. Op. Br. at 10.

The Commission responds that low-impact campgrounds are designed to promote "carry in, carry out" facilities with a minimum of permanent structures, and permit applications will be addressed on a case-by-case basis to ensure that the specific site and design are appropriate. Opp. at 1. The Commission expressly required the County to modify its proposed LIP because it did not have development standards that would ensure the low-impact campgrounds would be consistent with habitat protection. Opp. at 9. For this reason, the Commission required changes to the LIP state that low-impact campgrounds shall be located, designed, and maintained to avoid or minimize impacts to H1 and H2 habitat areas...by utilizing established disturbed areas where feasible, following natural contours to minimize grading, and avoiding naturally vegetated areas...to the maximum extent feasible." AR 10118. Further, the campgrounds should be sited a minimum of 50 feet from the top bank of all streams or the outer edge of riparian vegetation. *Id.* Opp. at 9-10.

The Commission argues that Petitioner must show that no low-impact campground could possibly be sited anywhere in ESHA without significantly disturbing its habitat values. Opp. at 10. The Commission argues that Petitioner cannot make this showing because low-impact campgrounds can be sited in ESHA because LUP policy CO-42 requires them to be sited and designed to avoid significant disruption of habitat values. AR 9450. The LIP implements this policy by giving specific direction that the campgrounds be located on established disturbed areas where feasible, following natural contours to minimize grading, and avoiding naturally vegetated areas to the maximum extent feasible. AR 10118. The Commission only certified minimal support facilities – picnic areas, water supplies, self-contained restrooms, shade trees, water tanks, fire suppression apparatus, and fire-proof cooking stations – and only where appropriate. The Commission could reasonably find that these support facilities provide a negligible impact on ESHA, and would disrupt it far less than the 10,000 square foot home approved in McAllister, *supra*, 169 Cal.App.4<sup>th</sup> at 933. It is premature to suggest that any grading and excavation necessarily will significantly disrupt habitat values, as that will be addressed on a case-by-case permit basis. Opp. at 11-12.<sup>3</sup>

The Commission is wrong in stating that Petitioner must show that no low-impact campground could possibly be sited anywhere in ESHA without significantly disturbing its habitat values. See Opp. at 10. Rather, Petitioner need only show that the approved LCP authorizes any low-impact campgrounds that would significantly disrupt habitat values. If the LCP permits the County, in the course of its case-by-case evaluation of permit applications for low-impact campgrounds, to approve a low-impact campground that would significantly disrupt ESHA habitat values, then the LCP violates section 30240. As Petitioner argues, even if some or most low-impact campgrounds would not significantly disrupt ESHA, the LCP will be invalid if it permits any low-impact campground that would significantly disrupt H1 or H2 habitat. Reply at 2.

The problem with the Commission's position is that the LCP's development standards are not consistent with 30240's protection of ESHA, which is "heightened" (Bolsa Chica, *supra*, 71 Cal.App.4<sup>th</sup> at 506) and which prevents any significant disruption of habitat values. Sierra Club, *supra*, 12 Cal.App.4<sup>th</sup> at 611. As Petitioner argues, the LCP generally requires no significant disruption of H1 and H2 habitat, but then qualifies this by allowing disruption where it is not feasible to avoid it. Reply at 4. This qualification does not meet the requirements of section 30240.

For example, LUP Policy CO-42 requires low-impact campgrounds to be sited to avoid or minimize impacts to H1 and H2 habitat, but only "to the maximum extent feasible." AR 10280. Where it is infeasible to avoid H2 habitat, then Policy CO-43 permits the siting and design alternative that would result in the fewest and least significant impacts to H2 habitat. AR 10280-81. Policy CO-86b and CO-87 address mitigations for unavoidable impacts to H1 and H2 habitat. AR 10292.

Similarly, the LIP permits low-impact campgrounds that avoid H2 habitat, but only where feasible, and then the alternative that minimizes H2 impacts must be chosen. AR 10099. The LIP requires low-impact campgrounds to be sited to avoid or minimize impacts to H1 or H2 habitat, but only where feasible, avoiding naturally vegetated areas to the maximum extent feasible. AR

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<sup>3</sup> The Commission points out that Petitioner's reference to parking, grading in open space, and fire safety, all of which are irrelevant or unsupported by evidence. Opp. at 12. The court agrees.



10118. The LIP requires that grading for low-impact campgrounds be minimized, but also permits up to 30 yards of grading in a H1 or H2 habitat area. AR 9778, 10118. The LIP also requires H1 and H2 habitat that is permanently removed or impacted to be mitigated. AR 10119.

Thus, the LUP and LIP both permit significant impacts to H1 and H2 habitat -- albeit attempting to avoid them the maximum extent -- and then require mitigation for unavoidable impacts. This is not consistent with section 30240's near absolute requirement that there can be no significant ESHA disruption. ESHA is not an environmental resource for which environmental impacts must be assessed and then minimized to less than significant. Section 30240 permits no significant disruption of ESHA habitat values. McAllister made this clear: "[Section 30240] does not authorize the separation of habitat values from an existing habitat and the relocation of those values elsewhere as a form of mitigation. Rather, the statute protect[s] the designated habitat area itself...and mitigation measures cannot be used to circumvent the statute's strict limits on the uses permissible in habitat areas." 169 Cal.App.4<sup>th</sup> at 932-33 (citing Bolsa Chica, *supra*, 71 Cal.App.4<sup>th</sup> at 507-08).

The Commission's reliance on McAllister, *supra*, 169 Cal.App.4<sup>th</sup> at 933, to support its argument that low-impact campgrounds will not cause significant disruption is misplaced. In McAllister, the court analyzed the proposed construction of a single-family home within an ESHA-designated location. *Id.* The court stated that the Commission "could reasonably conclude" that the construction would cause no significant disruption because construction of the house would require only removing a very limited number of plants, and because the building permit included a requirement that the owner restore any plants removed. *Id.* As Petitioner correctly points out (Reply at 7, n.5), McAllister's holding was that the house was not a resource dependent use and the court's discussion of the significant disruption issue was *dictum*. 169 Cal.App.4<sup>th</sup> at 933. In any event, that discussion merely supports the Commission's contention that a low-impact campground would not significantly disrupt H1 or H2 habitat if it involved only the removal of a small number of plants or minor grading. It does not support a development standard of avoiding disruption only if feasible and then mitigation of unavoidable impacts.

In sum, the LCP does not properly implement section 30240's prohibition against significant disruption, and instead implements a lower standard that development should avoid disruption "where feasible" and mitigated if necessary. Under the LCP as written, some campgrounds could pass muster under section 20340, but the County could approve others on the basis that avoidance of significant disruption to H1 or H2 habitat is "not feasible." Such an approval would violate section 30240. An LCP must meet the requirements of, and implement the provisions and policies of, the Coastal Act. §30108.6. The Coastal Act demands "uniform treatment and protections for all ESHA's." Sierra Club, *supra*, 12 Cal.App.4<sup>th</sup> at 617. The LCP's standards for issuance of permits for low-impact campgrounds violates section 20340's protection of ESHAs.

The Commission's determination that the LCP's provisions for low-impact campgrounds will not permit the significant disruption of ESHA resources is incorrect as a matter of law.

#### **4. Remedy**

Petitioner seeks a writ of mandate striking specific language relating to low-impact campgrounds from the LCP. Pet. Op. Br. at 14. Petitioner argues that these provisions are void, as they were approved in violation of the Coastal Act. Reply at 10. The Commission argues that

the sole permissible remedy under CCP section 1094.5 is for the court to issue a writ of mandate compelling the Commission to set aside and reconsider its action, and the court may not limit or control in any way the discretion legally vested in the Commission. CCP §1094.5(f). Opp. at 15.

The court agrees with both parties that the entire LCP need not be set aside. Only the provisions permitting low-impact campgrounds based on a feasibility/mitigation standard of development must be set aside as void, and the Commission retains discretion as to how to rectify the issue.

#### **F. Conclusion**

The petition for writ of mandate is granted in part. Petitioner's counsel is ordered to prepare a proposed judgment and a writ, serve it on Respondent's counsel for approval as to form, wait 10 days after service for any objections, meet and confer if there are objections, and then submit the proposed judgment along with a declaration stating the existence/non-existence of any unresolved objections. An OSC re: judgment is set for September 26, 2017 at 1:30 p.m.