

## SECTION 6

### SUBAREA PLAN IMPLEMENTATION POLICIES

This section describes subarea plan implementation actions to be taken by the City of Escondido. These actions are specific to the city and are supplemental to the preserve assembly actions described in Section 5 of the MHCP Plan. Key policy areas described in the MHCP Plan that also apply to the Escondido Subarea Plan include the Overall Assurances, Plan Amendment Process, Process for Addition of Species, Severability, and the Cooperative Structure for Plan Implementation.

#### 6.1 IMPLEMENTATION POLICIES AND ACTIONS

The following implementation policies are gathered from various sources, including Issue Papers approved by the MHCP Advisory Committee, policies intended to apply to all subregional and subarea plans (as documented in the City of San Diego MSCP), discussions of the *ad hoc* Committee of MHCP Elected Officials, agreements reached at the meetings of the MHCP Elected Officials and Wildlife Agencies Management Team, and through direction of the City of Escondido. These policies and assurances apply to all MHCP subarea plans.

##### 6.1.1 Cooperative Implementation Structure

The MHCP, and component subarea plans, rely on cooperation between local, state, and federal governments for successful implementation. The MHCP and the Escondido Subarea Plan will be implemented by the city through application of local land use authority. Assurances for cooperative implementation include the following:

Local Implementation. The city will implement the MHCP directly through its adopted subarea plan. The subarea plan is the subject of the Implementing Agreement (IA) between the City of Escondido, the CDFG, and the USFWS. The IA extends authority for the taking of covered species from the CDFG and USFWS to the city.

No New Institutional Structures. The MHCP will not create a new regional structure or authority with review and approval powers. A subregional land conservancy may be created, however, to facilitate preserve assembly and MHCP implementation.

Phased Local Implementation. Revisions to land use plans, regulations, and ordinances to implement and fund the MHCP and the subarea plan will be phased, using city regulations, ordinances, and land use plan approval in the interim to achieve the goals of the MHCP. In the Escondido Subarea Plan, grubbing, clearing, and grading ordinances and similar regulations have been used to ensure that habitat is not destroyed prior to local approval of habitat loss. No development moratorium is required during subarea planning and implementation. Sections 6.3.2 and 6.3.3 describe the Urgency Ordinance and Interim Resource Protection procedures designed to prevent the loss of important resources prior to plan approval.

Sequential Adoption. Escondido, and other local jurisdictions participating in the MHCP, may prepare subarea plans and execute IAs on separate schedules. These subarea plans are interdependent, however, because they must form a collective conservation strategy when combined in a subregional plan. For example, the coverage of some species in Escondido may depend on conservation actions in another jurisdiction.

### **6.1.2 Take Authorizations**

The City of Escondido will receive take authorizations upon approval of the subarea plan. “Take” in this case means that covered species or their habitats may be impacted by projects that are consistent with this subarea plan and approved by the city. The city can share the benefits of its authorizations with individuals as well as public and private sector projects within the city through its land use approval authority.

City of Escondido. Upon receiving federal and state take authorizations for covered species, the city will receive assurances from the wildlife agencies through the IA described in Section 6.2. Completion and approval of the subarea plan will eliminate the 5 percent limit on interim take of coastal sage scrub that was a part of the NCCP program through the Section 4(d) rule regarding the listing of the California gnatcatcher.

Project Proponents. Proponents of projects approved by the city, consistent with its take authorizations, become “third-party beneficiaries” to those authorizations as described in the IA. Proponents will receive assurances that their mitigation obligations for covered

species will not be altered once development project approvals have been granted by the jurisdiction and mitigation has been assured consistent with this subarea plan.

### **6.1.3 Development Process Assurances**

Significant benefits accrue to participants in the MHCP and component subarea plans. These include the city and project proponents who receive approvals from the city through the development review and permitting process.

Flexible Subarea Plan Development. The Escondido Subarea Plan is designed to be flexible in its implementation while meeting the overall subregional goals of the MHCP. This flexibility includes incremental implementation of the plan through local land use authority, the ability to implement federal and state laws through local actions, and the ability for the city to independently determine how local actions including development regulation, land acquisition, project mitigation, regulations implementing the General Plan, and other discretionary actions will be used to meet plan implementation requirements. This subarea plan describes the combination of actions Escondido will take to implement the MHCP.

Improved Regulatory Process. A primary purpose of the subarea plan is to simplify the project approval process by eliminating duplicative regulatory and mitigation processes, including project-by-project take authorizations for each listed species. Upon receiving its take authorizations, Escondido will have land use authority over lands supporting habitats and covered species described in the plan.

Equitable Allocation of Costs. Escondido will contribute its fair share to implementation of the subregional MHCP preserve, as specified in this subarea plan, through development regulations, mitigation requirements, preservation of habitat on public lands, and, potentially, other conservation actions.

Plan Implementation Monitoring. The City of Escondido will monitor plan implementation and ensure that habitat conservation proceeds in step with development.

Private Property Rights. The Escondido Subarea Plan and the subregional MHCP are designed to respect private property rights. As a matter of city policy, acquisition of any

lands required to implement the subarea plan will be based on purchases from willing sellers at fair market values that are established cooperatively.

## **6.2 IMPLEMENTING AGREEMENT**

The IA is the binding contract between Escondido and the wildlife agencies. It identifies responsibilities to implement the subarea plan, binds the parties to their respective obligations, and specifies remedies should any party fail to perform its obligations.

### **6.2.1 Assurances in the Implementing Agreement**

Some of the key assurances in the model IA are described below; they are in addition to those included in Section 6.1.

Local Land Use. The wildlife agencies will issue to the city 50-year authorizations to take species covered by the subarea plan. In addition, the MHCP Plan and this subarea plan will eliminate most wildlife agency involvement in project-specific review and approval. Impacts to wetlands must continue to be regulated through the Clean Water Act, Fish and Game Code Section 1600 et seq., and local regulations, although coverage for endangered species through this subarea plan should facilitate any consultation required between the USFWS and ACOE.

New Development. Those undertaking land development will be allowed to take covered species and habitats incidental to project construction, operation, and maintenance based on the approvals extended to the project through the local project permitting process, which are consistent with this subarea plan.

Phased Implementation and Severability. The wildlife agencies have agreed to phased implementation of the MHCP Plan and subarea plans. Phasing means that the city may implement the subarea plan over time based on economic demand for land development or upon other constraints or incentives the city may place on certain areas. The take authorizations granted by the wildlife agencies also will be severable from those granted to other jurisdictions or entities, protecting each take authorization holder from noncompliance by others.

Covered Species. The city will receive take authorizations for the list of covered species in Table 1-1. This means that in the city those species are protected by the successful implementation of this subarea plan (and in some cases the subregional or other subarea plans). The list includes species that are listed as threatened or endangered, and species currently not listed under either the ESA or CESA.

Critical Habitat. If in the future an ESA Critical Habitat designation is made for a covered species, that determination will not have the effect of causing additional land, mitigation, restrictions, or compensation to be required of Escondido if this subarea plan is being implemented in compliance with the take authorization conditions for that species.

Future Listings of Covered and Uncovered Species. This subarea plan incorporates policies describing how the covered species list may be expanded to include new species once actions in Escondido or other jurisdictions ensure the species' long-term conservation (Section 6.7).

## **6.2.2 Changed Circumstances and Unforeseen Circumstances**

The “No Surprises” Rule, 50 CFR Part 17 (1998) generally provides that, as long as the subarea plan is being properly implemented, the federal government will not require additional land or money from the city. Changes to the rule in 1998, however, added a description of “Changed and Unforeseen Circumstances” that further defines potential future responsibilities based on whether future impacts to covered species could reasonably be foreseen.

### **Changed Circumstances**

“Changed circumstances” are those changes that may affect a species covered by this subarea plan that can reasonably be anticipated by the city and the wildlife agencies at the time of plan preparation. If additional conservation or mitigation measures are deemed necessary to respond to changes in circumstances that are described in the subarea plan, the city will be expected to implement the measures specified in the subarea plan, but only those measures and no others. The city has defined large-scale fires and major flood

incidents as circumstances that may affect a species or geographic area covered by the subarea plan and that can be reasonably anticipated at the time of plan preparation.

Fire Changed Circumstances. A “changed circumstance” fire is one that can be controlled in a 24-hour period by local firefighting resources. Much of the land covered by the subarea plan is located in arid areas susceptible to wildfires, which can adversely affect or impact habitat communities and ecosystems. It is important to acknowledge, however, that fire is a natural phenomenon in southern California, and a differentiation must be made between a “natural” fire and one with catastrophic impacts. In implementing the subarea plan, the city will use best management practices and coordinate with local fire departments to minimize adverse impacts of fire and to monitor and respond to potential adverse biological impacts when they occur.

If it is necessary to mitigate the impacts of changed circumstance fires on covered species, the wildlife agencies will initiate, and the city will participate in, an expedited biological analysis of the areas of the city impacted by any changed circumstance fire. The analysis will commence as soon as the personnel required for the analysis from the appropriate federal and state agencies and city can be made available. The outcome of the analyses will be the development of appropriate measures to minimize, to the extent practicable, the occurrence of significant adverse impacts on covered species resulting from response to and management of fire events. Measures developed by consensus between the city and wildlife agencies will be implemented. These adaptive management measures, many of which are described in this subarea plan, could include erosion control, noxious species control, reseeding, and other measures. Ongoing projects and covered activities may continue to utilize the existing operating measures until the new measures resulting from the analysis are developed.

Flood Changed Circumstances. In Escondido, it is unlikely that a changed circumstance flood event could occur that would not be adequately addressed by adaptive management actions described in this subarea plan. Floodwater flows on Escondido Creek are effectively controlled by Dixon Dam, and much of the creek is channelized as it passes through the city. Opportunities to impact adjoining conserved habitat areas are few. On Reidy Creek, in the northern part of the city, periodic flooding does occur, but at low water volume because of the small watershed. However, if it is necessary to mitigate the impacts of a changed circumstance flood on covered species, the federal and state

agencies will initiate, and the city will participate in, an expedited biological analysis on the impacted area. The analysis will commence as soon as the personnel required for the analysis from the federal and state agencies and city can be made available.

The outcome of the analysis will be the development of appropriate measures to minimize, to the extent practicable, significant adverse impacts on covered species resulting from the flood event. Measures developed by consensus between the city and the wildlife agencies will be implemented. Ongoing maintenance and operations activities may continue to use the existing operating measures until the new measures resulting from the analyses are developed.

### **Unforeseen Circumstances**

“Unforeseen circumstances” are changes affecting a species or geographic area covered by the subarea plan that could not reasonably have been anticipated by the city or the wildlife agencies at the time of plan development, and that result in a substantial and adverse change in the status of a species covered by the subarea plan. The basic difference between a “changed” and “unforeseen circumstance” fire or flood event is a matter of scale, with the “unforeseen” event being larger and bearing with it greater potential adverse impacts to species and habitats. The wildlife agencies bear the burden of demonstrating that unforeseen circumstances exist, using the best available scientific and commercial data available and considering certain specific factors. The wildlife agencies will not require the commitment of additional land or financial compensation, or additional restrictions on the use of land, water, or other natural resources, even upon a finding of unforeseen circumstances, unless the city consents. Upon a finding of unforeseen circumstances, the wildlife agencies are limited to modifications within conserved habitat areas in the subarea plan’s operating conservation program.

Fire Unforeseen Circumstance. A fire in the subarea that cannot be controlled within a 1-day period by local firefighting resources or that necessitates the addition of out-of-locale firefighting resources is a fire that constitutes an unforeseen circumstance fire.

Flood Unforeseen Circumstance. A 100-year flood on Escondido or Reidy Creek, or in other conserved habitat areas, or catastrophic failure of a major flood control facility such as Dixon Dam, constitutes an unforeseen circumstance flood.

### **6.3 CITY IMPLEMENTATION ACTIONS AND PROCESS**

The city of Escondido will enter into an IA with the wildlife agencies following an action of the City Council adopting the subarea plan and authorizing the agreement. The duration of the agreement will be 50 years, and the agreement will be renewable. The IA will ensure that the Escondido Subarea Plan will be continuously implemented over the next 50 years, and that state and federal take authorizations will be in effect for the same time period. Key assurances for all parties described in the subregional MHCP and this subarea plan will be incorporated in the IA in full.

For its part, the city will guarantee implementation of the subarea plan through interim and permanent regulatory measures including goals, objectives, codes, ordinances, and policies contained in the Escondido General Plan and Zoning Code, and the other city policy documents described in Section 2.3. The city affirms that, within 6 months of the signing of an IA with the wildlife agencies, it will develop and schedule action on a comprehensive General Plan and/or Zoning Code amendment that will codify any new or modified city policies required to implement the subarea plan. By mutual agreement the parties may extend this period for an additional year. This action will ensure consistent implementation of the subarea plan through city policy, private and public project review and approval, and guidelines for operations and management of public lands. Regardless of this time period, the city will provide interim protection to habitat lands addressed in the take authorizations through the process described in Section 6.3.3.

#### **6.3.1 Conservation Requirements Established in this Plan**

The subarea plan clearly establishes conservation requirements for covered species. Overall, implementation of the subarea plan must ultimately result in conservation of at least 6,570 acres (see Table 4-1) of natural habitat lands within the FPA, as well as no net loss of wetlands inside and outside the FPA. This overall total requirement includes an additional requirement for conservation of a minimum number of acres by habitat type as described in this subarea plan. This additional requirement is important because the size and location of specific habitats to be conserved determine the adequacy of protection for species associated with those habitats. The city may implement the conservation requirements through a variety of means, including open space regulations, mitigation of



project impacts, acquisition, or other means of ensuring dedication of lands to perpetual conservation. While this requirement establishes a minimum standard for subarea plan implementation, it does not place a cap on future conservation of habitat lands in the event that lands naturally convert from fallow or disturbed land with the passage of time.

### **6.3.2 Regulatory Actions**

Upon signing of the IA, the city will use its land use regulatory authority to fully implement the provisions of the plan. Regulatory implementation shall consist of the following actions:

1. **Urgency Ordinance for Interim Compliance.** Immediately following approval of the subarea plan, the city will enact an Urgency Ordinance, as permitted by California Government Code Section 65858, to require interim compliance with the plan while permanent regulatory measures are being drafted and approved.
2. **General Plan Update.** The city will amend the Land Use, Community Open Space and Conservation, and Implementation Elements of the General Plan to incorporate the subarea plan by reference. The Open Space and Land Use maps contained in the elements will be amended to show the existing and proposed hardline preserve areas as open space. The Land Use Element shall be amended to incorporate preserve design criteria for softlined properties (see Section 4.4). If necessary or applicable, existing goals, objectives, or policies contained in the elements may be amended to strengthen the city position regarding plan implementation. The Implementation Element of the General Plan will also be amended to incorporate the subarea plan review and approval process.
3. **Update Zoning Code.** The city will amend the Open Space Zone and Open Space Development Standards ordinances by reference to add conserved habitat lands identified in this subarea plan, or during plan implementation, as undevelopable open space lands.
4. **Update Parks Master Plan.** The city will update the Master Plan for Parks, Trails, and Open Space by reference to reflect the requirements of the subarea plan.

5. **Create Habitat Conservation Overlay Zone.** The city will revise the Zoning Ordinance by adoption of an overlay zone to describe the effective boundaries and intent of the subarea plan. A review process similar to that described for existing city overlay zones will be required for all development within the FPA. This addition to the ordinance will create a Habitat Conservation Overlay Zone to supplement requirements of the underlying zone. This criterion will make the Zoning Ordinance reflect the requirements of the subarea plan including buffer requirements for various natural resources, building setbacks, road design, landscaping, fuel modification procedures, lighting, fencing, and other issues related to conservation of biological resources.
6. **Update Environmental Regulations.** The city will update the Environmental Quality Regulations to reflect the requirements of the subarea plan with respect to project development boundaries and review criteria.
7. **Revise Excavation and Grading Ordinance.** The city will revise the Excavation and Grading Ordinance to reflect the specific mitigation ratios established by the plan and policies for avoiding impacts to sensitive species. In addition, the City will revise the ordinance to comply with all breeding season restrictions for any construction activities.
8. **Update San Dieguito River Valley Policies.** The city will update the San Dieguito River Valley Focused Planning Area Ordinance to reflect project review criteria and policies for avoiding impacts to sensitive species, as specified in the subarea plan.
9. **Comply with Implementing Agreement.** The city will comply with all terms and conditions of the subarea plan IA.

### 6.3.3 Interim Resource Protection

The goal of interim protection is to prevent important habitat areas and species from being lost to clearing, conversion, or development in the time period between signing of the IA and city action to adopt the General Plan update. Existing city regulations and ordinances, as well as project specific plans, will provide both interim and permanent protection. No proposed project requiring discretionary approval within the city will be

approved by the city without a determination of conformance with the subarea plan once an IA is signed. No grading will be done within the city without a determination of conformance with the subarea plan by the planning director.

The city will act on the Urgency Ordinance outlined in Section 6.3.2 to require review of any clearing, brushing, grubbing, or grading of vacant lands, or conversion of nonagricultural lands to active agriculture. If these lands are not directly addressed by the subarea plan but contain resources covered by the plan, an appropriate permit and level of mitigation consistent with the plan will be required. If such lands are directly addressed in the subarea plan, the plan's requirements must be met as if the city had fully incorporated the subarea plan into the Escondido General Plan, Zoning Ordinance, and Municipal Code.

### **Interim Resource Protection Checklist**

To ensure that no habitat lands covered by subarea plan take authorizations are lost without proper planning and mitigation during the interim period, the city will apply the following checklist in reviewing all development proposals within the city.

1. Applicant submits complete development application package (including most recent biological resource documentation).
2. City reviews project relative to subarea plan and existing MHCP biological database information as a part of CEQA review.
3. City determines whether biological surveys and resource documentation require updating.
4. City reviews project relative to existing General Plan and policies, ordinances, and updates that are proposed for adoption by City Council.

5. City determines adherence of proposed project to subarea plan guidelines.
  - a. If the project is planned inside the FPA, but not within the hardlined preserve area, land uses must be compatible adjacent to preserve areas as described in Section 4.3.2.
  - b. If the project is planned within the preserve area, those areas which either have been or will be hardlined, land uses must be consistent with those in Section 4.3.1 of this subarea plan.
  - c. Softlined projects must follow the general and specific guidelines specified in Section 4.4 of this plan.
  - d. Mitigation for project impacts must be consistent with guidelines in Section 5.2.1 of this plan.
  - e. Narrow endemic species must be conserved in accordance with standards in Section 5.2.2. All critical locations of narrow endemic populations must be totally avoided.
  - f. Impacts to all wetlands within the city must be avoided to the maximum extent practicable, according to the city's no net loss policy. Mitigation for unavoidable impacts shall be in accordance with the standards in Section 5.2.3 of this plan.
  - g. Upland buffers must be designated along tributaries and creeks as described in Section 5.2.3 of this plan.
  - h. Firebreaks and fuel modification zones must be considered part of the development footprint and not counted as biological open space as described in Section 5.2.4 of this plan.
  - i. New development should be clustered to maximize conservation of biological open space.

6. City prepares environmental review per CEQA and provides development approval with any required conditions and mitigation measures documented.
7. City documents project to fulfill NCCP habitat tracking, monitoring, and reporting requirements.

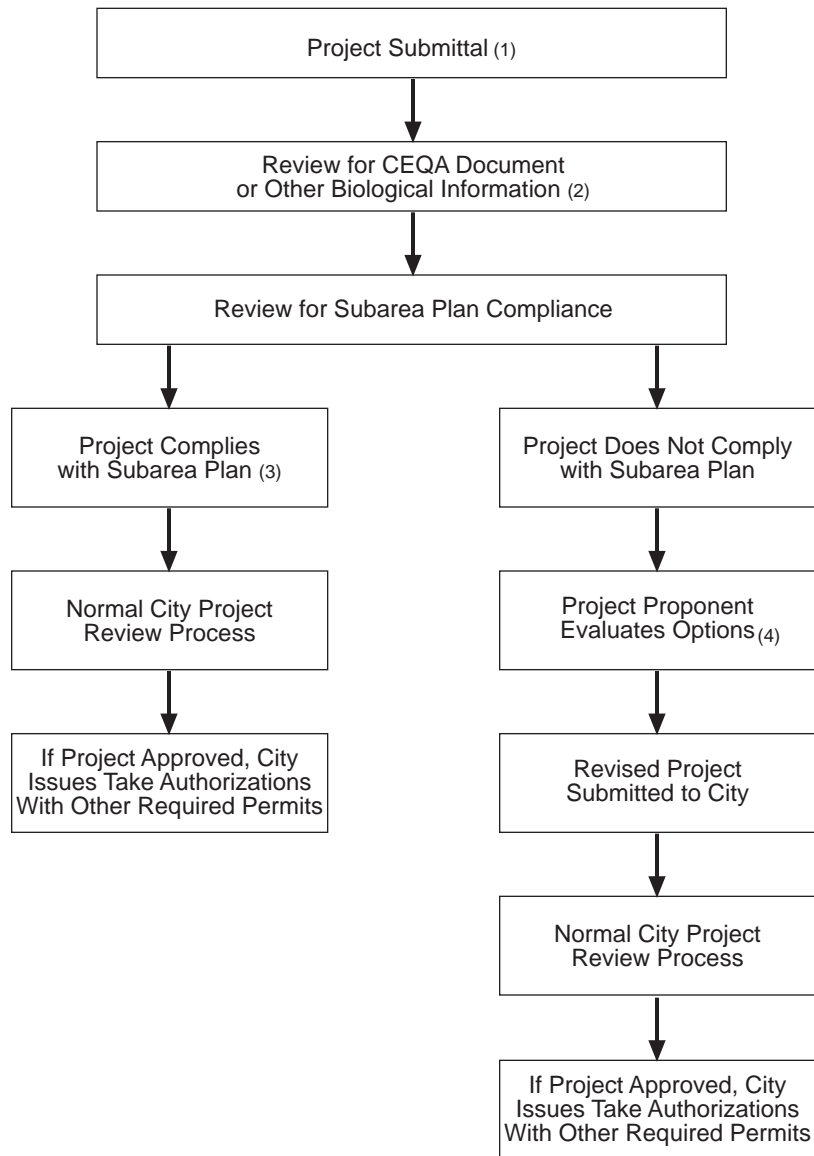
#### **6.3.4 Development Review and Approval Process**

Establishment of the regulatory framework described in Section 6.3.2 will enable the city to fully implement the land conservation policies of the subarea plan through the normal project review and approval process. The process, summarized in Figure 6-1, will apply to all private and public projects where the city has jurisdictional land use authority. The city will apply the same process for project areas where hardline plans are incorporated into the subarea plan as well as those limited areas where compliance is driven by criteria and standards.

Hardlined Project Plans. Some areas within city boundaries at the time of plan adoption are addressed by hardlined plans incorporated or referenced in this plan. Hardlined project plans contain a map that shows where conservation and development has or will occur on the site. Hardlined projects must also incorporate the development requirements that the city must assure have been met before granting approvals to public or private projects. Sections 4, 5, and 7 contain overall project design guidelines that must be considered when developing final detailed plans for hardlined areas. Taken together, these constitute the “Subarea Plan Compliance” step shown in Figure 6-1.

Softlined Project Plans. For other areas of the city, it is not possible to prepare project level plans prior to approval of the subarea plan. Conservation requirements for these areas are described in Section 5 as specific standards and criteria for preserve design and project approval. In these areas, the city will ensure that the standards and criteria are fully satisfied before any project approvals are issued.

Wildlife Agency Consultation. Once the IA is signed, the city need not consult with the wildlife agencies in the normal course of review and approval of project plans. The agencies will receive notification of a project through a CEQA Initial Study project referral and Notice of Preparation, or a Notice of Negative Declaration, and may request



- 1 Assumes the project proponent previously attended a “presubmittal” meeting with City staff and is aware of Subarea Plan and other City approval requirements. The City will encourage this action in every case.
- 2 CEQA documentation is required for all projects seeking approval through the Subarea Plan. The CEQA document must demonstrate project consistency with Subarea Plan requirements and whether a Subarea Plan Amendment or Boundary Adjustment is required. The Wildlife Agencies must be notified of preparation of all CEQA documents for projects that may impact habitats or species addressed by the Subarea Plan.
- 3 Project approval may require a Subarea Plan Amendment or Boundary Adjustment.
- 4 A project proponent’s options can include (1) redesign of the project and/or its mitigation strategy to comply with the Subarea Plan; (2) submission as a Subarea Plan Amendment at the discretion of the City; or (3) application for separate permit(s) directly from the Wildlife Agencies. The City discourages the third option as likely to be inefficient and costly to the project proponent.

a voluntary consultation within the public review period required by CEQA. The city will not notify the wildlife agencies of projects with such minor impacts that the CEQA review process is not required (i.e., categorical and statutory exemptions). Likewise, the city is free to request agency involvement in a project where consultation would help address key issues or help streamline the process.

The city will document the issuance of take authorizations by maintaining a list of all approvals under the subarea plan, which shall be an appendix to the plan and updated annually, and which will not be a cause for amendment of this subarea plan. The list will describe the project, the amount of acres taken or conserved by the project, and the physical location of the tentative map or other record of project approval produced by the city. All issuance of project approvals over the course of a year will be documented and discussed at the required annual meeting described in Section 6.3.5. The primary exception to this general procedure would be if a project required an amendment to the subarea plan. Plan amendments are described in Section 6.4.

### **6.3.5 Annual Implementation Coordination Meetings**

An annual meeting will be held between the city and the wildlife agencies to review and coordinate subarea plan implementation. It is the responsibility of the city to schedule this meeting within 60 days of each anniversary of execution of the IA. To meet the stipulations of the IA, the subarea plan must be implemented in a way that issuance of authorizations for taking of species and habitats is roughly proportional to species and habitat conservation. The annual accounting of habitat acreage within the subarea will include both land conserved, and loss of habitat acres (Section 7.4). Progress toward achieving conservation requirements will be reviewed, and habitat management issues will be discussed along with a review of project approvals issued by the city over the course of the year. If the wildlife agencies determine that the subarea plan is not being implemented as required, the wildlife agencies and the city will take the actions specified in the IA to remedy the situation. These actions may include additional management activities, modification of the project compliance process, or redirection of acquisition funds, as long as they are consistent with the provisions of the IA.

#### **6.4 PLAN AMENDMENT PROCESS**

Certain events may require amending the subarea plan as described below. Although subarea plan amendments are not anticipated on any regular basis, amendments may be necessary to accommodate major changes in conservation levels or preserve design or large annexations. Consultation with the wildlife agencies is required for a plan amendment, and these agencies must be notified as soon as the local jurisdiction confirms that a plan amendment is warranted. CEQA and NEPA documents will be prepared for any project that triggers the amendment process. The document(s) will address project impacts as well as impacts on subarea plan implementation and any effects on take authorizations held by the city. Examples of amendments to the subarea plan include:

1. Removal of lands from conservation or reconfiguration of project plans resulting in a decrease of the amount or quality of habitat conserved that could not be addressed by a boundary adjustment (see Section 6.5).
2. An annexation of land that requires take authorizations for development and that is not covered by an existing NCCP subarea plan, or a major variation in design or implementation from an existing NCCP plan.

#### **6.5 BOUNDARY ADJUSTMENTS AND EQUIVALENCY**

Adjustments to the approved subarea plan preserve boundaries may be desirable under some circumstances that do not require plan amendment and will be based on a like or equivalent exchange concept, as in the following examples:

- New biological information is obtained through site-specific studies;
- Unforeseen engineering design opportunities or constraints are identified during the siting or design of projects that require modification of the preserve boundary; and/or
- A landowner may request that a portion or all of his property be included within the preserve boundary.



Adjustments to preserve boundaries can be made without the need to amend the subarea plan if the adjustment will result in the same or higher biological value to the preserve system. The determination of biological value of the proposed change is made by the local jurisdiction and must have the written concurrence of the wildlife agencies. The comparison of biological value will be based on the following biological factors:

1. Effects on conserved habitats (i.e., the exchange maintains or improves the amount, configuration, or quality of conserved habitats);
2. Effects on covered species (i.e., the exchange maintains or increases the conservation of covered species);
3. Effects on habitat linkages and function of preserve areas (i.e., the exchange results in similar or improved habitat connectivity, wildlife movement corridor function, management efficiency, and/or protection of biological resources);
4. Effects on ecotones or other conditions affecting species diversity (i.e., the exchange maintains topographic and structural diversity and habitat interfaces of the preserve); and/or
5. Effects to species of concern not on the covered species list (i.e., the exchange does not significantly increase the likelihood that an uncovered species will meet the criteria for listing under either the federal or state ESAs).

Most adjustments to the boundaries will be in areas immediately adjacent to identified preserve areas. The city will process boundary adjustments through the Adjustment Plat procedure, which is a part of the Subdivision Code (Article 4, Section 32.402). Any agreed upon modification of preserve boundaries shall be reported to the entity responsible for regional preserve system accounting and to adjacent jurisdictions if the modification might affect their portion of the preserve.

In the event that Section 7 or 10(a) consultations are undertaken between a property owner and the USFWS outside the structure of the subarea plan, the result of these consultations shall be documented by the USFWS in the manner described in Section 6.3.4, but would not be a cause for amendment.

## 6.6 ANNEXATIONS

Future annexations of land to the city must be covered by the requirements of an NCCP subarea plan. These include interim protection of resources and conformance to the subarea plan project review and approval process depicted in Figure 6-1 if development is proposed in the annexed area. The status of county NCCP plan(s) in annexed areas prescribes the city's actions. The city will implement the subarea plan in the case of annexations as follows:

1. If no approved county or other jurisdiction's subarea plan exists for the area being annexed, the city must ensure that any development project design is consistent with the overall conservation directives and preserve design strategy of the Escondido Subarea Plan and the MHCP.
2. If an approved county or other jurisdiction's subarea plan and implementation agreement exist for the area being annexed, the approved subarea plan applies and may be modified through the boundary adjustment process described in Section 6.5.
3. This same approach will apply to de-annexation or re-annexation of lands from another incorporated city.

The city will additionally apply the following guidelines to annexations whether a county or other jurisdiction's subarea plan exists or not.

4. For small annexations of less than 10 acres, or where little habitat is present, the city will meet subarea plan requirements by directing that overall conservation and project design guidelines described in Section 4.4 of this plan be included in any project plan proposed to the city for approval. No consultation with the wildlife agencies is required for this process, and notification will occur through the process described in Section 6.3.4 of this plan.
5. In the case of annexations of land greater than 10 acres that require take authorizations for development, the city will work cooperatively with the County of San Diego or other entity to ensure consistency between the Escondido Subarea

Plan, County MSCP, or other conservation standards. The wildlife agencies will be consulted in the event of an annexation larger than 10 acres. If any existing county or other subarea plan will not be modified, or is modified in a way consistent with the boundary adjustment process, the resulting project design will be appended to the Escondido Subarea Plan, and no plan amendment is required. If a major variation from a county or other jurisdiction's subarea plan is proposed, an amendment to the Escondido Subarea Plan will be required following the procedures described in Section 6.4, including the CEQA and NEPA requirements. The city and county, or other responsible jurisdiction, may agree on which will issue the take authorizations, but the city will be responsible for ensuring that any project level conservation plan is implemented following annexation to the city.

6. Applicants seeking annexation to the city have the option of applying for separate permits directly from the wildlife agencies. The city neither recommends nor discourages this approach. However, working through the city's subarea plan to share take authorizations held by the city would be more efficient and less costly than pursuing separate permits.

#### **6.7 PROCESS FOR ADDING SPECIES TO COVERED SPECIES LIST**

If a species that is not on the covered species list is proposed for listing pursuant to the federal or state ESA, and the city seeks coverage for the species, the wildlife agencies will determine whether additional conservation measures, beyond those prescribed by the MHCP and the Escondido Subarea Plan, are necessary to adequately protect the species. If no such measures are necessary, the species will be added to the covered species list using the federal and state take authorization amendment process. If existing MHCP and subarea plan conservation measures will not adequately protect the species proposed for listing, the wildlife agencies will work with the participants to identify and jointly implement the steps necessary for coverage. These may include the following measures:

1. Management practices and enhancement opportunities within the preserve system, provided these measures do not adversely affect any existing covered species.

2. Habitat acquisition through the reallocation of federal, state, and regional funds identified for MHCP implementation, provided such reallocation does not adversely affect any covered species.

If these options are not adequate to meet the species' conservation requirements, the wildlife agencies will determine the additional measures necessary to add the species to the covered species list, with preference given to conservation means that do not require additional mitigation or dedication of land. Although conservation measures necessary to add the species to the covered species list may be identified when or after the species is proposed for listing, the city or other parties holding permits issued by the city through the subarea plan will not be required to approve or implement these conservation measures until such time as the species is listed.

## **6.8 PERMANENT RESOURCE PROTECTION**

### **6.8.1 Local Regulations**

As has been described, the city will, as appropriate, update, consolidate, and codify the environmental regulations contained in the subarea plan into the Escondido General Plan and Zoning Code. Additionally, the city implements CEQA through the Environmental Quality Regulations and through the development review and approval process, which requires protection of significant biological resources and mitigation for project impacts. Findings of consistency with the MHCP and Escondido Subarea Plan will be required for all projects requesting issuance of take authorizations.

### **6.8.2 Assurance of Long-term Biological Integrity**

The long-term biological integrity of the land conserved through implementation of the subarea plan will be assured as follows:

1. Lands set aside as mitigation for development, whether on or offsite, and lands acquired for the preserve system with public funds, will be protected with perpetual open space easements, or, by mutual agreement of the city and landowner, dedicated in fee to the city or another governmental or nonprofit agency, which will take over management responsibilities and liability. Whichever option is selected,

the city will require the project proponent to identify a method to pay for management of the property in perpetuity.

2. Public lands (federal, state, and local) committed to conservation will be protected with open space easements, dedications, zoning, general plan designations, deed restrictions, or other protective measures to ensure that such lands are managed and preserved consistent with the MHCP and this subarea plan in perpetuity.
3. Both private and public facility development will be regulated as has been described. Development will be directed toward the least biologically sensitive portion of the site by local ordinance using the hardlined project plans and other standards and criteria established in this subarea plan. Agreements or permits implementing these land regulations will be recorded with the County Recorder and will run with the land, including dedications, easements, or other vehicles that conserve the land in perpetuity. The indirect impacts of the development will be addressed in the agreements or permit(s) and the CEQA document to ensure protection of the sensitive resources remaining on the premises outside of the development area.

### **6.9 RELATIONSHIP OF SUBAREA PLAN APPROVAL TO MHCP CORE CONSERVATION**

It is a general requirement for jurisdictions participating in the MHCP that conservation of an additional “core area” of coastal sage scrub habitat be guaranteed by implementing agreements before take authorizations may be issued. This core area, overall responsibilities of the parties, and the strategy for its assembly are described in Section 5.3.9 of the MHCP, Volume I.

Escondido is specifically exempt from those requirements due to its purchase of the Daley Ranch, and the key conservation role that property contributes to overall implementation of the MHCP conservation strategy. A portion of the ranch (2,842 acres) was established as a conservation bank in 1997. The approval process for the Escondido Subarea Plan may proceed as soon as the city and wildlife agencies agree that the conservation strategy and other required subarea plan elements are sufficiently addressed, and need not wait for final resolution of the core area. However, the city or private property owners may elect to mitigate occupied gnatcatcher habitat with occupied

habitat in the unincorporated core area. In addition, proceeds from a successful regional or subregional habitat acquisition funding measure may be used in part for acquisition of lands in the core area.

## **6.10 COOPERATIVE MHCP IMPLEMENTATION STRUCTURE**

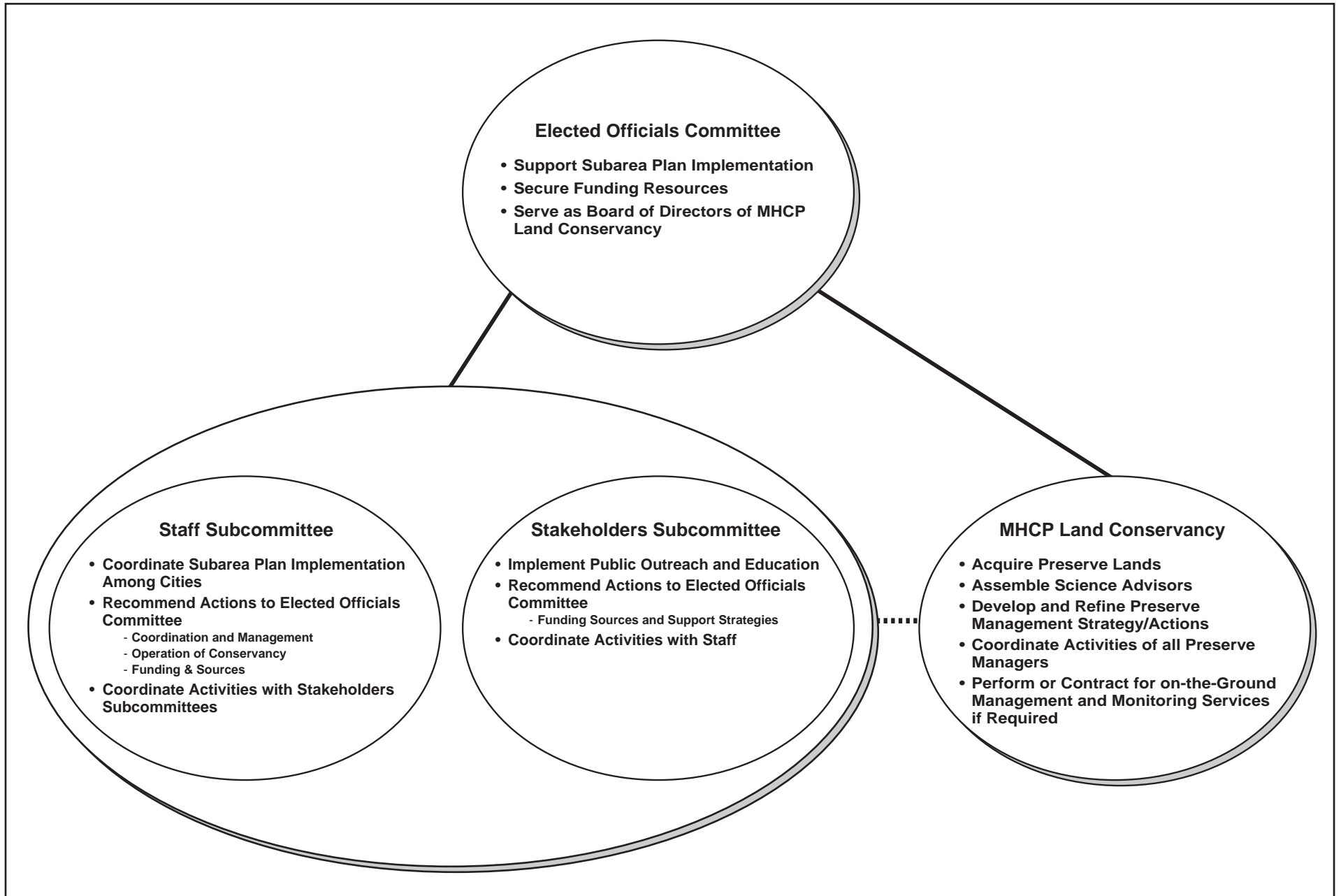
### **6.10.1 Introduction and Overview**

A structure to ensure successful implementation of the MHCP and constituent subarea plans must be accepted by the state and federal agencies. Implementation involves executing all subarea plan policies, managing preserve lands, and raising and distributing necessary funds. The responsibility for MHCP implementation falls to the individual cities that enter into implementing agreements with the wildlife agencies. The cities can choose to work in concert or independent of one another on policy and funding issues; however, the preserve system must be managed consistently across political boundaries.

The cooperative implementation structure for the MHCP has several goals:

- Coordinate implementation of preserve assembly and management among the cities.
- Meet the requirements of the ESAs and NCCP Act.
- Coordinate regional planning and infrastructure development among the MHCP cities.
- Coordinate local land use and conservation activities on shared municipal boundaries.
- Guarantee local flexibility in MHCP implementation.
- Raise and manage the local funds required for MHCP implementation.

The structure described briefly in this section facilitates cooperation among the cities, ensures subarea plan implementation by each city, provides fiscal support for plan implementation, and ensures preserve management consistent across jurisdictional boundaries. The structure creates roles and responsibilities for elected officials, staff, and stakeholders from each city, and forms a local, not-for-profit land conservancy to facilitate preserve assembly and management. Figure 6-2 illustrates the proposed implementation structure, which is described more completely in Section 5.12 of the MHCP.



### **6.10.2 MHCP Committee Structure**

The MHCP implementation structure creates two standing committees to provide a forum for cooperation among the cities, wildlife agencies, and other plan participants:

- The MHCP Elected Officials Committee, which provides oversight and policy direction to plan implementation and is composed of a City Council member from each participating city.
- The MHCP Advisory Committee, which provides a forum for cooperation on policy and technical issues by the cities as well as a structure for continued involvement by interested organizations, groups, and individuals. The Advisory Committee is subdivided into two functional subcommittees: (1) the Staff Subcommittee, which should address land use and public facility planning, local implementation, acquisition and management funding, and similar issues that will require coordination of public policies and actions among the cities. Their role is to directly coordinate city implementation actions and issues, and to recommend policy actions to the Elected Officials Committee. Membership of the Staff Subcommittee is limited to the cities that either have entered or anticipate entering into implementing agreements; and (2) the Stakeholders Subcommittee, which will focus on implementation funding and public outreach issues, and provide a forum for the stakeholders to provide input on MHCP preserve assembly and management issues. Membership on the Stakeholders Subcommittee will initially include the groups who are now members of the MHCP Advisory Committee, absent the seven cities.

### **6.10.3 MHCP Land Conservancy**

The locally based, not-for-profit Land Conservancy would facilitate assembly and management of the preserve system. The Conservancy would employ a manager who would report to the Conservancy's Board of Directors (the Elected Officials Committee). The Conservancy would acquire habitat lands, finance the purchase of lands, and facilitate coordination among the preserve managers. The Conservancy would work with a team of science advisors, appointed by the Board of Directors, with special expertise in the species and habitats of the preserve system. The advisors may be independent, be associated with educational institutions or public agencies, be members of a not-for-profit



organization, or be employees of biological science firms. The Conservancy would also coordinate activities of the habitat managers tasked specifically with the job of managing the preserve according to the subarea plan. These managers could be a coalition of the city departments, state agencies, and private organizations.

#### **6.10.4 MHCP Preserve Manager**

There may be a case in which land is purchased for the preserve system that cannot be managed by one of the existing land managers, or a city decides to have the lands managed by another entity. In this case, the Conservancy may choose to hire a preserve manager. The preserve manager would coordinate activities with other preserve managers through the Land Conservancy structure.

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