

## 4.6 BIOLOGICAL RESOURCES AND OPEN SPACE

This section provides an overview of biological resources and evaluates the construction and operational impacts associated with *Mobility Plan 2035* (MP 2035 or proposed project). Topics addressed in this section include sensitive species, habitats, wetlands, and migration, as well as applicable plans, policies, and ordinances related to biological resources. This section was prepared utilizing information from a variety of sources, including the Los Angeles County Department of Regional Planning Sensitive Ecological Area (SEA) Program, the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB), the California Native Plant Society's (CNPS) Electronic Inventory, and the United States Fish and Wildlife Service's (USFWS) list of Federal Endangered and Threatened Species.

The section is organized as follows:

- **Regulatory Framework** describes the pertinent federal, state, and local laws and guidelines.
- **Existing Setting** provides a general summary and overview of land use and planning goals and policies.
- **Thresholds of Significance** lists the thresholds used in identifying significant impacts as identified in Appendix G of the State California Environmental Quality Act (CEQA) Guidelines and the City of Los Angeles CEQA Thresholds Guidelines.
- **Impacts** discuss the effects of the implementation of MP 2035 on existing land uses and current relevant and applicable plan goals and policies.
- **Mitigation Measures** are identified as necessary and feasible to reduce identified significant adverse impacts.
- **Significance of Impacts after Mitigation** identifies residual impacts after application of mitigation measures.

## REGULATORY FRAMEWORK

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### Federal

**Endangered Species Act.** The Endangered Species Act and subsequent amendments provide for the conservation of endangered and threatened species, and the ecosystems upon which they depend. Section 7 of the Endangered Species Act requires federal agencies to aid in the conservation of listed species, and to ensure that the activities of federal agencies will not jeopardize the continued existence of listed species or adversely modify designated critical habitat. At the federal level, the USFWS and the National Oceanic and Atmospheric Administration (NOAA) are responsible for administration of the Endangered Species Act.

**Clean Water Act (CWA).** At the federal level, the CWA (33 United States Code [U.S.C.]Section 1344) is the primary law regulating wetlands and waters. CWA regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Waters of the United States include navigable waters, interstate waters, territorial seas, and other waters that may be used in interstate or foreign commerce. To classify wetlands for the purposes of the CWA, a three-parameter approach is used that includes the presence of hydrophytic (water-loving) vegetation, wetland hydrology, and hydric soils (soils subject to saturation/inundation). All three parameters must be present, under normal circumstances, for an area to be designated as a jurisdictional wetland under the CWA.

CWA Section 404 establishes a regulatory program that provides that no discharge of dredged or fill material can be permitted if a practicable alternative exists that is less damaging to the aquatic environment or if the Nation's waters would be significantly degraded. The Section 404 permit program is run by the United States Army Corps of Engineers (ACOE) with oversight by the Environmental Protection Agency (EPA).

**Executive Order for Wetland Protection (E.O. 11990).** The Executive Order for the Protection of Wetlands also regulates the activities of federal agencies with regard to wetlands. Essentially, this executive order states that a federal agency, such as the Federal Highway Administration, cannot undertake or provide assistance for new construction located in wetlands unless the head of the agency finds: 1) that there is no practicable alternative to the construction and 2) the proposed project includes all practicable measures to minimize harm.

**Migratory Bird Treaty Act (MBTA).** The MBTA (16 U.S.C. Sections 703–711) includes provisions for the protection of migratory birds, including the non-permitted take of migratory birds, under the authority of the USFWS and the CDFW. The MBTA protects over 800 species, including geese, ducks, shorebirds, raptors, songbirds, and many common species.

### State

**California Endangered Species Act.** The CDFW is responsible for the administration of the California Endangered Species Act. Unlike the federal Endangered Species Act, there are no State agency consultation procedures under the California Endangered Species Act. For projects that affect both a State and federal listed species, compliance with the federal Endangered Species Act will satisfy the California Endangered Species Act if the CDFW determines that the federal incidental take authorization is "consistent" with the California Endangered Species Act. Projects that result in a take of a listed species require a take permit under the California Endangered Species Act. The federal and/or State acts also lend protection to species that are considered rare enough by the scientific community and trustee agencies to warrant special consideration, particularly with regard to protection of isolated populations, nesting or den locations, communal roosts, and other essential habitat.

**California Fish and Game Code (CFGF).** Sections 3500 through 3705, Migratory Bird Protection, of the CFGF regulate the taking of migratory birds and their nests. These codes prohibit the taking of nesting birds, their nests, eggs, or any portion thereof during the nesting season. Typically, the breeding/nesting season is from March 1<sup>st</sup> through August 30<sup>th</sup>. Depending on each year's seasonal factors, the breeding season can start earlier and/or end later.

The MBTA decrees that all migratory birds and their parts (including eggs, nests and feathers) are fully protected. Under the act, taking, killing, or possessing migratory birds is unlawful. Projects that are likely to result in the taking of birds protected under the MBTA will require the issuance of take permits from the USFWS. Activities that would require such a permit would include, but not be limited to, the destruction of migratory bird nesting habitat during the nesting season when eggs or young are likely to be present. Under the Act, surveys are required to determine if nests will be disturbed and, if so, a buffer area with a specified radius around the nest would be established so that no disturbance or intrusion would be allowed until the young had fledged and left the nest. If not otherwise specified in the permit, the size of the buffer area would vary with species and local circumstances (e.g., presence of busy roads), and would be based on the professional judgment of the monitoring biologist.

**California Native Plant Protection Act (NPPA).** The NPPA prohibits the taking, import or sale of rare, threatened or endangered plant species, except as exempted by the act. Even where exceptions apply, where the CDFW has notified a property owner of the presence of such a plant, the property owner must notify the CDFW before destroying the plant. This provides an opportunity for the state to salvage the plant.

**Natural Community Conservation Act (NCCA).** The NCCA (CFGF Chapter 10, Division 3, Sections 2800 et seq.) was enacted in 1991. The NCCA is administered by the CDFW. Its goal is to identify and secure habitat areas for protection of biodiversity. Habitat areas are identified by the CDFW and plans are prepared for habitat protection. When a development project is proposed, a determination is made concerning the potential impacts of the project on biodiversity and the best means of avoiding or mitigating them. The NCCA allows local, State or federal agencies to enter into agreements with public and private entities to implement a "natural community conservation plan (NCCP)", e.g., habitat and species protection

within a specified geographic area. Participation in an NCCP does not exempt a development project from CEQA. Mitigation measures pursuant to CEQA may, as an alternative, include participation in an NCCP in order to reduce the burden for onsite mitigation.

**State Agency Wetland Regulation.** At the State level, wetlands and waters are regulated primarily by the CDFW and the Regional Water Quality Control Boards (RWQCBs). The RWQCBs were established under the Porter-Cologne Water Quality Control Act to oversee water quality. The RWQCB also issues water quality certifications in compliance with Section 401 of CWA. In certain circumstances, the Coastal Commission (Bay Conservation and Development Commission) may also be involved. Sections 1600-1607 of the CFGC require any agency that proposes a project that will substantially divert or obstruct the natural flow of or substantially change the bed or bank of a river, stream, or lake to notify the CDFW before beginning construction. If the CDFW determines that the project may substantially and adversely affect fish or wildlife resources, a Lake or Streambed Alteration Agreement will be required. CDFW jurisdictional limits are usually defined by the tops of the stream or lake banks, or the outer edge of riparian vegetation, whichever is wider. Wetlands under jurisdiction of the ACOE may or may not be included in the area covered by a Streambed Alteration Agreement obtained from the CDFW.

### Local

**Tree Preservation Ordinance.** The City of Los Angeles passed an ordinance for the Preservation of Protected Trees (Ordinance No. 177,404) which became law on April 23, 2006. The ordinance protects the following tree species:

- All native Oak tree species (*Quercus* spp)
- California Sycamore (*Platanus racemosa*)
- California Bay (*Umbellularia californica*)
- California Black Walnut (*Juglans californica*)

The Ordinance applies to trees that are four inches or greater in diameter at 4.5 feet above ground, and on any lot size. Protected tree removal requires a removal permit by the City of Los Angeles Department of Public Works (LADPW). Any act that may cause the failure or death of a protected tree requires inspection by the LADPW's Urban Forestry Division.

**Heritage Trees.** The City of Los Angeles has identified a collection of trees with historical, commemorative, or horticultural significance. The list of designated Heritage trees remains open for new designations and the Department of Parks and Recreation is responsible for the maintenance and protection of these trees.

**City of Los Angeles General Plan, Framework, and Conservation Elements.** The City's General Plan is a comprehensive declaration of purposes, policies and programs for the development of the City of Los Angeles. The Citywide General Plan Framework Element (Framework Element) establishes the overall policy and direction for the General Plan. It includes a long-range strategy to guide the comprehensive update for the General Plan's other elements. Chapter 6, Open Space and Conservation of the Framework Element includes goals, objectives, and policies for the provision, management, and conservation of the City's open space resources, including Significant Ecological Areas, wildlife corridors, and natural animal ranges. The Conservation Element of the General Plan addresses endangered species, habitats, wildlife corridors, and wetlands occurring in the City and identifies policies intended to protect, restore, and enhance these biological resources. Goals, objectives, and policies from the Framework and Conservation Elements related to biological resources and relevant to the proposed project are listed below in **Table 4.6-1**.

<b>TABLE 4.6-1: RELEVANT GENERAL PLAN BIOLOGICAL RESOURCES GOALS, OBJECTIVES, AND POLICIES</b>	
<b>Goal/Objective/Policy</b>	<b>Goal/Objective/Policy Description</b>
<b>FRAMEWORK ELEMENT-CHAPTER 6 OPEN SPACE AND CONSERVATION</b>	
Goal 6A	An integrated Citywide/regional public and private open space system that serves and is accessible by the City's population and is unthreatened by encroachment from other land uses.
Objective 6.1	Protect the City's natural settings from the encroachment of urban development, allowing for the development, use, management, and maintenance of each component of the City's natural resources to contribute to the sustainability of the region.
Policy 6.1.1	Consider appropriate methodologies to protect significant remaining open spaces for resource protection and mitigation of environmental hazards, such as flooding, in and on the periphery of the City, such as the use of tax incentives for landowners to preserve their lands, development rights exchanges in the local area, participation in land banking, public acquisition, land exchanges, and Williamson Act contracts.
Policy 6.1.2	Coordinate City operations and development policies for the protection and conservation of open space resources, by: <ul style="list-style-type: none"> <li>a. Encouraging City departments to take the lead in utilizing water re-use technology, including graywater and reclaimed water for public landscape maintenance purposes and such other purposes as may be feasible;</li> <li>b. Preserving habitat linkages, where feasible, to provide wildlife corridors and to protect natural animal ranges; and</li> <li>c. Preserving natural viewsheds, whenever possible, in hillside and coastal areas.</li> </ul>
Policy 6.1.3	Reassess the environmental importance of the County of Los Angeles designated Significant Ecological Areas (SEAs) that occur within the City of Los Angeles and evaluate the appropriateness of the inclusion of other areas that may exhibit equivalent environmental value.
Policy 6.1.4	Conserve, and manage the undeveloped portions of the City's watersheds, where feasible, as open spaces which protect, conserve, and enhance natural resources.
Policy 6.1.5	Provide for an on-site evaluation of sites located outside of targeted growth areas, as specified in amendments to the community plans, for the identification of sensitive habitats, sensitive species, and an analysis of wildlife movement, with specific emphasis on the evaluation of areas identified on the Biological Resource Maps contained in the Framework Element's Technical Background Report and Environmental Impact Report.
Policy 6.1.6	Consider preservation of private land open space to the maximum extent feasible. In areas where open space values determine the character of the community, development should occur with special consideration of these characteristics.
Policy 6.1.7	Encourage an increase of open space where opportunities exist throughout the City to protect wild areas such as the Sepulveda Basin and Chatsworth Reservoir.
<b>CONSERVATION ELEMENT – ENDANGERED SPECIES</b>	
Policy 1	Continue to require evaluation, avoidance, and minimization of potential significant impacts, as well as mitigation of unavoidable significant impacts on sensitive animal and plant species and their habitats and habitat corridors relative to land development activities.
Policy 2	Continue to administer city-owned and managed properties so as to protect and/or enhance the survival of sensitive plant and animal species to the greatest practical extent.
Policy 3	Continue to support legislation that encourages and facilitates protection of endangered, threatened, sensitive and rare species and their habitats and habitat corridors.
<b>CONSERVATION ELEMENT – HABITATS</b>	
Policy 1	Continue to identify significant habitat areas, corridors and buffers and to take measures to protect, enhance and/or restore them.
Policy 2	Continue to protect, restore, and/or enhance habitat areas, linkages and corridor segments, to the greatest extent practical, within City owned or managed sites.
Policy 3	Continue to work cooperatively with other agencies and entities in protecting local habitats and endangered, threatened, sensitive, and rare species.
Policy 4	Continue to support legislation that encourages and facilitates protection of local native plant and animal habitats.
<b>SOURCE:</b> City of Los Angeles, <i>The Citywide General Plan Framework, An Element of the City of Los Angeles General Plan</i> , re-adopted 2001. City of Los Angeles, <i>City of Los Angeles General Plan Conservation Element</i> , adopted 2001.	

## EXISTING SETTING

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The MP 2035 Enhanced Networks are located within the jurisdictional limits of the City of Los Angeles, as depicted in Figure 3-1 through Figure 3-4 included in Chapter 3.0 Project Description. The Enhanced Networks follow a network of existing public streets, sidewalks and right-of-ways. Within the City's boundaries are approximately 467 square miles of land area, including approximately 214 square miles of hills and mountains. Urban areas of the City are framed by natural open space areas. The San Gabriel and Santa Susana Mountains bound the City on the north, the Santa Monica Mountains extend through the middle of the City and the Palos Verdes Hills and Pacific Ocean bound the City on the south and west.

Habitats are areas that support the survival of wild animals and native plants, including native plant environments and trees that serve as stopovers and nesting places for migratory birds.<sup>1</sup> Habitat types within the City of Los Angeles include: inland habitats, wildlife corridors, coastal wetlands, and Significant Ecological Areas (SEAs). Inland habitats are natural or artificially created refuges or water bodies that provide habitats for resident species or stopovers for migratory birds. Inland habitats include undeveloped areas, park and open space areas, lakes, reservoirs or damn sites, and other areas with extensive natural or introduced vegetation. Wildlife corridors are land segments that connect two or more large habitat areas and provide a habitat for movement between those areas. Wetlands are transitional lands between water and land systems where the water table is usually at or near the surface, or the land is covered by shallow water.<sup>2</sup>

SEAs are significant habitats identified by Los Angeles County as important for the preservation and maintenance of biodiversity. Los Angeles County defines SEAs as ecologically important land and water systems that support valuable habitat for plants and animals, and are often integral to the preservation of rare, threatened or endangered species and the conservation of biological diversity in the County.<sup>3</sup> These areas are classified as one or more of the following: (a) habitats for rare and endangered species of plants and animals, (b) restricted natural communities - ecological areas that are scarce on a regional basis, (c) habitats restricted in distribution in the county, (d) breeding or nesting grounds, (e) unusual biotic communities, (f) sites with critical wildlife and fish value, and (g) relatively undisturbed habitats. There are a number of SEAs located within the City of Los Angeles boundaries. Three SEAs are located within 200 feet of the MP 2035 enhanced networks; Ballona Wetlands, Harbor Lake Regional Park, and Tujunga Valley and Hansen Dam.<sup>4</sup> **Figure 4.6-1** illustrates the location of these SEAs in relation to the MP 2035 Enhanced Networks.

Due to the wide-spread urbanization of the City of Los Angeles and the nature of the Enhanced Networks, habitat suitable to support special status species is limited in the vicinity of the Enhanced Networks. Habitat in the immediate vicinity of the Enhanced Networks includes the identified SEAs, and parks, open space areas, and undeveloped land containing native vegetation. Additionally, trees support migratory birds.

No Habitat Conservation Plans (HCPs) or Natural Community Conservation Plans (NCCPs) are applicable to the City. HCPs, designated under the Endangered Species Act Section 10(a)(1)(B), are federal planning documents designed to conserve the ecosystems upon which listed species depend, ultimately contributing to their recovery. An NCCP, prepared under the CDFW's Natural Community Conservation Planning program, identifies and provides for the regional or area protection of plants, animals, and their habitats while accommodating compatible land use.

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<sup>1</sup>City of Los Angeles, General Plan Conservation Element, Section 12: Habitats, 2001.

<sup>2</sup>*Ibid.*

<sup>3</sup>County of Los Angeles, General Plan, 2011.

<sup>4</sup>Descriptions of each SEA can be found in Technical Appendix E of the Draft Los Angeles County General Plan, website: <http://planning.lacounty.gov/sea/biological>, accessed January 21, 2014.

# LOS ANGELES MOBILITY ELEMENT

## Location of SEAs

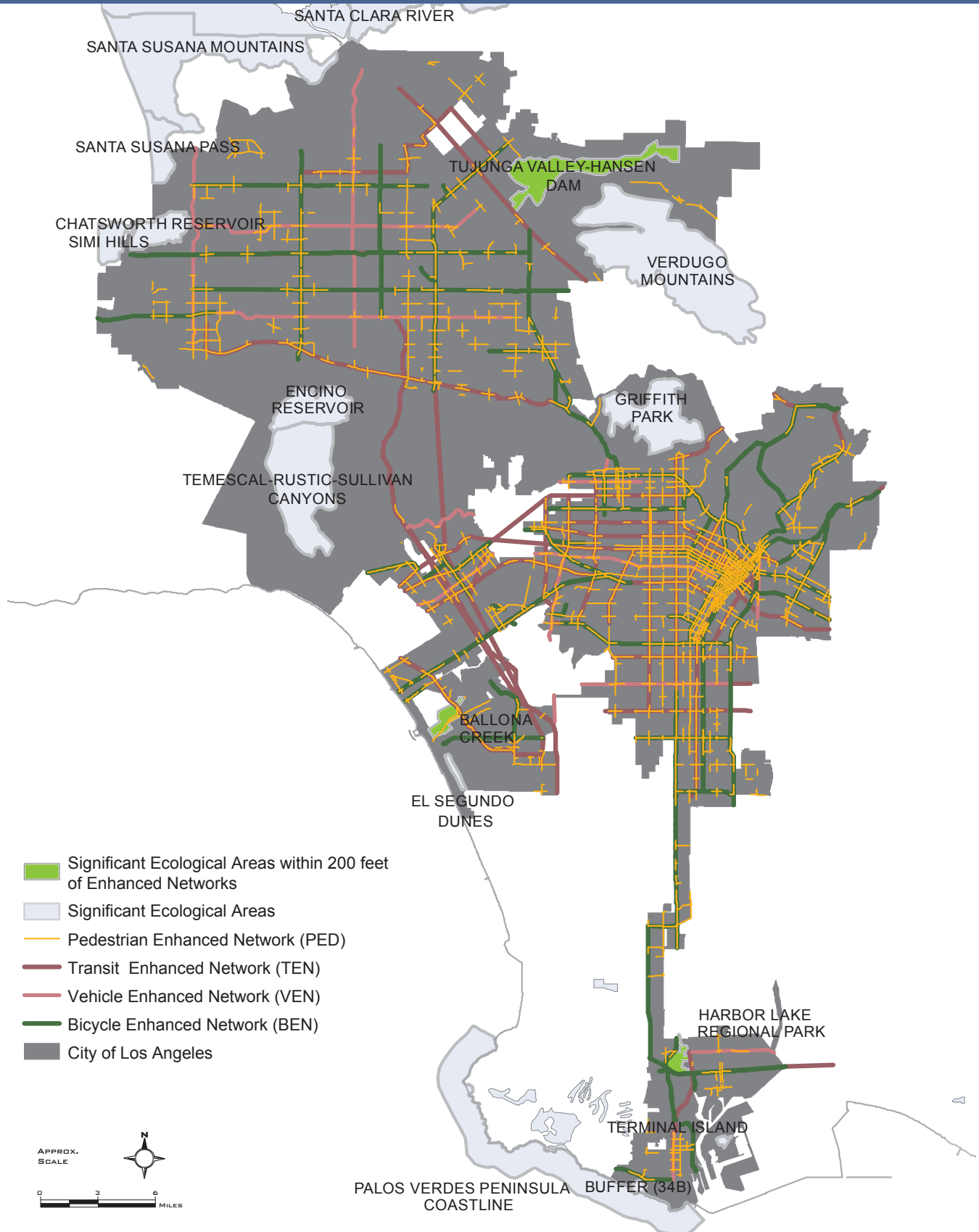


FIGURE 4.6-1

## THRESHOLDS OF SIGNIFICANCE

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In accordance with Appendix G of the State CEQA Guidelines and the City of Los Angeles CEQA Thresholds Guidelines, the proposed project would have a significant impact related to biological resources if it would:

- Have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the CDFW;
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS;
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means;
- Interfere substantially with the movement of any native resident, migratory fish or wildlife species or with established native residents or migratory wildlife corridors, or impede the use of native wildlife nursery sites;
- Conflict with any local polices or ordinances protecting biological resources, such as a tree preservation policy or ordinance; and/or
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other adopted local, regional, or state habitat conservation plan.

A project would have a significant impact on biological resources if it could result in:

- The loss of individuals, or the reduction of existing habitat, of a state or federal listed endangered, threatened, rare, protected, or candidate species, or a Species of Special Concern or federally listed critical habitat;
- The loss of individuals or the reduction of existing habitat of a locally designated species or a reduction in a locally designated natural habitat or plant community;
- Interference with wildlife movement/migration corridors that may diminish the chances for long-term survival of a sensitive species;
- The alteration of an existing wetland habitat; or
- Interference with habitat such that normal species behaviors are disturbed (e.g., from the introduction of noise, light) to a degree that may diminish the chances for long-term survival of a sensitive species.

## IMPACTS

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### ***CONSTRUCTION***

There are no specifically planned construction projects that are part of MP 2035; enhancements to the transportation networks are identified at a conceptual level of detail. Funding is likely to change over time due to economic conditions and to fluctuations in the priorities of federal, State and regional funding agencies as well as the City budget.

Enhancements along the proposed enhanced networks would occur almost entirely within existing roadways, sidewalks, and public right-of-way, with the exception of certain enhancements along the Vehicle Enhanced Network (VEN) and Transit Enhanced Network (TEN) where acquisition of additional right-of-way may be required. Implementation of on-street improvements related to the enhanced networks would mostly consist of roadway restriping and limited changes to the physical configuration of curbs.

As previously described, three SEAs are located within 200 feet of the enhanced networks. The TEN is located within 200 feet of all three SEAs while the BEN network is located within 200 feet of Harbor Lake Regional Park SEA and the Pedestrian Enhanced Districts (PEDs) are located within 200 feet of both the Ballona Wetland and Harbor Lake Regional Park SEAs. The VEN is not located within 200 feet of an SEA.

Construction activities associated with implementation of enhancements occurring within 200 feet of an SEA or on open space or undeveloped areas that contain native vegetation could have a substantial adverse effect on special-status species through the generation of noise or pollutants (both air and water), and/or the disruption of habitat. Where additional right-of-way would be required outside the existing street right-of-way, mobility improvements on the enhanced networks have the potential to result in the direct modification of protected habitat (SEAs), the removal or alteration of federally protected wetlands (Ballona Wetlands SEA), or other areas containing habitat capable of supporting special-status species. Accordingly, mobility improvements which occur outside the existing street right-of-ways near SEAs or protected wetlands, or on land with native vegetation or open space have the potential to result in a substantial adverse effect on candidate, sensitive, or special-status species, riparian habitat or other sensitive natural community, and wetlands, creating a significant impact if no mitigation is implemented.

Existing roadways, sidewalks and public right-of-way, do not serve as wildlife corridors, movement pathways, or linkages of note between larger habitat areas for terrestrial wildlife. However, street trees within or immediately adjacent to the enhanced network right-of-ways could potentially support migratory birds. Accordingly, construction activities could result in conflicts with the MBTA and CFGC through the removal or destruction of an active nest or direct mortality or injury of individual birds, creating a significant impact if no mitigation is implemented.

The removal or disturbance of trees would be subject to the City's Tree Preservation Ordinance which requires a permit for the removal or relocation of protected trees. Compliance with all local policies or ordinances protecting biological resources would be ensured as specific enhancements are proposed and approved. Therefore, a less-than-significant impact would occur related to conflict with local policies or ordinances protecting biological resources.

Construction of the MP 2035 would not result in conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional or State habitat conservation plan as no plans are applicable to areas immediately adjacent to the Enhanced Networks. Therefore, less-than-significant impacts related to HCPs, NCCPs or other plans would occur.

## ***OPERATION***

During operation, mobility improvements along the enhanced networks would not result in direct physical effects to biological resources as enhancements would occur on roadways, sidewalks, and right-of-way. The nature of the improvements would not substantially alter the existing transportation infrastructure from its current condition in such a way that could indirectly affect biological resources. Therefore, no significant impacts related to biological resources would occur.

## **MITIGATION MEASURES**

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**BR1 Special-Status Species and Habitat.** For future enhancements occurring within 200 feet of a Significant Ecological Area designated by the County of Los Angeles or within 200 feet of areas containing native vegetation, such as open space and undeveloped areas, a project-specific biological resource survey and assessment shall be conducted and prepared that discloses and mitigates, to the extent feasible, the impacts of the mobility improvements and identifies all required permits. Prior to implementation of mobility improvements, all required permits must be obtained.



**BR2 Wetland Habitat.** For mobility improvements along the Transit Enhanced Network that extend into wetlands, all applicable wetland permits shall be acquired. These permits include, but would not be limited to, a Section 404 Wetlands Fill Permit from the US Army Corps of Engineers, or a Report of Waste Discharge from the Regional Water Quality Control Board (RWQCB), and a Section 401 Water Quality Certification from the RWQCB. Additionally, a Section 1602 Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW) would be required for development that would cross or affect any stream course.

Where feasible, the maximum amount of existing wetlands shall be preserved and minimum 25- to 50-foot buffers around all sides of these features shall be established. In addition, the final project design shall not cause significant changes to the pre-project hydrology, water quality, or water quantity in the wetland that is to be retained. This shall be accomplished by avoiding or repairing any disturbance to the hydrologic conditions supporting these wetlands, as verified through wetland protection plans.

Where avoidance of the Ballona Wetlands is not feasible, then mitigation measures shall be implemented for the project-related loss of any existing wetlands on site, such that there is no net loss of wetland acreage or habitat value. Wetland mitigation shall be developed as a part of the Section 404 Clean Water Act permitting process, or for nonjurisdictional wetlands, during permitting through the RWQCB and/or California Department of Fish and Game. Mitigation is to be provided prior to construction related impacts on the existing wetlands. The exact mitigation ratio is variable, based on the type and value of the wetlands affected by the project, but agency standards typically require a minimum of 1:1 for preservation and 1:1 for construction of new wetlands. In addition, a Wetland Mitigation and Monitoring Plan shall be developed that includes the following:

- Descriptions of the wetland types, and their expected functions and values.
- Performance standards and monitoring protocol to ensure the success of the mitigation wetlands over a period of five to ten years.
- Engineering plans showing the location, size and configuration of wetlands to be created or restored.
- An implementation schedule showing that construction of mitigation areas shall commence prior to or concurrently with the initiation of construction.
- A description of legal protection measures for the preserved wetlands (i.e., dedication of fee title, conservation easement, and/ or an endowment held by an approved conservation organization, government agency or mitigation bank).

**BR3 Migratory Birds.** To prevent the disturbance of nesting native and/or migratory bird species, the City shall require that clearing of street trees or other vegetation should take place between September 1 and February 14. If construction is scheduled or ongoing during bird nesting season (February 15 to August 31), the City of Los Angeles shall require that a qualified biologist conduct a nesting bird survey within 250 feet of the construction activity, no less than 14 days and no more than 30 days prior to the commencement of construction activities. Surveys shall be conducted in accordance with CDFW protocols, as applicable. If no active nests are identified on or within 240 feet of the construction activity, no further mitigation is necessary. A copy of the pre-construction survey shall be submitted to the Department of City Planning (DCP). If an active nest is identified, construction shall be suspended within 100 feet of the nest until the nesting cycle is complete, as determined by a qualified ornithologist or biologist.

## SIGNIFICANCE OF IMPACTS AFTER MITIGATION

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Implementation of Mitigation Measures **BR1** and **BR2** would ensure that supplemental detailed analysis would be completed for mobility improvements that occur outside the right-of-way and are adjacent to areas containing biological resources. It is anticipated that project-specific mitigation measures would be identified that would reduce potentially significant impacts related to special-status species, protected habitat, and wetlands to a less-than-significant level. However, since details of the projects and mitigation measures are unknown (and unknowable) at the present time this impact remains potentially significant.

Implementation of Mitigation Measure **BR3** would ensure that conflict with the MBTA and CDFW is avoided as enhancements are implemented and impacts related to migratory birds would be reduced to a less than-significant level.

All other impacts would be less than significant without mitigation.