



January 31, 2012

Mr. Richard Bruckner
Director of Planning and Development
Los Angeles County Department of Regional Planning
Kenneth Hahn Administration Building
320 W. Temple Street, Rm 1390
Los Angeles, CA 90012

Re: Comments on Draft SEA& HMA Ordinance

Dear Mr. Bruckner:

On behalf of the members and representative employees who make up the Los Angeles and Ventura Counties Chapter of the Building Industry Association of Southern California (BIA), thank you for the opportunity to comment on the Preliminary Draft Significant Ecological Area (SEA) and Hillside Management Area (HMA) Ordinance, public release dated November 10, 2011.

The proposed SEA ordinance and the accompanying expansion of the SEA boundaries are of extreme concern to our members. The proposed expansion more than doubles (from 245,000 to 645,512 acres) the area identified as significant ecological areas, which would result in nearly 40% of the unincorporated county land being designated in an SEA. The proposed ordinance and the draft General Plan combine to make the SEA a major constraint on future development, rather than an overlay intended to assure the appropriate study and qualification of future projects on an individual basis.

We have two primary concerns with this approach. First, the SEA expansion and the overly strict prohibitions against development within each SEA appear to be inconsistent with the proposed land uses and housing allocations in the General Plan. Given the number of proposed housing units that are within areas proposed as SEAs under the draft ordinance and proposed General Plan, the County will be unable to realize its housing goals unless the SEA and HMA are substantially improved. We will provide further comments on the draft General Plan separately.

Second, we do not believe that the County has undertaken sufficient study to form a science-based opinion regarding the proposed SEA expansion. The draft ordinance relies on these expanded spatial designations to impose severe restrictions, without a thorough analysis of whether the ecological resources are actually present, or whether those resources could potentially be present. In the past the SEAs served as an overlay and were recognized as areas where ecological resources might exist. Accordingly, SEAs served as a guide for further project-specific analysis and furthered appropriate habitat protection. Under the new proposal,

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restrictions, set-backs, and buffers are established for the designated areas up front, unnecessarily restricting practical options and fundamentally reshaping land use. For example, even before this SEA ordinance and maps are adopted, they have been used to establish land use patterns for the Santa Clarita Valley in the draft One Valley One Vision plan. Since the method of designating these areas was undertaken by review of photographs and documents rather than actual biological surveys, resulting in an overly presumptive approach to regulation.

Given the sweeping extent of this proposal, we believe that several changes to the ordinances are critically needed.

- 1) The SEA designations must be consistent with the General Plan and with other sections in the municipal code. We must eliminate inconsistent definitions of ecological resources and evaluate whether the draft ordinance constrains the County's housing goals. Potential impacts of the draft ordinance need to be analyzed as part of the draft General Plan EIR process.
- 2) The ordinance must allow for both the case-by-case tailoring of development projects and the mitigation of impacts, and should also better indicate how mitigation is to be achieved. The implementation of mitigation measures, once development in an SEA is approved, should not require additional SEATAC review. Furthermore, the list of exemptions from SEA requirements should logically be expanded to include, among other types of activities, maintenance projects, approved mitigation projects and the reasonable grandfathering of existing uses.
- 3) The definition for and requirements on "Ecological Transition Areas" should be eliminated. This is a new designation that has not been well vetted and is not necessary, and only further expands the regulated areas beyond the massive increase already proposed. It appears to be a "mission creep" of the SEA and creates regulatory uncertainty concerning currently unencumbered properties.
- 4) The absolute requirement to complete the Initial Project Appraisal should be eliminated. While we appreciate the intent of providing early input on a project, we believe this should be an option available to the applicant, not a mandate. Furthermore, such input could be better coordinated in conjunction with other input processes through the One Stop process and related development reform efforts.
- 5) The purpose, composition, and management of the Technical Advisory Committee must be reconsidered. Particularly if the proposed dramatic expansion of the SEA territory is adopted, significantly more work, issues, and activity from the Committee is likely to be required going forward. We believe the ordinance should clearly state the role of this committee as "advisory". Criteria for serving on the committee should be updated to ensure more diversity in expertise and background, to avoid conflicts of interest, and to update term limits. Once the new ordinance is finalized, the committee should be reconstituted and new members should be trained in the new procedures. The committee should be properly managed so that discussions are focused within the scope of the committee and are properly documented.

- 6) The section of the ordinance on Development Standards & Guidelines should be removed from the ordinance and incorporated into the Procedures & Guidelines document. Guidelines should not be adopted by ordinance. This guidance document should be circulated for review and comment before it is settled upon. We note here that the current draft of revisions to the Procedures & Guidelines were not part of the information shared when the ordinance was released for public comment.
- 7) The ordinance should establish timelines for the review process. It currently takes several months to several years to complete the SEATAC process, and the proposed changes must significantly improve this timeline, not add further delays. Applicants should also not be required to meet with the committee more than twice, and the committee should be required to provide responses within 30 days.
- 8) The proposed SEA boundaries have been depicted in detail on GIS maps, yet not all land has been studied, and verified for actual confirmation of resources on the ground. The Procedures and Guidelines should offer opportunities to submit Biological Studies for review by the SEATAC Committee. Furthermore, land owners have submitted applications that are awaiting review until after this SEA ordinance is adopted. These proposals should be reviewed prior to hearings by staff and there should be a clear process for revising SEA boundaries when appropriate without a General Plan Amendment.
- 9) The proposed ordinances should not contain language that unduly limits or prevents the exercise of sound discretion when approving worthy projects within an SEA. Specifically, requiring features “to the maximum extent feasible” invites heavy-handed conclusions or challenges. Such language should be replaced with similar language that better suits the exercise of regulatory discretion, such as “to the extent practicable.”

In summary, the BIA is very concerned about the substantial changes contemplated in the proposed SEA program and does not support the vast expansion currently proposed in the General Plan update. We would like to see major revisions to the SEA/HMA ordinance and restructuring of the SEATAC Committee that ensure protection of ecologic resources while also providing for the jobs and housing needs of Los Angeles County. We are available to meet and discuss these issues in more detail at your convenience. Thank you for your consideration of the concerns of our membership.

Sincerely,



Holly Schroeder
Chief Executive Officer
Los Angeles/Ventura Counties Chapter
Building Industry Association of Southern California