

Date: 21 October 2019
From: Coastal San Pedro Neighborhood Council
1840 S. Gaffey St. Box 34, San Pedro, CA 90731
cspnclive@gmail.com 310-918-8650
To: City of Los Angeles Department of Public Works, Bureau of Engineering
Re: Citywide Cat Program, Draft Environmental Impact Report, SCH#2013101008

Please note: these comments to the Draft EIR are sent by the Board of the Coastal San Pedro Neighborhood Council based on unanimous adoption of this motion at its 21 October 2019 Board Meeting:

Motion to file comments on the “Citywide Cat Program” Draft Environmental Impact Report.

The Coastal San Pedro Neighborhood Council shall file formal comments to the recently-released Draft Environmental Impact Report (DEIR) on the “Citywide Cat Program” to point out numerous technical and scientific flaws in the report’s analysis (including but not limited to provisions that appear to violate California State law, lack of required monitoring of proposed mitigations, and significant errors in the population model that forms the core of the analysis) that are sufficiently severe that the report must be substantially overhauled before it can be acceptable as advice to policymakers.

Environmental impact reports (EIRs), required by California State Law under the California Environmental Quality Act (CEQA), as described in this Draft Environmental Impact Report (DEIR), page ES-1, require:

... preparation of an objective, full-disclosure document to (a) inform agency decision makers and the general public of the direct and indirect environmental effects of a proposed project, (b) identify, where feasible, mitigation measures to reduce or eliminate any identified significant adverse impacts, and (c) identify and evaluate alternatives to the proposed project that might lessen or avoid some or all of the identified significant impacts of the project.

Unfortunately, this DEIR has sufficient flaws and unaddressed issues that, in its present state, it cannot fulfill the mandate of providing decision makers with adequate information on which to base decisions. The proposed project contains policies that appear to violate City and California State law. The core population model that justifies much of the DEIR’s evaluation is grossly misused. The inevitable environmental effects of the proposed program are incorrectly classified as “part” of the program, rather than effects of it, and hence are neither monitored or mitigated over the 30-year program.

Those problems with the current DEIR are sufficiently extensive and fundamental that they cannot be corrected with minor revisions and responses to comments as the Final Environmental Impact Report (FEIR) is issued.

Therefore, we request substantial revision of this DEIR, presumably in the form of a Revised Draft Environmental Impact Report, that addresses the numerous flaws in the current draft. Such a draft will permit the public and interested organizations a chance to see a reasonably analyzed set of proposed actions, understand their actual expected environmental impacts, and evaluate their desirability as a matter of City policy.

We highlight a few of the more obvious problems in the DEIR here, but note that many others remain.

Potential violations of City and State law in the proposed programs

It is not reasonable to base an analysis of the impacts of proposed policy if that policy would be in violation of City or State law. Without an articulated strategy of how those laws will be changed to accommodate the proposed policies, there is no stable basis for evaluating adoption of the proposed policies.

The DEIR proposes to encourage the feeding of stray and feral cats as a significant part of the Cat Program (e.g. Section 2.5.2.2).

Section 53.06.5 of the Los Angeles Municipal Code prohibits feeding non-domesticated mammalian predators, which the City acknowledges includes feral cats, as evidenced by signs posted by City agencies citing that section of code stating that it is illegal to feed cats.

The State of California's Department of Fish and Wildlife has pointed out (in responses to the project's Notice of Preparation) that State law (14 CCR §251.1) also prohibits the feeding of stray and feral cats — this is acknowledged in the DEIR, but no strategy is outlined for complying with State law.

California State law, as part of littering ordinances (Penal Code §374.4), specifically prohibits distributing:

... beverage containers and closures, packaging, wrappers, wastepaper, newspapers, and magazines, in a place other than a place or container for the proper disposal thereof, and including waste matter that escapes or is allowed to escape from a container, receptacle, or package.

That description quite accurately describes the way feral cats are generally fed. The only strategy proposed that would permit compliance with that State code is a recommendation (not requirement) that all feral and stray cat feeding should be actively monitored for 30 minutes.

The proposed feeding and maintenance of stray and feral cats outdoors appears to violate the City's ordinance on cat-keeping ("Cat Kennel Ordinance", LAMC 53.00). That ordinance specifies that only a very small number of cats (3, proposed to be increased to 5) can be "kept or maintained" at a location (whether indoors or outdoors). However, the program recommended in the DEIR explicitly provides for public education on care and maintenance of populations of cats at feeding stations (section 2.5.2.4 on education; section 2.5.2.2 on the feeding guidelines that would be promulgated). Maintaining a large population of cats clearly violates the ordinance on how many cats can be maintained (whether the current 3 or the proposed 5).

Issues with the population model

The program as proposed in the DEIR is based on a 30-year projection of its effects on cat populations, based on a population model, and summarized in table 4.1-2 (page 4.1-11). Significant claims in the DEIR regarding environmental impact (or lack of impact) are based directly on outputs of the population model. Put concisely: the outputs of the model form the core of the claim that there are no significant environmental impacts of the proposed program. The model's projections are the basis for comparison between the selected program and the No-Program Option.

However, the model's projections cannot in any way be relied upon, regardless of whether the model itself is a good choice for the application. This is because: (a) model parameters are unrealistically set to fixed values for the entire 30-year projection; and (b) no analysis of parameter accuracy or sensitivity is performed.

Dynamic models such as this are built around a set of parameters that summarize the relevant characteristics of the environment and the modelled animal. Table J-2 (DEIR Appendices) lists the model parameters. These include quantities such as "Pregnancies per year", "Adult fecundity", "Kittens/litter [Feral & Stray]", "Kittens/litter [Owned]", "Adult Survival [Feral & Stray]", "Adult Survival [Owned]", etc. The model results depend, in non-linear ways, on each of the 31 (thirty-one) parameters listed.

In all cases, a single value was chosen for each parameter. Furthermore, that value was assumed to remain unchanging throughout the 30 year timespan of the program.

The model appears to have been run with that one set of fixed values for the No-Project projection, and the same fixed set with four (fixed) changes for the Project projection.

As an example of fixed parameters that should not be assumed to be fixed, if this program changes the way the City handles feral and stray cats in the way that is proposed, by applying “trap, neuter, and release”, it is patently unrealistic to expect proportions of sterilized cats to remain fixed over 30 years. These are fixed at 2.3% of feral cats, 93% of owned and stray cats, and a sterilization rate of 0.1% of juvenile feral and stray cats sterilized each year, and 0.25% of adult feral and stray cats sterilized each year. The program itself is expected to change those numbers, making a fixed selection of those parameters obviously incorrect.

No attempt was made to supply estimates of the accuracy (correctness) or precision (exactness) of each (or any) of the model parameters and no analysis of variability in these parameters was performed. Most of the parameters are derived from a single source, and no discussion of accuracy is provided. Dynamic models such as this would normally be run through a “sensitivity analysis” that would provide insight into how sensitive the model outputs are to each of the model parameters. That sensitivity, and an understanding of the accuracy of the model parameters, is critical to trustworthy interpretation of model outputs. In the absence of a sensitivity analysis it is impossible to evaluate whether the model outputs would be radically different if, for example, the “Juvenile survival [Feral & Stray]”, fixed at 21%, was actually 10%, or 30% (and note that this parameter was chosen from a single published paper). There are 31 parameters whose variability was not analyzed — a gross misuse of this kind of model to inform management decisionmaking.

Lack of monitoring and enforcement of de facto mitigation measures

CEQA requires that unavoidable environmental effects must have a mitigation plan approved that includes monitoring and enforcement. This DEIR attempts to skirt this requirement by proposing project actions that would have unavoidable effects, and handling those effects by a proposed distribution of “Program Implementation Guidelines” and “Ecological Conservation Measures”. The claim is that, since “... these guidelines are part of the proposed Project, they are not mitigation measures as defined under CEQA.” (Section 2.5.2, page 2-15). Further, adherence to those guidelines is optional (“recommended”) by the third-party organizations that the proposed program expects to carry out significant parts of the proposed policies.

The importance of these guidelines is clearly stated: “The proposed Program Implementation Guidelines and Ecological Conservation Measures aim to protect ESAs [Environmentally Sensitive Areas], special-status species, and public health.” (Section 2.5.2, page 2-15). These concerns are exactly the kinds of concerns that CEQA-mandated mitigations are put in place to address.

Choosing to classify impacts as “parts” of the proposed project, rather than impacts of the proposed project, appears to be a deliberate attempt to avoid having to design, require, and monitor mitigation for the environmental effects the project will cause. The actions recommended in the “Program Implementation Guidelines” and “Ecological Conservation Measures” are mitigations (though the DEIR does not identify them as such) and must be analyzed and handled as CEQA requires for mitigation measures.

In fact, without a monitoring program, it will be impossible to determine if the goals of the program are achieved during and by the end of the 30-year proposed timespan, let alone whether the assertion of “no impacts” is even remotely correct.

We thank you for your consideration of these comments, and urge that they trigger substantial reevaluation of the DEIR as presently drafted.