

## **6.0 MSHCP Implementation Structure**

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### **6.5 CRITERIA REFINEMENT PROCESS**

Individual public and private projects within the Plan Area are expected to be designed and implemented in accordance with the Criteria for each Area Plan presented in *Section 3.2* of this document. Findings of consistency with the Criteria shall be made in conjunction with individual project approvals within the MSHCP Plan Area. In cases where refinements to the Criteria are desirable to facilitate Reserve Assembly, resulting in adjustments to the Criteria, the Criteria Refinement Process (CRP) described in this section will apply.

The CRP is designed to be used in conjunction with processing **complete** applications for public and private Development projects within the Plan Area. The CRP process will not be used for initial project review of project consistency with Criteria or for initial identification of potential properties for acquisition. Features have been incorporated in the HANS process described in *Section 6.1.1* of this document to address initial project review issues. The CRP also cannot be used for Criteria changes that would result in reductions in the Criteria Area; reductions in the Criteria Area would require an amendment to the MSHCP. Proposed Criteria refinements not determined to be biologically equivalent or superior to a project design consistent with the Criteria would require an amendment to the MSHCP. Procedures for MSHCP amendments are presented in *Section 6.10* of this document.

Refinements to the Criteria may be made without the need to amend the MSHCP where the refined Criteria result in the **same or greater** Conservation value and acreage to the MSHCP Conservation Area. Criteria refinements may occur for reasons such as: **(1)** new biological information obtained through site-specific studies; **(2)** updated land use information that clearly demonstrates an area as unsuitable for inclusion in the MSHCP Conservation Area (primarily limited to the presence of existing Development); that was unknown at the time the MSHCP Criteria were developed); **(3)** site-specific topographic, engineering or design information that materially affects the Development of the site and its relationship to the MSHCP Conservation Area; **(4)** other reasons such as might be offered by a landowner or individual project proponent.

Prior to approving projects incorporating proposed Criteria refinements, the Permittee shall notify the Wildlife Agencies, Regional Conservation Authority, other affected Permittees and affected property owners in writing. Criteria refinements will be noticed as agenda items on Regional Conservation Authority agendas. Such written notice shall include the project description,

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appropriate maps and findings as noted below. A 60-day review and response period will be provided. In the event there is disagreement regarding Criteria refinements for a project, Regional Conservation Authority staff shall schedule and hold a meeting with affected parties. Such meet and confer shall be held within thirty (30) calendar days of the close of the 60-day review and response period. In the event the parties are unable to resolve the disputed issues, the matter may be appealed to the Regional Conservation Authority Board of Directors for final determination. Appeals will be heard during a noticed public hearing. It should be noted that these procedures do not impede local land use authority.

Criteria Refinements that are proposed to incorporate Conservation outside of the Criteria Area to meet equivalency findings will be subject to concurrence by the Wildlife Agencies. In such cases, the Permittee will meet and confer with the Wildlife Agencies prior to submittal of information to the Regional Conservation Authority. Upon submittal of a completed equivalency analysis, the Wildlife Agencies will respond in writing within 60 days as to their concurrence with the analysis. If the Wildlife Agencies do not concur, the action will require an amendment to the MSHCP. If the Wildlife Agencies concur, or if they fail to respond in writing within the 60-day period, the project will proceed as a Criteria Refinement.

The process for evaluating and accepting refinements to the Criteria will include assembly of necessary project information and completion of an equivalency analysis as described below:

### **➤ Project Information**

The following information will be assembled by the project applicant for review by the Permittee for projects requesting deviations from the Criteria:

- 1) Definition of the planning area for the project;
- 2) Narrative and graphic description of the project;
- 3) Narrative and graphic description of biological information available for the project site including current project-specific vegetation mapping and appropriate species surveys;

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- 4) Narrative and graphic description of the project's efforts to be consistent with the MSHCP Criteria and explanation of the rationale why consistency has been determined to be infeasible.
- 5) Quantification and characterization of effects/benefits of the proposed project (incorporating Criteria refinements) on habitats, species and overall MSHCP Conservation Area design and function including relationship to identified Core Areas, Linkages and Constrained Linkages.
- 6) Any other information deemed necessary by the Permittee to make the appropriate findings.

### **➤ Equivalency Analysis**

Based on the assembled project information, an equivalency analysis will be provided by the applicant for review by the Permittee in narrative and graphic form comparing the effects/benefits of the proposed project (incorporating Criteria refinements) and a project on the same site not deviating from the MSHCP Criteria. The analysis may include site-specific project design features as well as onsite and/or offsite mitigation offered by the project proponent. The equivalency analysis will address the following categories:

### **➤ Effects on habitats**

- 1) Effects on Covered Species
- 2) Effects on Core Areas (as identified on the MSHCP Core and Linkage map, *Figure 3-2*)
- 3) Effects on Linkages and Constrained Linkages (as identified on the MSHCP Core and Linkage map, *Figure 3-2*)
- 4) Effects on Non-Contiguous Habitat Blocks (as identified on the MSHCP Core and Linkage map, *Figure 3-2*)
- 5) Effects on MSHCP Conservation Area configuration and management (such as increases or decreases in edge)
- 6) Effects on ecotones (defined as areas of adjoining Vegetation Communities, generally characterized by greater biological diversity) and other conditions affecting species diversity (such as invasion by exotics)

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- 7) Equivalent or greater acreage contributed to the MSHCP Conservation Area
- 8) Applicant must demonstrate agreements or control over mitigation property being offered under the equivalency analysis.

The equivalency analysis shall draw conclusions regarding the degree to which the proposed project (incorporating Criteria refinements) is considered to be biologically equivalent or superior to a project on the same site not deviating from the MSHCP Criteria. Projects determined to be biologically equivalent or superior will be determined to be acceptable refinements to the MSHCP Criteria and amendment to the MSHCP will not be required prior to approval of such projects. Projects not determined to be biologically equivalent or superior will be determined to be unacceptable deviations from the MSHCP Criteria and an amendment to the MSHCP would be required prior to approval of such projects. MSHCP amendment procedures are described in *Section 6.10* of this document.