



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
(707) 428-2002  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



July 11, 2024

Carlos de Melo, Community Development Director  
City of Belmont  
1 Twin Pines Lane, Suite 300  
Belmont, CA 94002  
[Cdemelo@belmont.gov](mailto:Cdemelo@belmont.gov)

Subject: 1301 Shoreway Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2024060880, City of Belmont, San Mateo County

Dear Mr. Carlos de Melo:

The California Department of Fish and Wildlife (CDFW) has reviewed the City of Belmont's (City) Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) for the 1301 Shoreway Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect fish and wildlife resources of the State. Please be advised, by law, CDFW may be required to carry out or approve aspects of the Project through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW is providing the City of Belmont, as the Lead Agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the EIR (See: Cal. Code Regs., tit. 14, § 15082, subd. (b)).

## **CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.). For purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority over the Project pursuant to the Fish and Game Code. For example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority, if the Project impacts the bed, channel or bank of any river, stream or lake within the State (Fish & G. Code, § 1600 et seq.). Likewise, to the extent the Project may result in "take" as defined by state law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

## **REGULATORY REQUIREMENTS**

### **California Endangered Species Act**

A CESA Incidental Take Permit (ITP) must be obtained from CDFW if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Under CESA, "take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish & G. Code, § 86.) CDFW's issuance of an ITP is subject to CEQA and to facilitate permit issuance, any project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065.) In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, do not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

### **Lake and Streambed Alteration**

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting rivers, lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes,

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watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a responsible agency under CEQA.

### **Migratory Birds and Raptors**

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

### **PROJECT DESCRIPTION AND LOCATION SUMMARY**

**Proponent:** 1 Shoreway Owner, LLC

**Objective:** The objective of the Project is to demolish an existing office building and redevelop the property to include a general office campus with two commercial office buildings and associated parking structure at 1301 Shoreway Road. The Project includes the development of amenities along the rear of the property adjacent to Belmont Creek.

**Location:** 1301 Shoreway Road, Belmont, CA 94002.

**Timeframe:** TBD

The CEQA Guidelines (§§15124 & 15378) require that the draft EIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, and that contains sufficient information to evaluate and review the Project's environmental impact. Please include a complete description of the following Project components in the Project description including, but not limited to, the below information.

- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Area and plans for any proposed buildings/structures, ground-disturbing activities, fencing, paving, stationary machinery, landscaping, stormwater systems, and amenities adjacent to Belmont Creek and northern coastal salt marsh habitat.

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- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.

**ENVIRONMENTAL SETTING**

Sufficient information regarding the environmental setting is necessary to understand any potentially significant impacts on the environment of the proposed Project and any alternatives identified in the draft EIR (CEQA Guidelines, §§15125 & 15360). CDFW recommends the draft EIR provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including all rare, threatened, and endangered species (CEQA Guidelines, §15380). The draft EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City may require. Fully protected, threatened or endangered, candidate, and other special-status species or sensitive natural communities that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

Common Name	Scientific Name	Status
Alameda song sparrow	<i>Melospiza melodia pusillula</i>	SSC
American peregrine falcon	<i>Falco peregrinus anatum</i>	Delisted
Arcuate bushmallow	<i>Malacothamnus arcuatus var. arcuatus</i>	1B.2
California black rail	<i>Laterallus jamaicensis coturniculus</i>	ST, FP
California least tern	<i>Sternula antillarum browni</i>	FE, SE, FP
green sturgeon - southern DPS	<i>Acipenser medirostris pop. 1</i>	FT, SSC
longfin smelt	<i>Spirinchus thaleichthys</i>	FPE, ST
pallid bat	<i>Antrozous pallidus</i>	SSC
Point Reyes salty bird's-beak	<i>Chloropyron maritimum ssp. palustre</i>	1B.2
Common Name	Scientific Name	Status

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saline clover	<i>Trifolium hydrophilum</i>	1B.2
salt-marsh harvest mouse	<i>Reithrodontomys raviventris</i>	FE, SE, FP
Santa Cruz kangaroo rat	<i>Dipodomys venustus venustus</i>	
San Francisco owl's-clover	<i>Triphysaria floribunda</i>	1B.2
short-eared owl	<i>Asio flammeus</i>	SSC
western snowy plover	<i>Charadrius nivosus nivosus</i>	FT, SSC
woodland woollythreads	<i>Monolopia gracilens</i>	1B.2

FT = listed as threatened under the federal Endangered Species Act; FE = listed as endangered under the federal Endangered Species Act; FPE = Proposed Endangered under the federal Endangered Species Act; ST = listed as threatened under CESA; SE = listed as endangered under CESA; SSC = state species of special concern; FP = state listed as fully protected. California Rare Plant Rank 1B: All of the plants constituting California Rare Plant Rank 1B meet the definitions of the California Endangered Species Act of the California Fish and Game Code and are eligible for state listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, or those considered to be functionally equivalent to CEQA, as they meet the definition of Rare or Endangered under CEQA Guidelines §15125; (c) and/or §15380.

Habitat descriptions and species profiles included in the draft EIR should include robust information from multiple sources: aerial imagery; historical and recent survey data; field reconnaissance; scientific literature and reports; U.S. Fish and Wildlife Service’s (USFWS) Information, Planning, and Consultation System; California Aquatic Resources Inventory; and findings from “positive occurrence” databases such as California Natural Diversity Database (CNDDDB). Only with sufficient data and information can the City adequately assess which special-status species are likely to occur in the Project vicinity.

CDFW recommends surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at:

<https://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

Botanical surveys for special-status plant species, including those listed by the California Native Plant Society (<http://www.cnps.org/cnps/rareplants/inventory/>), should also be conducted during the blooming period for all sensitive plant species potentially occurring within the Project area and include the identification of reference populations. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants available at: <https://www.wildlife.ca.gov/Conservation/Plants>.

**IMPACT ANALYSIS AND MITIGATION MEASURES**

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The CEQA Guidelines (§15126.2) necessitate the draft EIR discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project. This includes evaluating and describing impacts such as:

- Land use changes that will increase Artificial Lighting at Night (ALAN) pollution;
- Potential for impacts to special-status species;
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic, or human presence;
- Obstruction of movement corridors used by birds, bats, and insects;
- Water quality impacts resulting from construction and operation of the Project;
- Impacts both from construction and operation of the Project; and
- Impacts to the bed, channel, and bank, in the stream, slough, and wetlands adjacent to and downstream of the Project;

The CEQA document also should identify existing and reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to each impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact (e.g., reduction of available habitat for a listed species) should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

The CEQA Guidelines direct the City, as the Lead Agency, to consider and describe in the draft EIR all feasible mitigation measures to avoid and/or mitigate potentially significant impacts of the Project on the environment based on comprehensive analysis of the potential direct, indirect, and cumulative impacts of the Project. (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370.) This should include a discussion of take avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with the USFWS, the National Marine Fisheries Service and CDFW. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

Fully protected species such as California black rail (*Laterallus jamaicensis coturniculus*), California least tern (*Sternula antillarum browni*), and salt-marsh harvest mouse (*Reithrodontomys raviventris*) may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

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- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process.

## COMMENTS AND RECOMMENDATIONS

### COMMENT 1: Riparian Encroachment

**Issue:** The NOP states that the proposed parking area and associated retaining wall will be located within the riparian corridor where the parcels slopes toward Belmont Creek. Although the NOP does not clarify whether riparian vegetation will be removed, encroaching into the riparian corridor can negatively impact sensitive species that rely on an appropriately sized riparian buffer between development and the stream zone. Encroaching on the riparian zone can lead to deleterious materials, including wastewater discharge and other pollutants, entering the creek.

Because natural stream processes are complex and dynamic, development too close to stream channels can result in threat to property from erosion due to lateral and/or vertical channel adjustments over time. Incorporation of a sufficient riparian buffer into the Project design is necessary to avoid the potential need for stream channel stabilization solutions in the long-term. CDFW discourages use of hardscape material such as cement retaining walls in streams as a result of insufficient riparian buffer setbacks.

**Evidence the impact would be significant:** Riparian habitats are important to watershed integrity because they perform many ecological functions such as enhancing water quality/quantity, biodiversity, habitat connectivity, and flood capacity. Impacts to riparian habitats have potential to cause a wide range of adverse effects to fish and wildlife resources.

Riparian vegetation improves stream water quality by removing sediment, organic and inorganic nutrients, and toxic materials (Belt and O'Laughlin 1994, Mitsch and Gosselink 2000, USDA 2000, Mayer et al. 2006). Riparian buffers help keep pollutants from entering adjacent waters through a combination of processes including dilution, sequestration by plants and microbes, biodegradation, chemical degradation, volatilization, and entrapment within soil particles. As buffer width increases, the

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effectiveness of removing pollutants from surface water runoff increases (Castelle et al. 1992). There is substantial evidence showing narrow buffers are considerably less effective in minimizing the effects of adjacent development than wider buffers (Castelle et al. 1992, Dong et al. 1998, Kiffney et al. 2003, Moore et al. 2005).

Riparian trees and vegetation, and associated floodplains provide many essential benefits to stream and river fish habitat (Moyle 2002, CDFG 2007). Riparian forests provide thermal protection, shade, and large woody debris. Large woody debris stabilizes substrate, provides shelter and cover from predators, facilitates pool establishment and maintenance, maintains spawning bed integrity, and creates habitat for aquatic invertebrate prey. Riparian areas also provide critical fish habitat in the form of off-channel and back-water winter-rearing sites and floodwater refugia (CDFG 2007). Few fishes have been more significantly impacted by loss and alteration of habitat than Pacific salmon and anadromous trout (Moyle 2002).

Riparian habitats also contribute to bank stability and provide flood protection. Development which includes increases in impervious surfaces and installation of stormwater systems and storm drain outfalls can modify natural streamflow patterns by increasing the magnitude and frequency of high flow events and storm flows (Hollis 1975, Konrad and Booth 2005). Riparian habitat and adjacent wetlands and floodplains are critical to lessening these impacts because they store and meter floodwaters, recharge groundwater aquifers, trap sediment, filter pollution, help minimize erosion, lessen peak flow velocities, and protect against storm surges (Mitsch and Gosselink 2000, Tockner et al. 2008). In doing so, they protect adjacent upland, down-stream, and coastal properties from loss and damage during flooding and help maintain surface and groundwater during summer months.

In addition to direct habitat loss, development adjacent to a riparian zone has three principal indirect effects: 1) fragmentation of habitat into smaller, non-contiguous areas of less-functional habitat by structures, roads, driveways, yards and associated facilities; 2) the introduction or increased prevalence of exotic species or species that are habitat generalists, termed “human adapted” or “urban exploiters,” and 3) decreases in native species abundance and biodiversity and the loss of “human-sensitive” species that require natural habitats (Davies et al. 2001, Hansen et al. 2005, CDFG 2007).

**Recommendation:** CDFW recommends that the Project establish and the EIR incorporate a riparian buffer zone and limit development outside of the riparian area. Furthermore, CDFW recommends that the Project incorporate activities to enhance the riparian zone of Belmont Creek and the EIR include a detailed riparian enhancement plan to offset potential Project impacts, a plan which identifies a palette of trees and plants and planting locations along the reach of Belmont Creek adjacent to the property proposed for redevelopment. CDFW is available to coordinate with the City to determine appropriate site-specific buffer riparian buffer to limit impacts to sensitive species, as



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well as provide suggestions for tree and plants species appropriate for enhancing the riparian zone at Belmont Creek. At a minimum, CDFW recommends a 50-foot riparian buffer as measure from the top of streambank to the nearest Project infrastructure.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to prepare subsequent CEQA documents or to make supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (d) & (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDDB. The CNDDDB field survey form can be filled out and submitted online here:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found here: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## ENVIRONMENTAL DOCUMENT FILING FEES


CDFW anticipates that the proposed Project, will have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (See: Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.).

## CONCLUSION

CDFW appreciates the opportunity to comment on the NOP in order to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jason Teichman, Environmental Scientist at (707) 210-5104 or [Jason.Teichman@wildlife.ca.gov](mailto:Jason.Teichman@wildlife.ca.gov); or Wesley Stokes, Senior Environmental Scientist, (Supervisory), at (707) 339-6066 or [Wesley.Stokes@wildlife.ca.gov](mailto:Wesley.Stokes@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
Erin Chappell  
Regional Manager  
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2024060880)

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