

4.3 BIOLOGICAL RESOURCES

This chapter describes existing biological resources in the Project area and evaluates the potential biological resources impacts associated with future development that could occur by adopting and implementing the Project. A summary of the relevant regulatory framework and existing conditions is followed by a discussion of the potential Project-specific and cumulative impacts.

Biological resources associated with the Project site were identified through a review of available background information and a field reconnaissance survey. Available documentation was reviewed to provide information on general resources in the Daly City area, presence of sensitive natural communities, and the distribution and habitat requirements of special-status species, which have been recorded from or are suspected to occur in the Project vicinity. A field reconnaissance survey was conducted by the EIR biologist on January 25, 2014 to determine the existing vegetation and wildlife resources, presence, or absence of any sensitive resources, and the suitability of the site to support occurrences of special-status species.

4.3.1 ENVIRONMENTAL SETTING

4.3.1.1 REGULATORY FRAMEWORK

This section summarizes key federal, State, and local regulations pertaining to biological resources that are applicable to the Project.

Federal Regulations

The federal laws that regulate the treatment of biological resources include the Endangered Species Act, the Migratory Bird Treaty Act, and the Clean Water Act. However, only those related to the Migratory Bird Treaty Act are applicable to the Project site given the absence of jurisdictional wetlands or essential habitat for special-status species on the Project site.

Migratory Bird Treaty Act

The US Fish and Wildlife Service (USFWS) is also responsible for implementing the Migratory Bird Treaty Act (MBTA). The MBTA implements a series of treaties between the United States, Mexico, and Canada that provide for the international protection of migratory birds. Wording in the MBTA makes it clear that most actions that result in “taking” or possession (permanent or temporary) of a protected species can be a violation of the Act. The word “take” is defined as meaning “pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect.” The provisions of the MBTA are nearly absolute; “except as permitted by regulations” is the only exception. Examples of permitted actions that do not violate the law are the possession of a hunting license to pursue specific game birds, legitimate research activities, display in zoological gardens, bird-banding, and similar activities.

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State Regulations

State laws regulating biological resources include the California Endangered Species Act, the California Fish and Game Code, and the California Native Plant Protection Act. However, only pertinent code sections related to the protection of bird nests in active use are relevant to the Project site given the absence of any State-listed species or regulated streams.

California Fish and Game Code

Under the California Fish and Game Code, the California Department of Fish and Wildlife (CDFW) provides protection from “take” for a variety of species, including Fully Protected species. “Fully Protected” is a legal protective designation administered by the CDFW, intended to conserve wildlife species that are at risk of extinction, within California. Lists have been created for birds, mammals, fish, amphibians, and reptiles. The California Fish and Game Code sections dealing with Fully Protected species state that these animals “...may not be taken or possessed at any time and no provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected” species. However, taking may be authorized for necessary scientific research. In 2003, the code sections dealing with fully protected species were amended to allow CDFW to authorize taking resulting from recovery activities for State-listed species.

Section 3503 of the California Fish and Game Code prohibits the take, possession, or needless destruction of the nest or eggs of any bird. Subsection 3503.5 specifically prohibits the take, possession, or destruction of any birds in the orders Falconiformes (hawks and eagles) or Strigiformes (owls) and their nests. These provisions, along with the federal Migratory Bird Treaty Act, essentially serve to protect nesting native birds.

Local Regulations

City of Daly City General Plan

The City of Daly City 2030 General Plan (2030 General Plan) was adopted on March 25, 2013 and contains a Resource Management Element which provides the framework for resource management, including water, air, stormwater, vegetation, and wildlife.¹ Table 4.3-1 identifies policies that are relevant to the protection of vegetation and wildlife as they relate to biological resources.

4.3.1.2 EXISTING CONDITIONS

Vegetation and Wildlife Habitat

The Project site is located in an urbanized area, has been completely altered by past residential development, and no longer supports any natural habitat. Most of the site is occupied by pavement and structures, with scattered tree and other landscape plantings. The cut slopes to the southwest and south east, bordering Callan Boulevard and Serramonte Boulevard, have been planted with non-native Monterey pine (*Pinus radiata*), Monterey cypress (*Cupressus macrocarpa*), and white alder

¹ City of Daly City, Daly City 2030 General Plan, page 177.

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TABLE 4.3-1 CITY OF DALY CITY GENERAL PLAN POLICIES RELEVANT TO BIOLOGICAL RESOURCES

Policy Number	Policy
Policy RME-16	Continue to recognize the importance of the San Bruno Mountain Habitat Conservation Plan (HCP), uphold the integrity of the concepts behind the plan, and respect the agreements that serve to implement it (same as Task LU-22).
Policy RME-17	Preserve environmentally sensitive habitat by imposing strict regulations on development in areas that have been identified as environmentally sensitive habitat.
Policy RME-18	Preserve trees that do not pose a threat to the public safety.

Source: City of Daly City, Daly City 2030 General Plan, Resource Management Element, March 25, 2013.

(*Alnus rhombifolia*), with an understory of ice plant and non-native grasses and forbs. No evidence of any sensitive natural communities, jurisdictional wetlands, or suitable habitat for special-status species was observed during a field reconnaissance conducted in 2014.

Special-Status Species

Special-status species are plants and animals that are legally protected under the State and/or federal Endangered Species Acts or other regulations, as well as other 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 denning locations, communal roosts and other essential habitat. Suitable habitat for most of the special-status species known or suspected to occur in the Daly City vicinity is absent from the site. This includes the special-status species monitored by the California Natural Diversity Data Base (CNDDDB) of the CDFW. Figures 4.3-1 and 4.3-2 show the known occurrences of special-status animal and plant species respectively, reported by the CNDDDB from the site vicinity. As indicated in Figure 4.3-1, CNDDDB occurrences of Kellogg’s horkelia (*Horkelia cuneata* ssp. *sericea*), robust spineflower (*Chorizanthe robusta*), and showy Rancharia clover (*Trifolium amoenum*) extend over the site and surrounding central Daly City vicinity, but these are all very old, general records for these species. Any suitable habitat for all three of these special-status plant species and all other special-status plant species has long been eliminated with development of the site and surrounding areas.

There is, however, a remote possibility that one more species of birds protected under the federal Migratory Bird Treaty Act and State Fish and Game Code could possibly nest in the planted trees in the southwestern portion of the site. No evidence of any nesting was observed during the field reconnaissance conducted in 2014. However, there is a possibility that new bird nests could be established in advance of construction. Of particular concern are the dense tree plantings on the slopes that border Callan Boulevard and Serramonte Boulevard in the southwestern corner of the site.

4.3.2 STANDARDS OF SIGNIFICANCE

An Initial Study was prepared for the Project (see Appendix A of this Draft EIR). Based on the analysis contained in the Initial Study it was determined that development of the Project would not result in significant environmental impacts per the following significance criteria and therefore, these are not discussed in this chapter.

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Source: California Natural Diversity Database, 2013; PlaceWorks, 2014; San Mateo County, 2013; Esri, 2013.

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|---|---|--|
| Ass - Alameda song sparrow | SFBAIcb - San Francisco Bay Area leaf-cutter bee | csb - callippe silverspot butterfly |
| Lsdb - Leech's skyline diving beetle | SFgs - San Francisco garter snake | hb - hoary bat |
| Mbb - Mission blue butterfly | Sdb - Stage's dufourine bee | sbtb - sandy beach tiger beetle |
| Sbeb - San Bruno elfin butterfly | Ti - Tomales isopod | |

Figure 4.3-1
Special-Status Animal Species

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Source: California Natural Diversity Database, 2013; PlaceWorks, 2014; San Mateo County, 2013; Esri, 2013.

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|--------------------------------------|--------------------------------|-----------------------------------|------------------------------|
| Kh - Kellogg's horkelia | SFca - San Francisco campion | SFoc - San Francisco owl's clover | rs - robust spineflower |
| Pm - Pacific manzanita | SFCo - San Francisco collinsia | bl - beach layia | rl - rose leptosiphon |
| SBMm - San Bruno Mountain manzanita | SFg - San Francisco gumplant | bff - bent-flowered fiddleneck | src - showy rancheria clover |
| SFBs - San Francisco Bay spineflower | SFI - San Francisco lessingia | bs - bristly sedge | wst - white seaside tarplant |

Figure 4.3-2
Special-Status Plant Species

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- 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 California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.), through direct removal, filling, hydrological interruption, or other means.
- Conflict with the provisions of an adopted Habitat Conservation Plan, or other approved local, regional, or State habitat conservation plan.

Based on the Initial Study it was determined that the Project could result in a significant biological resources impact if it would:

1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.
2. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife sites.
3. Conflict with any local ordinances or policies protecting biological resources, such as tree preservation policy or ordinance.

4.3.3 IMPACT DISCUSSION

This section analyzes potential Project-specific and cumulative impacts to biological resources.

BIO-1	The Project would generally not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service. However, there is a possibility that bird nests regulated under the Migratory Bird Treaty Act and California Department of Fish and Wildlife code could be inadvertently destroyed during construction, which would be a significant impact.
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The Project would have a significant impact if it resulted in a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

The Project proposes expansion and redevelopment of the existing Serramonte Shopping Center over a period of approximately ten years. As described above, the Project site has been previously developed and is located in an urbanized setting. As such, suitable habitat for special-status species known or suspected to occur in the Daly City vicinity is absent

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from the Project site, and no impacts are anticipated for most special-status species. As stated in the Initial Study (Appendix A), known occurrences of special-status plant and animal species, include the Kellogg's horkelia (*Horkelia cuneate ssp. Sericea*), robust spineflower (*Chorizanthe robusta*), and showy Rancharia clover (*Trifolium amoenum*). These species extend over the Project site and surrounding vicinity; however, these are old and general records for these species. As such, any suitable habitat for all three of these special-status plant species and all other special-status plant species has been eliminated by previous development of the Project site and surrounding areas.

Although it is not expected that the special-status plant and animal species exist in at the Project site as a result of previous development, there is a remote possibility that mature trees and areas of dense landscaping could be used for nesting by raptors and more common bird species. These nests would be protected under the federal MBTA and California Fish and Game Code when in active use. The MBTA prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the USFWS; this prohibition includes whole birds, parts of birds, and bird nests and eggs. Although the MBTA, as well as the General Plan Policies listed above in Table 4.3-1 would serve to protect habitat at the Project site, tree and vegetation removal, building demolition, and other construction activities during the breeding season could result in the incidental loss of fertile eggs or nestlings or nest abandonment if any active nests are present. As such, a *significant* impact would occur.

Impact BIO-1: Proposed development could result in inadvertent loss of bird nests in active use, which would conflict with the federal MBTA and California Fish and Game Code if adequate controls and preconstruction surveys are not implemented.

Mitigation Measure BIO-1: Ensure Avoidance of Bird Nests in Active Use. Tree removal and landscape grubbing shall be performed in compliance with the Migratory Bird Treaty Act and relevant sections of the California Fish and Game Code to avoid loss of nests in active use. This shall be accomplished by scheduling tree removal and landscape grubbing outside of the bird nesting season (which occurs from February 1 to August 31) to avoid possible impacts on nesting birds if new nests are established in the future. Alternatively, if tree removal and landscape grubbing cannot be scheduled during the non-nesting season (September 1 to January 31), a pre-construction nesting survey shall be conducted. The pre-construction nesting survey shall include the following:

- A qualified biologist (Biologist) shall conduct a pre-construction nesting bird (both passerine and raptor) survey within seven calendar days prior to tree removal, landscape grubbing, and/or building demolition.
- If no nesting birds or active nests are observed, no further action is required and tree removal, landscape grubbing, and building demolition shall occur within seven calendar days of the survey.
- Another nest survey shall be conducted if more than seven calendar days elapse between the initial nest search and the beginning of tree removal, landscape grubbing, and building demolition.
- If any active nests are encountered, the Biologist shall determine an appropriate disturbance-free buffer zone to be established around the nest location(s) until the young have fledged. Buffer zones vary depending on the species (i.e., typically 75 to 100 feet for passerines and 300 feet for raptors) and other factors such as ongoing disturbance in the vicinity of the nest location. If necessary, the dimensions of the buffer zone shall be determined in consultation with the California Department of Fish and Wildlife.

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- Orange construction fencing, flagging, or other marking system shall be installed to delineate the buffer zone around the nest location(s) within which no construction-related equipment or operations shall be permitted. Continued use of existing facilities such as surface parking and site maintenance may continue within this buffer zone.
- No restrictions on grading or construction activities outside the prescribed buffer zone are required once the zone has been identified and delineated in the field and workers have been properly trained to avoid the buffer zone area.
- Construction activities shall be restricted from the buffer zone until the Biologist has determined that young birds have fledged and the buffer zone is no longer needed.
- A survey report of findings verifying that any young have fledged shall be submitted by the Biologist for review and approval by the City of San Leandro prior to initiation of any tree removal, landscape grubbing, building demolition, and other construction activities within the buffer zone. Following written approval by the City, tree removal, and construction within the nest-buffer zone may proceed.

Significance After Mitigation: Less than significant.

BIO-2 The Project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife sites.

The Project would result in a significant impact if it would interfere substantially with the movement of any native resident migratory fish or wildlife species or with established native resident or migratory fish and wildlife corridors, or impeded the use of native wildlife sites. The Project site is located in an urbanized area, bordered by existing roadways and other urban uses which preclude the presence of any important wildlife movement corridors across the site. The site contains no creeks or aquatic habitat that would support fish and proposed development would not interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nurseries. Wildlife species common in urban habitats would continue to move through the area; both during and after construction. Some species common in suburban habitat would most likely be displaced if the tree plantings in the southwestern portion of the site were removed, but these are species that are relatively abundant in urban areas, and their loss or displacement would not be considered a significant impact. Further, compliance with General Plan policies as listed above in Section 4.3.1.1, Regulatory Framework, would serve to protect any sensitive habitat at the Project site or in the vicinity of the Project site. Therefore, this would be considered a *less-than-significant* impact on wildlife movement.

Applicable Regulations:

- California Endangered Species Act
- California Fish and Game Code
- California Environmental Quality Act
- Daly City General Plan

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Significance Before Mitigation: Less than significant.

BIO-3 The Project would not conflict with any local ordinances or policies protecting biological resources, such as tree preservation policy or ordinance.

The Project in general would not conflict with any relevant goals and policies in the City of Daly City General Plan related to protection of biological and wetland resources. No special-status species, sensitive natural communities, wetlands, or important wildlife resources would be affected by the Project. The City of Daly City does not have a tree protection ordinance, and removal of any trees in the southwestern portion of the site and other locations would not be regulated. Trees and other landscaping would be replanted as part of future improvement plans, although this would not be replacement for trees removed to accommodate those improvements. Therefore, a *less-than-significant* impact would result.

Applicable Regulations:

- Daly City General Plan

Significance Before Mitigation: Less than significant

4.3.4 CUMULATIVE IMPACTS

BIO-4 The Project, in combination with past, present and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to biological resources.

The potential impacts of the Project on biological resources tend to be site-specific, and the overall cumulative effect would be dependent on the degree to which significant vegetation and wildlife resources are protected on a particular site. This includes preservation of well-developed native vegetation (e.g., marshlands, native grasslands, oak woodlands, riparian scrub and woodland, etc.), populations of special-status plant or animal species, and wetland features (including seasonal wetlands and drainages). Environmental review of specific development proposals in the vicinity of the Project site would serve to ensure that important biological resources are identified, protected, and properly managed. Additionally, this review would prevent any significant adverse development-related impacts, including potential development on the remaining undeveloped lands in the surrounding area.

Since the Project site lacks any sensitive biological resources, the Project would not contribute to any cumulative impacts on special-status species, sensitive natural communities, or regulated wetlands. Additionally, since the Project site is already developed, the impacts associated with redevelopment would not contribute to a cumulative reduction of important wildlife habitat.

Applicable Regulations:

- California Endangered Species Act
- National Pollutant Discharge Elimination System Program

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- California Fish and Game Code
- California Environmental Quality Act
- Daly City General Plan

Significance Before Mitigation: Less than significant