



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
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August 15, 2025

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**Subject: Pacific Grove Housing Element Update, Zoning Amendments, and  
General Plan Amendments (Plan)  
Draft Environmental Impact Report (DEIR)  
SCH No.: 2024010897**

Dear Joe Sidor:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the City of Pacific Grove for the Plan pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

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

### **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 & Game Code, Section 711.7, subd. (a) & 1802; Pub. Resources Code, Section 21070; CEQA Guidelines Section 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., Section 1802). Similarly, 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.

*Conserving California's Wildlife Since 1870*

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, Section 21069; CEQA Guidelines, Section 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, future projects tiered from this Plan may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & Game Code, Section 1600 et seq.). Likewise, to the extent implementation of future projects tiered from this Plan may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, Section 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

**Fully Protected Species:** CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- 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).

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

## **PLAN DESCRIPTION SUMMARY**

**Proponent:** City of Pacific Grove

**Objective:** The proposed Plan consists of the following components: 1) Housing Element update, which includes a program to upzone sites in the Downtown Commercial and Forest Hill Commercial Districts and rezone sites in the Dennett, Sinex, and Grove Acre District; 2) Zoning Amendments to implement Housing Element Programs, including updates to the zoning map; and 3) associated General Plan Amendments. The zoning amendments would include modifications to the Zoning Code to meet target densities as well as compliance with State housing laws as identified in the Housing Element. The Land Use Element would be updated for consistency with the Housing Element Update and Zoning Amendments. The Health and Safety Element would involve updated information, policies, and implementation measures consistent

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with the current requirements of state law. This includes additional details related to evacuation routes and emergency access.

**Location:** The City of Pacific Grove

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist the City of Pacific Grove in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Plan.

Based on aerial imagery and species occurrence records from the California Natural Diversity Database (CNDDDB) (CDFW 2025), the proposed Plan area is known to and/or has the potential to support special-status species, and these resources need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities.

Currently, the DEIR acknowledges that the Plan area is within the geographic range of several special-status animal species and provides specific recommendations and measures for future projects tiered from this Plan to incorporate within their CEQA analyses. CDFW has concerns about the ability of some the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take of several special-status species, including the State candidate Crotch's Bumble Bee (*Bombus crotchii*), State fully protected white-tailed kite (*Elanus leucurus*), and the State special animal and federally proposed threatened, monarch butterfly, California overwintering population (*Danaus Plexippus Plexippus pop. 1*). CDFW also has concerns about the ability of some of the proposed mitigation measures to reduce impacts to less significant and avoid unauthorized take of special-status plant species. Additionally, CDFW is concerned about maintaining sufficient buffers between cleanup and staging areas and adjacent streams to protect these resources.

### **Crotch's Bumble Bee (CBB)**

The DEIR's Biological Resources section does not include Crotch's bumble bee (CBB). The City of Pacific Grove is within the known range of CBB, and potentially suitable CBB habitat is present within the Plan area. As such, CDFW recommends the DEIR analyze potential impacts to CBB from Plan implementation and including CBB within the "Special-Status Wildlife Species in the Regional Vicinity of the Project Site" chart to ensure that future projects associated with this Plan consider its potential occurrence.

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## **White-tailed kite (WTKI)**

### **BIO-1(h) Nesting Bird Surveys**

The DEIR's BIO-1(h), requires nesting bird surveys to cover the disturbance area plus a 200-foot buffer around the site, where feasible, and a 500-foot buffer for raptors. CDFW would like to note that the City of Pacific Grove lies within the range of the WTKI and these survey and buffer distances may not be sufficient to avoid potentially significant impacts to WTKI and their nests. Therefore, the CDFW recommends that BIO-1(h) be revised to specify that a qualified avian biologist will conduct surveys for fully protected nesting raptors, including nesting white-tailed kites, prior to beginning project-related activities, and that these surveys will incorporate a ½-mile buffer around project activities. CDFW also recommends that a minimum no-disturbance buffer of ½ mile shall be established around active fully protected raptor nests (including white-tailed kite nests) until the breeding season ends or a qualified biologist confirms that fledging has occurred, and the birds no longer depend on the nest or parental care for survival. CDFW advises against reducing this buffer for any fully protected bird species without compelling biological or ecological justification. Further consultation with CDFW is recommended to ensure appropriate project implementation and take avoidance.

## **Monarch Butterfly (MOBU)**

### **BIO-1(g) Monarch Butterfly Avoidance and Minimization**

The DEIR's BIO-1 (g) states that, if construction occurs during the monarch butterfly (MOBU) overwintering season and butterflies are present, a City of Pacific Grove approved biologist would establish a protective buffer of 100 to 300 feet around roosting sites, based on their proximity and disturbance risk. This buffer would be clearly marked on-site, and no construction or equipment staging would be allowed within it. If work within the buffer is necessary, the biologist would monitor to ensure MOBU are not disturbed and has the authority to halt and resume activities as needed. The biologist may also adjust the buffer size within the 100- to 300-foot range depending on butterfly location and disturbance levels.

CDFW concurs with having an appropriate buffer if MOBU overwintering sites are found during surveys or activities associated with projects tiered from this Plan. However, CDFW recommends increasing that buffer to 500 feet from the outer edge of the overwintering habitat, consistent with the U.S. Fish and Wildlife Service (USFWS) Western Monarch Butterfly Conservation Recommendations (USFWS 2023). CDFW recommends that any proposed modifications to this buffer be coordinated with both the U.S. Fish and Wildlife Service and CDFW to evaluate

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whether a reduction is feasible without causing disturbance to the overwintering population.

## **Special-Status Plant Species**

### **BIO-1(a) Special-Status Plant Species Surveys**

The DIER's BIO-1(a) states, "If project construction does not occur within three years of the initial special-status plant survey, additional floristic surveys shall be repeated. If special-status plants are not found during special-status plant surveys, no further action is required." While CDFW concurs that special-status plant surveys should be updated following a significant lapse in time, CDFW recommends that the timing of surveys be adjusted based on the type of habitat present within the project site and whether the target special-status plant species are identifiable every year. Certain plant species may not be detected in a given year and several consecutive years of surveys may be required. CDFW recommends referencing the "Protocols for surveying and evaluating impacts to special-status native plant populations and sensitive natural communities" (California Department of Fish and Wildlife 2018) when determining when to update floristic survey efforts.

### **BIO-3(b) Waters and Wetlands Impact Avoidance and Minimization**

The DEIR's BIO-3(b) states that "all refueling, cleaning, and maintenance of equipment shall occur at least 100 feet from jurisdictional areas." CDFW recommends increasing this buffer to 150 feet to provide greater protection to streams and their associated hydrologic features and minimize potential impacts.

## **EDITORIAL COMMENTS AND/OR SUGGESTIONS**

### **Lake and Stream Alteration (LSA)**

Reasonably foreseeable future projects tiered from this Plan may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires project proponents to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial in nature. For additional information on notification requirements, please contact our staff in the LSA Program at (559) 243-4593, or [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov).

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CDFW therefore recommends that the DEIR for this Plan include information related to these requirements of Fish and Game code and advise that projects tiered from this Plan retain a qualified biologist to determine if potential impacts to streams may require the need to obtain a 1600 Lake or Streambed Alteration Agreement (LSAA).

### **Federally Listed Species**

CDFW recommends consulting with the USFWS on potential impacts to federally listed species. Take under the Federal Endangered Species Act (ESA) is more broadly defined than CESA; take under the ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS to comply with the ESA is advised well in advance of any ground disturbing activities.

### **California Natural Diversity Database**

Please note that the CNDDDB is populated by voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there are suitable habitats and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential project-related impacts to biological resources, surveys conducted by a qualified biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the Project area.

### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, Section 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during surveys to the CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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## FILING FEES


The Plan, as proposed, would have an impact on fish and/or wildlife, and assessment of 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 fee is required in order for the underlying Plan approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, Section 753.5; Fish & G. Code, Section 711.4; Pub. Resources Code, Section 21089.)

## CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City of Pacific Grove in identifying, analyzing, and mitigating the implementation of the Plan's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or [evelyn.barajas-perez@wildlife.ca.gov](mailto:evelyn.barajas-perez@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Julie A. Vance  
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## **REFERENCES**

California Department of Fish and Wildlife. 2025. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed July 2025.

U.S. Fish and Wildlife Service. 2023. Western Monarch butterfly conservation recommendations. Sacramento, California, USA.