



**Delta
Stewardship
Council**

A CALIFORNIA STATE AGENCY

715 P Street, 15-300
Sacramento, CA 95814

916.445.5511
DELTACOUNCIL.CA.GOV

CHAIR
Julie Lee

VICE CHAIR
Gayle Miller

MEMBERS
Diane Burgis
Frank C. Damrell, Jr.
Ben Hueso
Maria Mehranian
Daniel Zingale

EXECUTIVE OFFICER
Jessica R. Pearson

April 19, 2024

Jessie Hernandez
City of Fairfield Planning Division
1000 Webster Street, 2nd Floor
Fairfield, CA 94533

Delivered via: jhernandez@fairfield.ca.gov

RE: Comments on Notice of Preparation of an Environmental Impact Report for the Fairfield Forward 2050: City of Fairfield Comprehensive General Plan Update, Housing Element Update, and Climate Action Plan, SCH# 2021080289

Dear Jessie Hernandez:

Thank you for the opportunity to review and comment on the Fairfield Forward 2050: City of Fairfield Comprehensive General Plan Update, Housing Element Update, and Climate Action Plan Notice of Preparation (NOP) of an Environmental Impact Report (EIR). The Delta Stewardship Council (Council) recognizes the objective of the Fairfield Forward 2050: City of Fairfield Comprehensive General Plan Update, Housing Element Update, and Climate Action Plan (project), to establish the City of Fairfield's (City) overall approach to development, transportation, environmental quality, and other key topics through 2050 and a Climate Action Plan to address community greenhouse gas emissions.

The Council is an independent state agency established by the Sacramento-San Joaquin Delta Reform Act of 2009. (Wat. Code, § 85000 et seq.; Delta Reform Act)

The Delta Reform Act charges the Council with furthering California's coequal goals of providing a more reliable water supply and protecting, restoring, and enhancing the Sacramento-San Joaquin Delta (Delta) ecosystem. (Wat. Code, § 85054.) The Delta Reform Act further states that the coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan, a comprehensive long-term management plan for the Delta and Suisun Marsh. (Wat. Code, § 85300.) The Delta Plan contains regulatory policies, which are set forth in California Code of Regulations, title 23, section 5001 et seq. Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions of state or local public agencies that take place in whole or in part in the Delta. (Wat. Code, §§ 85210, 85225, 85225.10.) A state or local agency that proposes to undertake a covered action is required to prepare a written Certification of Consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and submit that certification to the Council prior to implementation of the project. (Wat. Code, § 85225.) The Delta Reform Act also requires the Council to review and provide timely advice to local and regional planning agencies regarding the consistency of local and regional planning documents with the Delta Plan. The Council's input includes, but is not limited to, reviewing the consistency of local and regional planning documents with the ecosystem restoration needs of the Delta and reviewing whether the lands set aside for natural resource protection are sufficient to meet the Delta's ecosystem needs. (Wat. Code, § 85212.)

COVERED ACTION DETERMINATION AND CERTIFICATION OF CONSISTENCY WITH THE DELTA PLAN

Based on the project location and scope, as provided in the NOP, the proposed project may meet the definition of a covered action. Water Code section 85057.5(a) states that a covered action is a plan, program, or project, as defined pursuant to the California Environmental Quality Act (CEQA) in Public Resources Code section 21065, that meets all of the following conditions:

(1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh; The General Plan Planning Area includes lands

within the Suisun Marsh, and thus, the project would occur in part within the boundaries of the Suisun Marsh.

(2) Will be carried out, approved, or funded by a state or a local public agency; General Plan 2050 and the EIR would be approved and carried out by the City, a local agency.

(3) Is covered by one of the provisions of the Delta Plan. As described below, the project is covered by multiple Delta Plan regulatory policies.

(4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta. The project may have a significant impact on the achievement of the coequal goal to protect, restore, and enhance the Delta ecosystem and the implementation of government-sponsored flood control programs in the Delta.

The state or local agency approving, funding, or carrying out a covered action is required to file a Certification of Consistency with the Council prior to project implementation. (Wat. Code, § 85225; Cal. Code Regs., tit. 23, § 5001(k)(3).)

COMMENTS REGARDING DELTA PLAN POLICIES AND POTENTIAL CONSISTENCY CERTIFICATION

The following section describes the Delta Plan regulatory policies that may apply to the proposed project based on the available information in the NOP. This information is offered to assist the City in preparing environmental documents that could be used to support a Certification of Consistency for the project. This information may also assist the City in describing the relationship between the proposed project and the Delta Plan in the project's EIR.

General Policy 1: Detailed Findings to Establish Consistency with the Delta Plan

Delta Plan Policy **G P1** (Cal. Code Regs., tit. 23, § 5002.) specifies what is required to be addressed in a Certification of Consistency by a project proponent of a project that is a covered action. The following is a subset of policy requirements that a project is required to fulfill to be considered consistent with the Delta Plan:

Mitigation Measures

Delta Plan Policy **G P1(b)(2)** (Cal. Code Regs., tit. 23, § 5002(b)(2).) requires covered actions not exempt from CEQA to include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 26, 2018, unless the measures are within the exclusive jurisdiction of an agency other than the agency that files the Certification of Consistency, or substitute mitigation measures that the agency finds are equally or more effective. These mitigation measures are identified in Delta Plan Appendix O and are available at: <https://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf>.

If the City's EIR identifies significant impacts that require mitigation, the City should review Appendix O and include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan or identify substitute mitigation measures that the City finds are equally or more effective.

Best Available Science

Delta Plan Policy **G P1(b)(3)** (Cal. Code Regs., tit. 23, § 5002(b)(3).) states that actions subject to Delta Plan regulations are required to document the use of best available science as relevant to the purpose and nature of the project. The Delta Plan defines best available science as “the best scientific information and data for informing management and policy decisions.” (Cal. Code Regs, tit. 23, § 5001 (f).) Best available science is also required to be consistent with the guidelines and criteria in Appendix 1A of the Delta Plan (<https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1a.pdf>).

Delta as Place Policy 1: Locate New Urban Development Wisely

Delta Plan Policy **DP P1** (Cal. Code Regs., tit. 23, § 5010.) places certain limits on new urban development within the Delta and Suisun Marsh. As it applies to the proposed project, Policy DP P1 states that new residential, commercial, or industrial development is required to be limited to areas that city or county general plans designate for residential, commercial, and industrial development in cities or their spheres of influence as of the date of the Delta Plan's adoption on May 16, 2013. This policy is intended to strengthen existing communities while protecting farmland and open space, providing land for ecosystem restoration needs, and reducing flood risk.

The City should acknowledge Policy DP P1 in the regulatory setting for the Land Use and Planning section of the EIR, as well as in the growth inducement discussion.

Fairfield Forward 2050

Jessie Hernandez

April 19, 2024

Page 5

The EIR should document how the proposed project is consistent with Policy DP P1 and analyze how the proposed project would avoid the potential to induce new residential, commercial, or industrial development in the Suisun Marsh that would be inconsistent with this policy.

Delta as Place Policy 2: Respect Local Land Use when Siting Water or Flood Facilities or Restoring Habitats

Delta Plan Policy **DP P2** (Cal. Code Regs., tit. 23, § 5011.) reflects one of the Delta Plan's charges to protect the Delta as an evolving place by siting water management facilities, ecosystem restoration, and flood management infrastructure to avoid or reduce conflicts with existing or planned future land uses when feasible, considering comments from local agencies and the Delta Protection Commission.

The City should acknowledge Policy DP P2 in the regulatory setting for the Land Use, Agricultural Resources, Transportation and Utilities sections of the EIR. The EIR should describe the project process to avoid or reduce conflicts with existing or planned future land uses.

CLOSING COMMENTS

As the City proceeds with design, development, and environmental impact analysis of the project, the Council invites the City to engage Council staff in early consultation, prior to submittal of a Certification of Consistency, to discuss project features and mitigation measures that would promote consistency with the Delta Plan.

More information on covered actions, early consultation, and the certification process can be found on the Council website, <https://coveredactions.deltacouncil.ca.gov>. Council staff are available to discuss issues outlined in this letter as the City proceeds in the next stages of its project and approval processes. Please contact Eva Bush at (916) 284-1619 or eva.bush@deltacouncil.ca.gov with any questions.

Sincerely,



Jeff Henderson, AICP
Deputy Executive Officer