



## **ACTION ITEM**

### Consideration and Possible Approval of the Delta Adapts Vulnerability Assessment and California Environmental Quality Act Exemption

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**Summary:** Delta Adapts: Creating a Climate Resilient Future (Delta Adapts) is the Council's climate change study consisting of a first-ever climate change Vulnerability Assessment and Adaptation Strategy for the Delta and Suisun Marsh. Council staff will present the Delta Adapts final Vulnerability Assessment and the process for incorporating public comments from the 60-day public comment period. Staff is seeking any final comments on the Vulnerability Assessment and recommends the Council adopt the Resolution approving the Vulnerability Assessment with attachments and an exemption from the California Environmental Quality Act (CEQA).

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#### **REQUESTED ACTION**

Staff requests that the Council adopt proposed Resolution 2021-1 to find that the Vulnerability Assessment, with attachments, is exempt from CEQA and approve the Vulnerability Assessment.

#### **BACKGROUND**

The Delta Reform Act defines "restoration" as including the consideration of "the future impact of climate change and sea level rise" (Water Code [Wat. Code] section 85066) and identifies a timeline horizon of the year 2100 for the restoration of large areas of interconnected habitats within the Delta and its watershed (Wat. Code section 85302(e)(1)). The Delta Reform Act also notes that the Delta Plan may address "the effects of climate change and sea level rise on the three state highways that cross the Delta" (Wat. Code section 85307(c)). Executive Order B-30-15, signed by Governor Brown in April 2015, requires State agencies to incorporate climate change into planning and investment decisions. State agencies are also required to prioritize natural infrastructure and actions for climate preparedness and to protect the most vulnerable populations.

Climate change is already altering the physical environment of the Sacramento-San Joaquin Delta and Suisun Marsh (Delta). Over the long term, climate change in the Delta is expected to adversely affect human health and safety, lead to economic disruptions, diminish water supply, degrade water quality, shift ecosystem function and habitat qualities, and increase the challenges of providing basic services. Many of these impacts will disproportionately affect disadvantaged communities. Delta Adapts will help the Council assess specific

climate risks and vulnerabilities in the Delta and, in coordination with a diverse group of stakeholders, develop adaptation strategies to address those vulnerabilities.

Delta Adapts consists of two phases: 1) a **vulnerability assessment** to improve understanding of regional vulnerabilities due to climate change in order to protect the vital resources the Delta provides to California and beyond, with a focus on State interests and investments, followed by 2) an **adaptation strategy** detailing the strategies and tools available for state, regional, and local governments to use in helping communities and ecosystems thrive in the face of climate change.

Delta Adapts has an overarching goal of building climate resilience in the Delta, along with several more specific goals to:

- inform future work at the Council;
- provide local governments with a toolkit of information to incorporate into their regulatory and planning documents;
- integrate climate change into the state's prioritization of future Delta actions and investments; and
- serve as a framework to be built upon by the Council and others in years to come.

The Council released a public review draft Vulnerability Assessment and its supporting attachments in January 2021 with a 60-day public comment period that closed on March 16, 2021.

## **OUTREACH AND ENGAGEMENT**

In addition to considering public comments received during the 60-day public comment period, Council staff incorporated input from various outreach and engagement activities to ensure that Delta-region stakeholders were informed of progress and had the chance to provide input to help shape the Vulnerability Assessment and engagement approach. During the development of the Vulnerability Assessment, outreach and engagement activities included Stakeholder Work Group and Technical Advisory Committee meetings, stakeholder briefings and presentations, meetings with community-based organizations, Council meetings, various public outreach materials such as a video and interactive Story Map, and a virtual community workshop. In addition to these activities, Council staff worked closely with numerous agency partners, scientists, and experts throughout the development of the technical analyses. Input received from these outreach and engagement activities informed the

Vulnerability Assessment in many ways, as discussed in the Outreach and Engagement Summary; a supporting attachment to the Vulnerability Assessment available at: <https://deltacouncil.box.com/s/c58gdpf472fkzfiewuhr6e2obff4mtyw>.

## **PUBLIC REVIEW DRAFT AND PUBLIC COMMENTS**

On January 15, 2021, the Council released the draft Delta Adapts Vulnerability Assessment for public review, along with supporting technical documents. A 60-day public comment period closed on March 16, 2021. A total of 19 comment letters were received representing individuals, State, regional, and local agencies, and jurisdictions, including flood control agencies and reclamation districts, community-based and non-profit organizations, and private entities. Letters included many individual comments on the public review draft Vulnerability Assessment and supporting technical documents. Comments generally fell into the following broad categories:

### *General and Narrative Comments*

Several comments were broad, overarching comments on the Delta Adapts initiative. For example, some comments expressed that the public draft Vulnerability Assessment should more clearly and consistently explain the Council's authority to undertake the Delta Adapts initiative; other comments emphasized the importance of including more visuals and a glossary of technical terms in the Vulnerability Assessment to make it more accessible and easier to understand. Many were specific, sentence-level comments suggesting clarification of certain phrasing or suggesting an alternate narrative.

### *Flood Hazard*

Many comments related to the flood hazard assessment. For example, various commenters stated that the flood hazard analysis should include flooding due to other modes of levee failure, in addition to levee overtopping, and that the analysis should not assume existing regulatory conditions and levee heights but should instead assume the continuation of historical funding and progress on levee improvements. Some commenters asked that the flood hazard maps include a disclaimer clearly stating the modeling assumptions used for the flood hazard analysis, and that the maps are not formal flood maps such as those developed by the Federal Emergency Management Agency.

### *Water Supply and Drought*

Many comments were also related to water supply and drought. For example, comments noted that the water supply reliability analysis is too focused on analyzing impacts to Delta exports and should include a more robust analysis of in-

Delta water supply impacts, as well as other out-of-Delta variables; that the Vulnerability Assessment should incorporate and better emphasize the Council's statutory requirement to encourage reduced reliance on Delta exports through improved regional water self-reliance; and that the Vulnerability Assessment should include a more robust assessment of impacts of reduced Delta exports on populations outside of the Delta served by exports. Commenters also requested clarification regarding the time periods and sea level rise scenarios used in the modeling supporting the Vulnerability Assessment, as well as fuller consideration of statewide economic impacts resulting from drought. Some comments also asked that the water supply analysis include impacts to water quality, including impacts from harmful algal blooms.

Additional comments expressed that the Vulnerability Assessment does not adequately consider the impacts of future droughts on people and communities, including Delta communities and those who depend on Delta water exports.

#### *Ecosystem*

Comments on the ecosystem technical memorandum focused on the scope of the analysis, consideration of secondary effects from climate change, and social and institutional considerations. Commenters noted that there is uncertainty regarding future sediment loads, questioned using avian species as a proxy for other species, and noted that social science research is needed to address the implications of potential land-use change. Commenters also noted that ecosystems are complex systems that interact with existing agricultural land use, that it would be helpful to expand the scope of the assessment to examine impacts to a broader range of fish and other species, and that climate change may affect the food chain in the Delta.

#### *Equity Analysis and Vulnerable Communities*

Several comments related to the equity analysis for the Vulnerability Assessment, including the social vulnerability index used to identify the most socially vulnerable communities. For example, commenters expressed that the social vulnerability index (SVI) would be more useful if expanded to cover entire jurisdictional areas intersecting with the legal Delta (e.g., counties or block groups) instead of only covering areas within the legal Delta. Other comments expressed that the equity analysis did not adequately assess the vulnerability of small, rural communities that are not highlighted by the SVI, and that the Vulnerability Assessment report does not adequately assess the vulnerability of certain populations, such as farmworkers and students. Other comments expressed that the equity analysis should identify the neighborhoods identified as most socially vulnerable rather than identifying the census block group numbers for these areas.

*Other*

Other comments related to the agriculture assessment, including comments related to salinity and Delta agriculture. Many comments related directly to the upcoming Adaptation Strategy. For example, commenters emphasized the importance of including farmer and farmworker perspectives during the Adaptation Strategy development. A few comments emphasized the importance of considering options for long-term subsidence reversal in the Adaptation Strategy, including strategies that align with Delta agriculture and local economies, as well as flood control measures. For example, commenters provided examples such as levee setbacks and managed subsidence reversal wetlands or rice production. These comments will be revisited and considered during the development of the Adaptation Strategy.

**INCORPORATION OF PUBLIC COMMENTS**

After reviewing the public comments received, Council staff considered each comment and, where appropriate, added additional content or edited existing content. For example, additional content was added to the Vulnerability Assessment to discuss communities and populations most vulnerable to drought and water supply shortages. To address comments related to making the Vulnerability Assessment more visually appealing, staff added additional visuals and a glossary of terms defining technical terms. A disclaimer was also added to each flood hazard map to explain the modeling assumptions clearly and better communicate what the maps show.

While many text edits were made in response to comments, staff are not recommending that the modeling used to inform the technical analyses be revised. This recommendation is made based on different reasons for each topic area but can be broadly characterized as either: a) no significant change was anticipated, b) alternative data or models were not available, c) a revision would require making wide-ranging or speculative assumptions, or d) because staff anticipates conducting new modeling as part of the Adaptation Strategy. For example, staff reaffirmed that it is not feasible to incorporate future changes in regulatory assumptions and levee heights in the flood hazard modeling for the Vulnerability Assessment, but that such changes could be considered in modeling completed to support the Adaptation Strategy.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE**

Council staff has determined that the Delta Adapts Vulnerability Assessment with attachments are exempt from the California Environmental Quality Act (CEQA) under the following exemptions:

*Class 6 Categorical Exemption – Information Collection (14 CCR section 15306) (State CEQA Guidelines)*

The Class 6 categorical exemption “consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.” (CEQA Guidelines section 15306.) The Vulnerability Assessment with attachments is a study that may lead to an action that the Council has not yet approved, adopted, or funded. It has involved data collection and research in the form of consulting with other public agencies, public input, and the input of a Technical Advisory Committee. None of these activities involved or resulted in a disturbance to environmental resources. Therefore, the Vulnerability Assessment is exempt from CEQA under CEQA Guidelines Section 15306.

*Statutory Exemption – Feasibility and Planning Studies (Public Resources Code section 21102; 14 CCR section 15262 (State CEQA Guidelines)*

“A project involving only feasibility or planning studies for possible future actions which the agency... has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors.” (CEQA Guidelines section 15262.) The Vulnerability Assessment with attachments involves only evaluations of scientific climate change information and may lead to recommendations for possible future planning actions (it is the first step in a planning study) that the Council has not yet approved, adopted, or funded; it will not have a legally binding effect on later activities and will not have a significant effect, or any physical effect, on the environment. Because this is only the first step of a planning study, there are no environmental factors to consider. Therefore, the Vulnerability Assessment is exempt from CEQA under CEQA Guidelines Section 15262 and Public Resources Code Section 21102.

*Common Sense Exemption (14 CCR section 15061(b)(3)) (State CEQA Guidelines)*

“CEQA applies only to projects, which have the potential for causing a significant effect on the environment.” Pursuant to the “common sense exemption,” “[a] project is exempt from CEQA...[w]here it can be seen with a certainty that there is no possibility that the activity in question may have a significant effect on the

environment....” (State CEQA Guidelines section 15061(b)(3).) The Vulnerability Assessment with attachments consists of an evaluation of the best available scientific information concerning climate change impacts and vulnerabilities in the Delta and makes findings regarding existing and future climate vulnerabilities in the Delta. The Vulnerability Assessment informs a future Adaptation Strategy, which may make recommendations regarding possible changes to the Delta Plan and other Council activities for future consideration by the Council as part of an ongoing planning process. Any recommendations on possible changes to the Delta Plan or other Council documents would be considered a separate process and are outside the scope of Delta Adapts. As the Vulnerability Assessment involves only the study of evaluations and recommendations for possible future planning actions, the Vulnerability Assessment will not have a significant effect, or any physical effect, on the environment. Therefore, the Vulnerability Assessment with attachments is **exempt from CEQA under CEQA Guidelines Section 15161(b)(3).**

#### **TODAY’S MEETING AND NEXT STEPS**

At today’s meeting, staff will present the final Vulnerability Assessment (included as **Attachment 1** to this staff report), provide an overview of the process for reviewing and incorporating public comments on the public review draft, and ask the Council for input. All supporting attachments to the Vulnerability Assessment are available and can be found at:

<https://deltacouncil.box.com/s/c58gdpf472fkzfiewuhr6e2obff4mtyw>. Members of the public will also have the opportunity to offer comments during the meeting. Staff will then ask the Council to adopt the proposed Resolution 2021-1 (**Attachment 2**) to find that the Vulnerability Assessment, which includes supporting attachments, is exempt from CEQA and approve the Vulnerability Assessment.

The final Vulnerability Assessment with attachments will be posted to the Council’s Delta Adapts webpage. Interested parties will be notified through the Council’s email listserv. Council staff will continue the development of the next phase of Delta Adapts, the Adaptation Strategy.

#### **STAFF RECOMMENDATION FOR COUNCIL ACTION**

Today, Council staff is recommending that the Council approve Resolution 2021-1, which is Attachment 2 to this staff report, which will:

- 1) Find that the Delta Adapts Vulnerability Assessment is exempt from CEQA pursuant to State CEQA Guidelines Sections 15161(b)(3), 15306, and 15262, and Public Resources Code section 21102; and
- 2) Approve the Delta Adapts Vulnerability Assessment; and

- 3) Direct the Executive Officer, or delegee, to take such next steps and actions as appropriate to affect the intent of the Resolution.

#### **FISCAL INFORMATION**

The Council has an ongoing contract with AECOM to support Council staff efforts on the Delta Adapts Vulnerability Assessment and Adaptation Strategy. The contract total is \$830,000, and the end date is June 30, 2023.

#### **LIST OF ATTACHMENTS**

- Attachment 1: Delta Adapts Vulnerability Assessment
- Attachment 2: Resolution 2021-1: Determination of CEQA Exemption and Approval of Delta Adapts Vulnerability Assessment

#### **LIST OF ONLINE SUPPORTING ATTACHMENTS (FOUND HERE:**

<HTTPS://DELTACOUNCIL.BOX.COM/S/C58GDPF472FKZFIEWUHR6E2OBFF4MTYW>)

- Flood Hazard Assessment Technical Memorandum
- Water Supply Technical Memorandum
- Ecosystem Technical Memorandum
- Equity Technical Memorandum
- Crop Yield and Agricultural Production Technical Memorandum
- Economic Impact and Exposure Analysis Technical Memorandum
- Outreach and Engagement Summary
- Planning Context

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