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DELTA STEWARDSHIP COUNCIL

A California State Agency

Chair
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February 25, 2020

Metropolitan Transportation Commission

Bay Area Metro Center
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San Francisco, CA 94105-2066

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Via email to Martha Silver: MSilver@bayareametro.gov
Agenda Item: #9B

RE: Comments on Proposed New Priority Development, Production, and Conservation Area Designations for Plan Bay Area 2050

Dear Commission Members:

The Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act) requires the Delta Stewardship Council (Council) to review and advise local and regional planning agencies regarding the consistency of planning documents, including sustainable communities strategies and alternative planning strategies, with the Delta Plan.¹ The Delta Plan requires a metropolitan planning organization preparing a regional transportation plan that includes land within the Delta² primary or secondary zones to consult with the Council early in the planning process regarding the issues and policy choices relating to the Council's advice. (Cal. Water Code § 85212 (Section 85212)).

The Metropolitan Transportation Commission (MTC) is currently engaged in a public process to prepare preliminary components of Plan Bay Area 2050, a regional transportation plan and sustainable communities strategy for the nine-county San Francisco Bay Area region. Portions

¹ The Delta Stewardship Council is an independent state agency established by the Delta Reform Act, which is codified in Division 35 of the California Water Code, Sections 85000-85350. The Reform Act charges the Council with furthering California's coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta (Delta) ecosystem, 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. (Cal. Water Code § 85054.) Pursuant to the Delta Reform Act, the Council has adopted the Delta Plan, a legally enforceable management framework for the Delta and Suisun Marsh for achieving the coequal goals. (Cal. Water Code § 85001(c).)

² Pursuant to Water Code Section 85058, "Delta" means the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code and the Suisun Marsh as defined in Section 29101 of the Public Resources Code.

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall 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."

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of the nine-county MTC region, specifically Solano County and Contra Costa County, include lands within the Delta primary and secondary zones. Section 85212 requires MTC to provide to the Council:

- a draft sustainable communities strategy and an alternative planning strategy, if any, no later than 60 days prior to the adoption of the final Plan Bay Area 2050; and
- concurrent notice of its submission of the strategy(ies) via electronic mail to coveredactions@deltacouncil.ca.gov.

If the Council concludes that the submitted draft sustainable communities strategy (or alternative planning strategy) is inconsistent with the Delta Plan, it will provide to MTC a written notice of the claimed inconsistency no later than 30 days prior to the adoption of the final Plan Bay Area 2050. If MTC receives a timely written notice of inconsistency from the Council, MTC's adoption of the final Plan Bay Area 2050 must include a detailed response to the Council's notice. (Cal. Water Code § 85212).

The Council understands that MTC anticipates completing a draft of Plan Bay Area 2050 for submission to the Council in mid-2021. As a preliminary step, the MTC and the Association of Bay Area Governments (ABAG) will consider and take action to establish new locally-nominated Priority Development Areas (PDAs), Priority Production Areas (PPAs), and Priority Conservation Areas (PCAs) to be included in a Plan Bay Area 2050 Draft Blueprint in March 2020. The Council understands that MTC and the ABAG Board will also consider and take action on select Transit-Rich Areas (TRAs) and High-Resource Areas (HRAs), in order to make better use of transit investments, helping to reduce greenhouse gas emissions, meet housing needs, and increase mobility.

The MTC consulted with Council staff on December 12, 2019 and January 22, 2020 to discuss the project. This early engagement will enable the Council to offer timely advice on the consistency of Plan Bay Area 2050 with the Delta Plan. This letter highlights the key requirements of the Delta Reform Act pertaining to Plan Bay Area 2050, and provides advice regarding consistency with the Delta Plan of the new PDAs, PPAs, PCAs, TRAs, and HRAs located within the Delta (collectively referred to as "growth areas").

Locate New Urban Development Wisely

Delta Plan Policy **DP P1** (23 Cal. Code Regs. § 5010) places certain limits on new urban development within the Delta. New residential, commercial, and industrial development must be limited to certain areas that city or county general plans designate for such development as of the date of the Delta Plan's adoption (May 16, 2013). In Contra Costa County, new residential, commercial, and industrial development within the Delta must be limited to areas within the 2006 voter-approved urban limit line (ULL). This policy is intended to strengthen existing Delta communities while protecting farmland and open space, providing land for ecosystem restoration needs, and reducing flood risk.

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State and local agencies are required to demonstrate consistency with this policy when carrying out, approving, or funding a covered action. However, the Delta Reform Act exempts actions within the Delta secondary zone that a metropolitan planning organization determines are consistent with a sustainable community strategy or alternative planning strategy that the State Air Resources Board has determined would achieve regional greenhouse gas emission reduction targets. Such proposed actions are not covered actions regulated by the Council (Cal Water Code § 85057.5(b)(4)). This statute provides MTC with a significant role in shaping the State's Delta policy in urban and suburban areas. The Council's role at this point in the process is to advise MTC's selection of growth areas for the proposed Plan Bay Area 2050 Blueprint to ensure they provide for wise residential, commercial, and industrial development that does not compromise Delta water supply reliability or ecosystem restoration, or negatively impact the Delta as an evolving place.

Plan Bay Area Growth Areas

Four of the five categories of growth areas proposed for Plan Bay Area 2050 will promote new residential, commercial, and/or industrial development and increase the efficiency of transportation infrastructure:

- **PDA**s are locally-nominated places within walking distance of transit service that local jurisdictions have planned, or are committed to planning, for additional housing, including affordable housing.
- **PPA**s are locally-nominated industrial areas that are critical to the functioning of the Bay Area economy, and the protection and expansion of middle-wage jobs.
- **TRA**s are geographic areas within which a majority of land is located within a one half-mile radius of high-quality transit.
- **HRA**s are geographic areas within which a majority of land offers “the best chance at economic advancement, high educational attainment, and good physical and mental health” as defined by the California Department of Housing and Community Development.

According to MTC's Regional Growth Framework, only areas fully within an existing urbanized area, and undeveloped areas within an established urban growth boundary (UGB) or limit line (ULL), are eligible to be nominated as PDAs and PPAs. Thus, by definition, new residential, commercial, or industrial development within these areas should be consistent with DP P1. Council staff have reviewed the new locally-nominated PDA and PPA boundaries within and adjacent to the Delta, and have confirmed that the following proposed areas would be consistent with DP P1 (**Table 1**).

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Table 1. Locally-Nominated Growth Areas within and adjacent to the Delta

County	Growth Area Name	Within City, SOI, or ULL
Solano	Northern Gateway - Benicia's Industrial Park PPA	City of Benicia
	Fairfield PPA	City of Fairfield
	Downtown Rio Vista PDA	City of Rio Vista
	Rio Vista PDA	City of Rio Vista
	Suisun City Gentry (Westside) PPA	Suisun City SOI
Contra Costa	Northern Waterfront Industrial Corridor PPA	City of Antioch, Antioch
	Brentwood Transit Village PDA	City of Brentwood
	Downtown Brentwood PDA	City of Brentwood
	Brentwood Blvd PDA	City of Brentwood, Brentwood SOI
	Employment Area PPA	City of Oakley
	Northern Waterfront PPA	City of Pittsburg
	Pittsburg Bay Point Connected Community PDA (modified)	Pittsburg SOI
	Pittsburg Bay Point Transit Rich PDA (modified)	Pittsburg SOI
	Byron Airport PPA	Unincorporated, 2006 Contra Costa County ULL

One proposed PPA in Solano County adjacent to but outside of Suisun Marsh (Suisun City Eastside PPA) is located within Suisun City's SOI, on land designated in the Solano County General Plan as Agriculture. The Council would need additional information on this proposed site to better understand the potential for industrial development at the site to impact Suisun Marsh.

The Proposed Draft Blueprint Growth Geographies map (Attachment A to ABAG Resolution No. 03-2020 and MTC Resolution No. 4410) indicates that two TRAs are proposed within the Delta (see **Table 2**). Both appear to be located within Contra Costa County's 2006 voter-approved ULL. No HRAs are proposed within the Delta.

Table 2. Additional Growth Areas under consideration within the Delta

County	Growth Area Name	Within City, SOI, or ULL
Contra Costa	Bay Point BART station area TRA	City of Pittsburg
	Antioch BART station area TRA	City of Antioch

As MTC continues to develop the Plan Bay Area 2050 Blueprint and initiates environmental review of the Plan, MTC should evaluate whether any of the growth areas located within or adjacent to the Delta have the potential to induce residential, commercial, or industrial development that would be inconsistent with DP P1.

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Ecosystem Restoration Needs

Section 85212 of the Delta Reform Act requires that the Council's input on local and regional planning documents, including sustainable communities strategies, include, but not be limited to reviewing:

- the consistency of local and regional planning documents with the ecosystem restoration needs of the Delta; and
- whether the lands set aside for natural resource protection are sufficient to meet the Delta's ecosystem needs.

The Delta Plan designates six priority habitat restoration areas (PHRAs) that have the greatest potential for large-scale habitat restoration and are therefore necessary to meet the ecosystem restoration needs of the Delta (Delta Plan, Chapter 4, p. 136-138; depicted in Delta Plan Figure 4-6: <http://www.deltacouncil.ca.gov/pdf/delta-plan/figure-4-8-habitat-restoration-projects.pdf>). Delta Plan Policy **ER P3** (23 Cal. Code Regs. § 5007) states that significant adverse impacts to the opportunity to restore habitat in these areas must be avoided or mitigated.

Four PHRAs are located partially or wholly within the Plan Bay Area 2050 planning area: (1) Suisun Marsh; (2) Cache Slough; (3) the southern and western portions of the Yolo Bypass; and (4) the Winter Island and Dutch Slough portions of the Western Delta PHRA. The Council uses these areas to determine the consistency of Plan Bay Area 2050 with the ecosystem restoration needs of the Delta.

Plan Bay Area 2050 Conservation Areas

Plan Bay Area 2050 PCAs are locally-nominated geographic areas consisting of farmland, ecologically sensitive areas, and other open spaces in need of permanent protection, or urban areas prioritized for additional greenspace and open space access. Within the Plan Bay Area 2050 Blueprint, PCAs are "lands set aside for natural resource protection."

The current version of Plan Bay Area features only one PCA that overlaps with a Delta Plan PHRA. The East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCC HCP/NCCP) PCA, which covers the Dutch Slough portion of the Delta Plan's Western Delta PHRA, was established in 2008. The remaining Delta Plan PHRAs do not have corresponding PCA designations in the current plan.

A new Cache Slough PCA in Solano County proposed as part of the Plan Bay Area 2050 Blueprint appears to align with the Delta Plan Cache Slough PHRA. The Council supports establishment of the Cache Slough PCA, and encourages additional locally-nominated PCA designations that recognize and align with the remaining Delta Plan PHRAs located within Solano County and Contra Costa County.

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In particular, the Council encourages MTC to consider including the Suisun Marsh PHRA as a proposed PCA. The Suisun Marsh is a truly unique place in California, being the largest contiguous brackish wetland on the west coast. It is important habitat for numerous native wildlife species including delta smelt, longfin smelt, Sacramento splittail, salt marsh harvest mouse, Ridgway's rail, and black rail, and is critical habitat for native special-status plants like Suisun thistle, Suisun aster, soft bird's beak, Delta tule pea, and Mason's Lilaeopsis. The extensive managed wetlands located throughout Suisun Marsh serve as important habitat for migratory waterfowl along the Pacific Flyway.

Designating Cache Slough, Suisun Marsh, the southern and western portions of the Yolo Bypass, and Winter Island as PCAs would complete the alignment of Plan Bay Area's PCAs with the Delta Plan PHRAs, demonstrating that lands set aside for natural resource protection are sufficient to meet the Delta's ecosystem needs and that Plan Bay Area 2050 is consistent with the ecosystem restoration needs of the Delta and the Delta Plan.

Plan Bay Area Growth Areas

Several of the locally-nominated PDAs and PPAs are located adjacent to the Suisun Marsh PHRA. As MTC continues to develop the Plan Bay Area 2050 Blueprint and initiates environmental review of the project, MTC should evaluate whether any of the proposed PDAs or PPAs adjacent to Suisun Marsh would have the potential to induce residential, commercial, or industrial development that would be inconsistent with ER P3 and the ecosystem restoration needs of the Delta.

Closing Comments and Next Steps

As proposed, the locally-nominated growth areas appear to generally align with the Delta Plan, although there are additional opportunities to identify locally-proposed PCAs that correspond to Delta Plan PHRAs. While these areas form a central part of the Plan Bay Area 2050 Blueprint, they are only one part of Plan Bay Area 2050. The Council understands that MTC is actively developing strategies to support housing and job growth, meet greenhouse gas emissions targets, increase resilience to sea level rise and earthquakes, and improve regional equity. We appreciate MTC's invitation to inform these strategies through the Regional Advisory Working Group. Council staff look forward to continued consultation and collaboration on these strategies, and other aspects of the plan.

As MTC proceeds with development and environmental impact analysis for Plan Bay Area 2050, the Council invites MTC to continue to engage Council staff to ensure consistency between Plan Bay Area 2050 and the Delta Plan, to ensure that the two Plans are complementary in nature and serve to protect the Delta while promoting sustainable growth and economic vitality in the broader region.

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Please contact Avery Livengood at (916) 445-0782 or Avery.Livengood@deltacouncil.ca.gov with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Henderson", with a long horizontal line extending to the right.

Jeff Henderson, AICP

Deputy Executive Officer

Delta Stewardship Council

CC: Dave Vautin, Michael Germeraad, Rachael Hartofelis, Mark Shorett