



**Delta
Stewardship
Council**

A CALIFORNIA STATE AGENCY

October 9, 2023

Scott Johnson

City of Sacramento

300 Richards Blvd., 3rd Floor

Sacramento, CA 95811

Delivered via email: MEIR@cityofsacramento.org

**RE: Comments on Draft Master Environmental Impact Report for
the City of Sacramento 2040 General Plan Update and Climate
Action & Adaptation Plan, SCH# 2019012048**

Dear Scott Johnson:

Thank you for the opportunity to review and comment on the City of Sacramento (City) 2040 General Plan Update and Climate Action & Adaptation Plan Draft Master Environmental Impact Report (DMEIR). The Delta Stewardship Council (Council) recognizes that the objective(s) of the City's General Plan Update and Climate Action & Adaptation Plan (project) are to determine the extent and types of development needed to achieve the community's long-range vision for physical, economic, social, and environmental goals, achieve compliance with applicable State and regional policies and provide the basis for establishing and setting priorities for detailed programs.

The Council is an independent state agency established by the Sacramento-San Joaquin Delta Reform Act of 2009, codified in Division 35 of the California Water Code, sections 85000-85350 (Delta Reform Act). The Delta Reform Act charges the

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Council with furthering California's coequal goals of providing a more reliable water supply and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta (Delta) ecosystem. (Water 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. (Wat. Code, § 85300.) The Delta Plan contains regulatory policies, which are set forth in California Code of Regulations, Title 23, sections 5001-5015. 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, 85225.30.) 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 initiating the implementation of the project. (Wat. Code, § 85225.)

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 appears to 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 Section 21065 of the Public Resources Code 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 plan area includes portions of the Delta within the City limits and sphere of influence.

(2) Will be carried out, approved, or funded by a State or a local public agency. The project will be approved by the City of Sacramento, a local public agency.

(3) Is covered by one of the provisions of the Delta Plan. Future development under the project is covered by Delta Plan policies described below.

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(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 could have a significant impact on achievement of both of the coequal goals.

The State or local agency approving, funding, or carrying out the project must determine if that project is a covered action and, if so, file a Certification of Consistency with the Council prior to project implementation. (Wat. Code, § 85225; Cal. Code Regs., tit. 23, § 5001(j)(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 DMEIR. This information is offered to assist the City to prepare final environmental documents that could be used to support a Certification of Consistency for the project.

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 must be addressed in a Certification of Consistency by a certifying agency. The following is a subset of policy requirements which a project shall 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 the California Environmental Quality Act (CEQA) must include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan (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>.

The DMEIR identifies numerous significant impacts that require mitigation. The City should review Delta Plan Appendix O and include all applicable

feasible mitigation measures adopted and incorporated into the Delta Plan or identify substitute mitigation measures that the agency 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 must document 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>). A future certification of consistency should describe how best available science was applied in decision making regarding the project.

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. As it applies to the General Plan Update, Policy DP P1 states that new residential, commercial, or industrial development must 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 (May 16, 2013). 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.

The General Plan Update includes updates to numerous Special Status Areas, including the Town of Freeport Special Study Area within the City’s sphere of influence as shown on *Figure 2-3 Community Plan Areas* in the DMEIR.

Approximately one third of the Town of Freeport Study Area is located within the [Legal Delta as defined by the Delta Plan](#).

In the Final MEIR, the City should identify the extent to which implementation of the project would result in land use changes within portions of the City and its sphere of influence located within the legal Delta, relative to designations that were in place in May 2013. The City should acknowledge Policy DP P1 in the regulatory setting for *Chapter 3 Land Use, Population, and Housing* of the DMEIR as well as in the growth inducement discussion. A future certification of consistency should

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document how the General Plan is consistent with Policy DP P1 and describe how the proposed project would avoid the potential to induce new residential, commercial, or industrial development in the Delta that would be inconsistent with this policy.

CLOSING COMMENTS

As the City proceeds with environmental impact analysis and implementation 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 plan policies 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 Pat Kelly at patricia.kelly@deltacouncil.ca.gov with any questions.

Sincerely,

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

Jeff Henderson, AICP
Deputy Executive Officer