

## Summary of Major Comments on the 5<sup>th</sup> Staff Draft Delta Plan and Alternatives for Potential Responses in the Final Staff Draft Delta Plan

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**Summary:** This report and the attached tables respond to the Council's direction at its March 15- 16 meeting seeking additional information about major comments on the 5<sup>th</sup> staff draft Delta Plan. Staff will present information in Table 1 in detail and request direction regarding the nine major topics it presents. These are the major comments on which direction from the Council is especially needed to guide completion of the final staff draft Delta Plan. Table 2 provides working drafts of all the policies and recommendations being considered in development of the final staff draft Delta Plan. Table 3 presents representative examples of all the comments on the 5<sup>th</sup> staff draft Delta Plan. These are provided primarily for informational purposes.

Staff requests the Council's direction on the final staff draft Delta Plan's responses to these comments.

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### **Background**

At the March 15-16 Council meeting, staff presented tables summarizing key comments on the 5<sup>th</sup> staff draft Delta Plan, as well as staff's proposed responses in the final staff draft Delta Plan. These comments were derived from the many comments received on the 5<sup>th</sup> staff draft plan. Sources of comments included local, State and federal agencies, water users, environmental groups, Delta citizens, the Delta Independent Science Board, and the Delta Protection Commission's *Proposal to Protect the Delta as an Evolving Place*.

At the March 15-16 meeting, during discussion of these comments, the Council directed staff to return with a revised report highlighting items that continue to present issues where further direction from the Council is needed. The Council also requested information on comments received on each item and alternative approaches, including the staff's recommendations, to address these comments. Council members also requested information about other comments that staff had assessed as non-controversial or that would not result in major changes between the 5<sup>th</sup> and final staff draft plans.

This staff report responds to the Council's request for a more focused discussion on key comments of concern and for additional information on all other comments for the 5<sup>th</sup> staff draft Delta Plan.

This information is presented in three tables. A description of the information in the tables is provided below.

## **Major Comments on the 5<sup>th</sup> Staff Draft Delta Plan and Proposed Alternatives for Addressing Comments**

Table 1 summarizes comments on nine key topics in the 5<sup>th</sup> staff draft Delta Plan on which the Council sought more information about representative responses to include in the final staff draft plan. To aid discussion, this table presents language from the 5<sup>th</sup> staff draft Delta Plan, representative comments on those plan provisions, staff's proposed response to these comments and several alternative approaches to addressing the comments. These nine key topics were selected from the 32 items presented to the Council on March 15 and 16.

These nine key topics are:

- Defining achievement of the co-equal goals and reorganizing the draft Delta Plan to emphasize these goals, and provide a better vision of what achieving them would entail, including a clearer description of how they would be achieved by the Delta Plan
- Covered actions, exemptions and determination of "significance"
- Policy GP 1: Consistency with the Delta Plan (Chapter 3 Governance)
- Policy ER P1: Update Delta Flow Objectives (Chapter 5 Restore the Delta Ecosystem)
- Policy WR P1: Reduced Reliance on the Delta (Chapter 4 Reliable Water Supply for California)
- Policy RR P4: Priorities for State Investments in Delta Levees (Chapter 7 Reduce Risk to People, Property and State Interests in the Delta)
- Policy WQ P1: Water Quality in the Delta (New proposed policy for Chapter 6 Water Quality in the Delta)
- Policy DP P1: Locate new development wisely (New proposed policy for Chapter 8 Delta as Evolving Place)
- Policy DP P2: Respect local land use (New proposed policy for Chapter 8 Delta as Evolving Place)

It should be noted that an additional revision is proposed for Policy GP 1: *Consistency with the Delta Plan* that was not presented at the March 15 and 16 meeting. Specifically, revised language would require covered actions to incorporate the Delta Plan EIR's mitigation measures or a substantial equivalent. This revision stems from the fundamental purpose of an EIR which is to identify ways in which a proposed project's significant environmental impacts can be mitigated or avoided (Pub. Res. Code section 21002.1(a)). Those mitigation measures then must be made enforceable, where legally permissible, by incorporating the measures into the proposed plan (Pub. Res. Code section 21081.6(b)). Incorporation of the mitigation measures is a major way to lessen the Delta Plan's impact on the environment. This is where an EIR's value is greatly felt. In the case of the Delta Plan, that value is achieved through revision to policy GP 1. Revised language for this policy is presented in Table 2.

### **Policies and Recommendations for the Final Staff Draft Delta Plan**

Table 2 summarizes all policies and recommendations included in the 5<sup>th</sup> staff draft Delta Plan as well as policies and recommendations proposed for the final staff draft plan. There are a total of 12 policies and 61 recommendations in the 5<sup>th</sup> staff draft plan. Currently, there are 16 policies and 73-75 recommendations proposed for the final staff draft plan. The three new policies under consideration for the final staff draft Delta Plan are included here as well as in Table 1 and include:

- WQ P1 *Water Quality in the Delta* (Chapter 6)
- DP P1 *Locate new development wisely* (Chapter 8)
- DP P2 *Respect local land use* (Chapter 8)

Two new recommendations may result for the final staff draft plan after discussion of possible revisions to policy WR P1 *Reduced Reliance on the Delta* (also included in Table 1 for discussion). The remaining newly proposed recommendations included in Table 2 seem non-controversial and therefore not presented in Table 1 for discussion.

### **Additional Comments on the 5<sup>th</sup> Staff Draft Delta Plan**

Table 3 summarizes all other comments that are representative of the many individual comments received on the 5<sup>th</sup> staff draft Delta Plan. These comments raise less difficult issues, seem generally narrower in scope compared to those presented in Table 1, and do not necessarily require responses that will substantially change the draft Delta Plan. In Table 3, these comments are arranged into total 82 major themes. Information provided in this table includes; the comment theme, individual comments representative of the theme, chapter number and page number if appropriate, and staff proposed responses for the final staff draft plan as appropriate. Alternatives were not analyzed for Table 3 as the responses to these comments were usually straightforward and limited to making the requested change or no change.

### **Major Delta Plan EIR Comments**

As discussed at the March 15-16 Council meeting, comments on the Delta Plan Draft EIR are another source of information about recommendations for revising the 5<sup>th</sup> staff draft Delta Plan. Major themes of comments on the Delta Plan EIR are listed below. Many comments received on the Delta Plan EIR were actually comments on the composition and structure of the Delta Plan itself, or on the BDCP rather than the Delta Plan.

Major themes of these comments are that:

- EIR analysis was too qualitative. More quantitative analysis requested.
- The level of detail of the EIR is not specific enough.
- EIR did not contain an analysis of whether the proposed Delta Plan and the four Alternatives are likely to meet the Co-Equal Goals/Project Objectives.

- Alternatives submitted by stakeholders were not precisely the same as the EIR Alternatives and/or were mischaracterized in the EIR.
- More analysis required of the benefits and consequences of more natural flows, including as relates to hydropower production, other Delta stressors, current flows, ability to increase local water self-reliance, and general impacts to areas upstream of the Delta.
- More analysis is required of potential BDCP options.
- More clarity is needed about how the EIR handled different geographic areas of the State.
- More discussion of the Delta Plan's potential socioeconomic effects is needed.
- EIR analysis was confusing in light of the imprecise and broad coverage of the proposed Delta Plan and the Council's limited direct approval authority over projects.
- Some elements of the proposed Delta Plan and/or Alternatives are infeasible.
- Delta Plan needs performance measures, otherwise the EIR's analysis of likely environmental outcomes is too speculative.
- Enforceability of the EIR mitigation measures needs to be explained more clearly.

### **Process**

This report and the attached table's present information requested by the Council at the March 15 and 16 meeting. Staff will present information in Table 1 in detail and recommend additional discussion regarding the nine major comment topics that leads to direction from the Council on proceeding with the final staff draft. Tables 2 and 3 are primarily for informational purposes and reference material for the Council. Subsequent discussion may result from Council member review of these two tables.

### **List of Attachments**

- Attachment 1: Table 1-Major Comments on the 5<sup>th</sup> Staff Draft Delta Plan and Proposed Alternatives for Addressing Comments
- Attachment 2: Table 2-Policies and Recommendations for the Final Staff Draft Delta Plan
- Attachment 3: Table 3-Additional Comments for the 5<sup>th</sup> Staff Draft Delta Plan

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