



# Delta Stewardship Council

A CALIFORNIA STATE AGENCY

August 26, 2021

Don Nottoli, Chairperson  
Delta Protection Commission  
2101 Stone Blvd., Suite 240  
West Sacramento, CA 95691

Sent via email: [dpc@delta.ca.gov](mailto:dpc@delta.ca.gov)

**RE: DRAFT Comments on the 2020 Update to the Economic Sustainability Plan for the Sacramento-San Joaquin Delta: Recreation and Tourism Chapter**

Dear Chairperson Don Nottoli:

Thank you for the opportunity to review and comment on the Delta Protection Commission's Economic Sustainability Plan for the Sacramento-San Joaquin Delta: Recreation and Tourism Chapter 2020 Update (Update)<sup>1</sup>.

The Delta Stewardship Council (Council) understands the objectives of the Update to be building on the original 2012 Economic Sustainability Plan and incorporating best available data, analysis of visitation, facility and access issues, economic activity, and emerging recreation and tourism trends. This letter constitutes the Council's review of the Update, pursuant to Public Resources Code section 29761.5(b), for consistency with the Delta Plan.

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)<sup>2</sup>. 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 River Delta (Delta) ecosystem. (Cal. 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. (Cal. Water Code § 85300.) Pursuant to the Delta Reform

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<sup>1</sup> Update available at <http://delta.ca.gov/wp-content/uploads/2020/11/RecreationChapterESP110220DRAFT-508-1.pdf>

<sup>2</sup> Comment letter available online at <https://deltacouncil.ca.gov/pdf/council-meeting/outgoing-correspondence/2021-01-22-economic-sustainability-plan-comments.pdf>

Act, the Council has adopted the Delta Plan, a comprehensive long-term management plan for the Delta and Suisun Marsh that furthers the coequal goals.

**A. Delta Protection Act and Delta Reform Act Requirements concerning the Delta Protection Commission's Economic Sustainability Plan**

The Delta Protection Act requires the Delta Protection Commission (Commission) to prepare an Economic Sustainability Plan (ESP) for the Delta region "to support increased investment in agriculture, recreation, tourism, and other resilient land uses in the Delta" (Public Resources Code, § 29761 and 29761.5). The original ESP was published in January 2012 and includes information on a range of topics including Delta agriculture, recreation and tourism, public safety, levees, and conveyance and restoration impacts. The Council notes that the 2012 ESP informed recommendations that the Commission provided to the Council during development of the 2013 Delta Plan. The Recreation and Tourism Chapter of the 2012 ESP is superseded by the Update, which the Commission approved by unanimous vote on March 18, 2021.

The Delta Protection Act requires the Commission to transmit copies of the ESP and any subsequent amendments to the Governor, Legislature, each local government as defined in Public Resources code section 29725, and the Council, within 60 days of adoption or amendment. **Within 180 days of the Commission's adoption or amendment of the economic sustainability plan, the Council shall review the economic sustainability plan for consistency with the Delta Plan** (Public Resources Code section 29761.5(b)).

**B. Summary of the Draft ESP and Update**

Since 2012, a number of changes have occurred in the region related to recreation and tourism, including: the 2019 designation of the Delta as a National Heritage Area (NHA)<sup>3</sup>, continued planning work on the Great Delta Trail, creation of a marketing taskforce ([visitCAdelta.com](http://visitCAdelta.com)), and the impacts associated with the COVID-19 pandemic. In addition, in 2015 the proposed Bay-Delta Conservation Plan pivoted to California WaterFix and EcoRestore, and subsequently in 2019 to the Delta Conveyance Project. The Delta Plan has been updated during this period as well, including amendments on Performance Measures used to track progress towards the coequal goals (including measures on recreation opportunities<sup>4</sup> and Delta tourism<sup>5</sup>), single-year water transfers, Conveyance, Storage, and

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<sup>3</sup> This action fulfills Delta Plan Recommendation 1 (DP R1), which called for designation of the Delta as a National Heritage Area.

<sup>4</sup> Recreation Opportunities Performance Measures available at <https://viewperformance.deltacouncil.ca.gov/pm/recreation-opportunities>

<sup>5</sup> Delta Tourism Performance Measures available at <https://viewperformance.deltacouncil.ca.gov/pm/delta-tourism>

Operations, and the ongoing Delta Levees Investment Strategy (DLIS)<sup>6</sup>. A potential amendment to Chapter 4 of the Delta Plan, focused on ecosystem restoration, is currently in process.

The Update recommends several actions and responsible parties to address ongoing constraints to recreation and tourism in the Delta, including: expanding access to public facilities; providing permitting assistance to small businesses; coordinating removal of hazards and abandoned vessels; expanding existing campaigns; increasing marketing efforts and implementing the NHA designation; and identifying a facilitator organization to coordinate these actions.

In a meeting held by the Commission on December 16, 2020 and during the March 25, 2021 Council meeting, Council staff requested that in the final ESP Recreation and Tourism chapter, the Commission include more information on several specific topics, including the vision, participants, and potential sources of funding for a facilitator or Joint Powers Authority (JPA) to coordinate recreation and tourism activities in the Delta; expected impacts of the National Heritage Area (NHA) designation on recreation funding and conservation; recreation preferences in and outside of the Delta and how they may be changing with factors such as climate change, proposed conveyance, and habitat restoration efforts; and, additional analysis of public land areas in the Delta that provide a dual conservation and recreation purpose.

In its January 22, 2021 comment letter on the Draft ESP and at the March 25, 2021 Council meeting, the Council again requested the final ESP Recreation and Tourism Chapter analyze and describe the vision and details for these topic areas.

The Council appreciates that the final Update includes more information on some of the areas listed above. Specifically, the final Update includes more detail and examples of a proposed Joint Powers Authority (JPA) to coordinate and help support Delta recreation. In addition, the final Update includes additional analysis of recreation preferences and how they may change alongside factors such as climate change, conveyance, and habitat restoration efforts. The final Update also describes expectations regarding how the NHA designation, alongside continued development of the Great Delta Trail and associated enhancements, can help to elevate the Delta as an evolving place and recreational destination.

### **C. Findings Regarding Consistency with the Delta Plan**

The Delta Protection Act requires the Council to review the ESP for consistency with the Delta Plan (Public Resources Code Section 29761.5(b)). Thank you for acknowledging and

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<sup>6</sup> Revisions to California Code of Regulations, Title 23, Section 5012 concerning the DLIS are not yet in effect as they have not gone through the required rulemaking process.

describing this in the Update as well as highlighting relevant Delta Plan policies and recommendations. The Update identifies one Delta Plan regulatory policy and eleven recommendations as relevant to recreation. Council staff acknowledge and appreciate the inclusion of the relevant policies and recommendations. In addition, Council staff have highlighted alternate applicable recommendations.

The Council exercises its authority through regulatory policies (set forth in Title 23 of the California Code of Regulations, Sections 5001 through 5016) and recommendations incorporated into the Delta Plan. One of these policies, Delta Plan Policy **DP P2** (Cal. Code Regs., tit. 23, § 5011) includes requirements relevant to recreational uses while other policies may indirectly impact recreation and tourism.

The Update highlights one Delta Plan regulatory policy:

- DP P1 Locate New Urban Development Wisely (23 CCR section 5010<sup>7</sup>)
- The update does not reference DP P2 (23 CCR 5011<sup>8</sup>). DP P2 requires, in relevant part, that water management facilities, ecosystem restoration, and flood management infrastructure be sited to avoid or reduce conflicts with existing uses or uses depicted in general plans, including recreational uses. While it is unlikely that a dedicated recreation project would trigger this policy, it could if there are ecosystem restoration or water/flood management components. As such, Commission staff may consider revising the Update to include reference to this policy.

The Update also highlights 11 Delta Plan recommendations:

- DP R1 Designate the Delta as a National Heritage Area
- DP R2 Designate State Route 160 as a National Scenic Byway
- DP R3 Plan for the Vitality and Preservation of Legacy Communities
- DP R9 Encourage Agritourism
- DP R11 Provide New and Protect Existing Recreation Opportunities
- DP R12 Encourage Partnerships to Support Recreation and Tourism
- DP R13 Expand State Recreation Areas
- DP R14 Enhance Nature-based Recreation
- DP R15 Promote Boating Safety
- DP R16 Encourage Recreation on Public Lands

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<sup>7</sup> Available at

[https://govt.westlaw.com/calregs/Document/I2228547007AA11E39A73EBDA152904D8?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I2228547007AA11E39A73EBDA152904D8?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

<sup>8</sup> Available at

[https://govt.westlaw.com/calregs/Document/I2228547007AA11E39A73EBDA152904D8?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I2228547007AA11E39A73EBDA152904D8?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

- DP R17 Enhance Opportunities for Visitor-serving Businesses

Council staff appreciate the inclusion of the current 11 Delta Plan recommendations highlighted in the Update. While these recommendations are non-regulatory, they provide useful context for activities described in the Update.

### **Delta Plan Policy DP P1: 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. The policy requires that new residential, commercial, and industrial development must be limited to 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) (Cal. Code Regs., tit. 23, § 5010(a)(2)). This policy is intended to strengthen existing Delta communities while protecting farmland and open space, providing land for ecosystem restoration needs, reducing flood risk, and protecting existing uses such as recreation and tourism.

This policy may apply to recreation or agritourism sites, the latter of which could be defined as industrial use depending on the specific proposed facilities. However, as specified in DP P1 subsection (c), this policy "does not cover commercial recreational visitor-serving uses or facilities for processing of local crops or that provide essential services to local farms, which are otherwise consistent with this chapter". As such, the policy may have limited applicability to the private sector and for dual processing-agritourism facilities.

The Council reviewed the Update which recognizes and provides examples of other existing regulations to limit some recreation facilities and related development (Update, p. 66). However, there is no discussion of the specific requirements of Delta Plan Policy DP P1 or acknowledgement that this may protect existing agriculture and natural resources but limit non-commercial recreation or agritourism facilities in some locations.

Given the high-level nature of the Update, no specific projects are identified. The Council expects that if projects are proposed in alignment with the Update in the future, are determined to be Covered Actions, and are not exempt as commercial recreational visitor-serving uses or local crop processing facilities, that a certification of consistency addressing DP P1 will be submitted to the Council.

***Finding:** Based on review of the Update, pursuant to Public Resources Code section 29761.5(b), the Council has not identified any inconsistency of the Update with Delta Plan Policy DP P1.*

### **Delta Plan Policy DP P2: 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. This can include conflicts with existing recreational and tourism uses, which are an important part of the Delta economy.

The Update includes potential sources of funding to help implement the identified actions. Several examples of such actions are provided under recreation enhancement (Update, pp. 80-81) including actions to "encourage and facilitate appropriate expansion to keep up with population and changing demand", "respect and protect agricultural areas", and "avoid conflict with vital habitat resources". The areas identified here appear broadly compatible with the intent of DP P2. However, we encourage the Commission, a potential future JPA, and other entities involved in recreation enhancement to consult with the Council as needed in the future and to consider both existing and planned uses, if and when this policy may be triggered.

***Finding:** Based on review of the Update, pursuant to Public Resources Code section 29761.5(b), the Council has not identified any inconsistency of the Update with Delta Plan Policy DP P2.*

### **Ecosystem Restoration Policies**

According to the Update, the Delta consists primarily of agricultural and privately-owned land. Some actions to improve recreation, such as construction or expansion of a marina could trigger other Delta Plan policies. The Commission should ensure that guidance or funding potentially provided to individuals or organizations consider other Delta Plan policies or state and federal requirements. For example, the Delta Plan includes five policies related to ecosystem restoration. One of these, ER P3 (Cal. Code Regs., tit. 23, § 5007) states that significant impacts to the opportunity to restore habitat must be avoided or mitigated in six priority habitat restoration areas that have high potential for large-scale habitat restoration (Delta Plan Chapter 4, pp. 136-138; areas depicted in Appendix 5:

[https://govt.westlaw.com/calregs/Document/I23BAB44007AA11E39A73EBDA152904D8?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I23BAB44007AA11E39A73EBDA152904D8?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))). Another policy, ER P5 (Cal. Code Regs., tit. 23, § 5009) requires avoidance of introductions of and habitat improvements for invasive nonnative species. These policies should be considered for any recreation plans or specific projects that the Commission establishes, funds, or approves in the future that are identified to be covered actions.

***Finding:** Based on review of the Update, pursuant to Public Resources Code section 29761.5(b), the Council has not identified any inconsistency of the Update with Delta Plan Policies ER P3 or ER P5.*

## **D. Other Considerations**

### 1. Joint Powers Authority and Governance

The 2012 ESP included a recommendation to establish a centralized entity to coordinate and help improve recreation in the Delta. The Draft ESP reviewed in January 2021 included a recommendation that this entity take the form of a Joint Powers Authority (JPA). This recommendation is further detailed in the Update and provides examples of other JPAs operating in California. However, as the Update notes, no existing JPAs were identified that provide recommended functions such as developing and implementing a coordinated recreation plan, operating public recreation facilities, coordinating marketing, and coordinating streamlined permitting processes. The Council supports a more coordinated approach to recreation management and improvement in the Delta. However, the details, including JPA members, funding, and authority, should be worked out with all relevant Delta stakeholders. While a JPA may help coordinate action around recreation, governance in the Delta is complex and the potential addition of another entity will need to account for this and work within existing regulations.

If a JPA is pursued, the Council also requests that it be kept up to date with regards to this process, and recommends that the three Delta state agencies – the Delta Protection Commission, The Sacramento-San Joaquin Delta Conservancy, and the Delta Stewardship Council – communicate regularly regarding this topic.

### 2. Multi-benefit Projects

As the Update also notes, there are several ongoing or proposed restoration plans and projects in the Delta. These include, but are not limited to, the Delta Plan Ecosystem Amendment, EcoRestore, and the Delta Conservation Framework. Elements of these plans have identified public lands as a priority for restoration as well as noted the potential contribution of such projects to recreation and outdoor access in the Delta. The Delta Plan supports such multi-benefit projects through the combination of several Delta Plan policies, including in part, DP P2, ER P2, and ER P3. Although public access and recreation may not be appropriate for all restoration projects, recreation and restoration can be compatible in some locations, and combining these uses can have multiple benefits to community health, ecosystem function, and recreation. Such multi-benefit projects are not specifically highlighted by the Update but could be consistent with its objectives if well designed and implemented. The Council encourages the Commission to support such projects in the future, when appropriate, and ensure that recreation projects do not negatively affect ecosystem restoration opportunities (and vice versa) when possible.

### **3. Climate Change**

The Update includes a reference to the Council's work to develop a comprehensive climate change vulnerability assessment and adaptation strategy for the Delta, Delta Adapts<sup>9</sup>. The Council appreciates the recognition of Delta Adapts as a resource that can be used to understand how people, communities, recreational opportunities, and the Delta economy will be impacted by climate change. Delta Adapts is an ongoing effort, and its forthcoming adaptation strategy will be relevant to Delta recreation. The Council encourages the Commission to remain engaged in this effort and offer input during development of the adaptation strategy on recreation and tourism considerations, as well as other topics.

#### **4. Environmental Justice**

Recreation and access to open space are important considerations for environmental justice. As the Update notes, the majority of the Delta consists of privately-owned land with limited public access. New or enhanced recreation access could help improve quality of life and health for Delta residents and visitors, including disadvantaged communities in the region. The Update does not appear to include reference to this important value of recreation access. We encourage the Commission to consider environmental justice and access to recreation as it works to coordinate and implement recreation and tourism actions in the Delta. The Council anticipates developing an environmental justice issue paper in the coming year that could both help inform implementation of the Update and share insights and lessons learned with the Commission and other partners. We encourage you to engage with Council staff on this effort.

### **Closing Comments**

Pursuant to Water Code section 85301, Council staff have reviewed and provided advice and input on the final ESP as outlined in this letter. The Council has not identified a specific inconsistency with the Delta Plan. **[If approved: The findings in this comment letter were presented on August 26, 2021 at the Council's monthly meeting, and were [unanimously] approved by the Council.]**

The Update and its appendices provide valuable information and approaches that can help guide the creation and enhancement of recreation and tourism sites in the Delta. The Council invites the Commission and partners to engage with the Council as you continue to work on principles, goals, and specific actions identified in the Update. Please contact Morgan Chow at (916) 445-5511 or [morgan.chow@deltacouncil.ca.gov](mailto:morgan.chow@deltacouncil.ca.gov) with any questions.

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<sup>9</sup> For more information, please see <https://deltacouncil.ca.gov/delta-plan/climate-change>



Don Nottoli  
Economic Sustainability Plan for the Sacramento-San Joaquin Delta: Recreation and Tourism  
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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  
Delta Stewardship Council

CC:

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