



**Delta
Stewardship
Council**

A CALIFORNIA STATE AGENCY

August 30, 2021

Contra Costa County, Department of Conservation and
Development

Attn: Daniel Barrios

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Delivered via email: Daniel.Barrios@dcd.cccounty.us

**RE: Comments on the Draft Environmental Impact Report for the Byron
Airport Development Program, SCH# 2017092059**

Dear Daniel Barrios:

Thank you for the opportunity to review and comment on the Byron Airport Development Program Draft Environmental Impact Report (Draft EIR) prepared by the Contra Costa County Department of Conservation and Development (DCD). The Delta Stewardship Council (Council) recognizes the objectives of the Byron Airport Development Program (project), as described in the Draft EIR: Contra Costa County intends to amend its Airport Land Use Compatibility Plan (ALUCP), Contra Costa County General Plan (General Plan), and Planned Unit District zoning to substantially broaden the range of uses allowed “by-right” on airport property. Of interest to the Council are areas located outside of the 2006 voter-approved urban limit line, including portions of the new safety/compatibility zones, specifically, B1 and B3 (new Safety Zone 2), and B2 (new Safety Zone 3).

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 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.)

Pursuant to the Delta Reform 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. The Delta Plan contains regulatory policies, which are set forth in California Code of Regulations, Title 23, sections 5001-5015. A state or local agency that proposes to carry out, approve, or fund a qualifying action in whole or in part in the Delta, called 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 implementation of the covered action. (Wat. Code, § 85225.) Water Code section 85057.5, subdivision (a), defines a covered action as a plan, program, or project as defined pursuant to Section 21065 of the Public Resources Code that meets all the following conditions:

1. Will occur in whole or in part within the boundaries of the legal Delta (Water Code, §12220) or Suisun Marsh (Pub. Resources Code, § 29101). The approximate boundaries of these areas are publicly available on the Open Data Portal at <https://data.ca.gov/dataset/legal-delta-boundary> and <https://data.ca.gov/dataset/suisun-marsh-boundary>. *The eastern portion of Byron Airport is located within the Delta.*
2. Will be carried out, approved, or funded by the State or a local public agency. *Contra Costa County is the local public agency that will approve and carry out the project.*
3. Will have a significant impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in

the Delta. *The project would have a significant impact on the achievement of the coequal goal to protect, restore, and enhance the Delta ecosystem.*

4. Is covered by one or more of the regulatory policies contained in the Delta Plan (Cal. Code Regs., tit. 23, §§ 5003-5015). *Delta Plan regulatory policies that may apply to the project are discussed below.*

The State or local agency approving, funding, or carrying out the project must determine if the project is a covered action and, if so, submit a Certification of Consistency to 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 Draft EIR. This information is offered to assist DCD to prepare environmental documents that could be used to support a future Certification of Consistency for the project. This information may also assist DCD to describe the relationship between the project and the Delta Plan in the Final EIR.

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 for a covered action. 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 as amended April 26, 2018 (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 Draft EIR proposes project mitigation measures for potentially significant impacts to aesthetics; air quality; biological resources; cultural resources; geology, soils, and minerals; greenhouse gas emissions; hazards and hazardous materials; hydrology and water quality; and transportation and traffic. The mitigation measures adopted in the Final EIR must be equally or more effective than applicable feasible Delta Plan mitigation measures. In a future Certification of Consistency for the project, DCD should document how the adopted mitigation measures are equally or more effective than the applicable mitigation measures contained in Delta Plan Appendix O.

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>).

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. New residential, commercial, or 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, and reducing flood risk.

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According to the Draft EIR, the General Plan designations for the Byron Airport property are Public/Semi-Public (PS) and Open Space (OS) (Draft EIR, p. 2-6). Although most of the Byron Airport is located within the ULL, the portion of the Airport designated as Open Space is outside the ULL. This area is subject to Delta Plan Policy **DP P1** (Cal. Code Regs., tit. 23, § 5010). Although the Draft EIR states that the General Plan designation for the existing airport property will not change, ALUCP Policy 5-77 would be amended to reflect the new compatibility zone (Zone B-1 would become Safety Zone 2) designations and additional uses at the airport that may be found compatible under the updated ALUCP for Byron Airport (Draft EIR p. 2-6).

The project proposes acquisition of an 11.7-acre property on Armstrong Road that is currently designated for Agricultural use and update the general plan designation to PS (Draft EIR, p. 2-6). This proposed acquisition is located within the ULL, and is therefore not subject to DP P1.

Based on review of the Draft EIR, the locations of the project site and the ULL, and the existing and proposed General Plan designations, the project may be consistent with DP P1, although DCD must identify this in a Certification of Consistency for the project. DCD should revise the Final EIR to identify DP P1 requirements in the regulatory setting of the Land Use and Planning section.

CLOSING COMMENTS

The Council will continue to track the Byron Airport Development Program's progress and invites DCD to engage in early consultation as future program updates are considered, in order to discuss project features 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>. Please contact Avery.Livengood@deltacouncil.ca.gov, Environmental Program Manager, with any questions.

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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