

# San Francisco Bay Conservation and Development Commission

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Governor's Office of Planning & Research

November 4, 2019

NOV 04 2019

## STATE CLEARINGHOUSE

Lilly Whalen  
City of Sausalito  
420 Litho Street  
Sausalito, CA 94965

**SUBJECT: Notice of Preparation for the Sausalito General Plan Update Draft Environmental Impact Report, SCH #2019100322**

Dear Ms. Whalen:

Thank you for the opportunity to comment on the Notice of Preparation (NOP) for the Sausalito General Plan Update Draft Environmental Impact Report (DEIR), dated October 16, 2019 and received in our office on October 21, 2019. The Commission has not reviewed the NOP, however the following staff comments are based on staff review of the NOP for consistency with the McAteer-Petris Act and the policies of the *San Francisco Bay Plan* (Bay Plan).

**Jurisdiction and Authority.** BCDC is responsible for granting or denying permits for any proposed fill (earth or any other substance or material, including pilings or structures placed on pilings, and floating structures moored for extended periods of time); extraction of materials; or change in use of any water, land, or structure within the Commission's jurisdiction. Generally, BCDC's jurisdiction over San Francisco Bay extends from the Golden Gate to the confluence of the San Joaquin and Sacramento Rivers and includes tidal areas up to mean high tide, including all sloughs, and in marshlands up to five feet above mean sea level; a shoreline band consisting of territory located between the shoreline of the Bay and 100 feet landward and parallel to the shoreline; salt ponds; managed wetlands; and certain waterways tributary to the Bay. The Commission can grant a permit for a project if it finds that the project is either (1) necessary to the health, safety, and welfare of the public in the entire Bay Area, or (2) is consistent with the provisions of the McAteer-Petris Act and the Bay Plan. The Commission has jurisdiction over the Bay waters and shoreline areas covered by the Sausalito General Plan. For projects within the General Plan area that are within the Commission's jurisdiction, permits may be required, depending on the nature of the activity. The General Plan Update and the DEIR should acknowledge and describe the Commission's jurisdiction and permit authority.

**Transportation.** The Bay Plan policies on Transportation state, in part, that "Transportation projects...should include pedestrian and bicycle paths that will either be a part of the Bay Trail or connect to the Bay Trail with other regional and community trails." The NOP mentions that the Circulation and Parking Element will be updated and will emphasize pedestrian and bicycle facilities. The DEIR should discuss whether the General Plan elements would be consistent with the Bay Plan policies on Transportation, including the Bay Trail.



**Public Access.** Section 66602 of the McAteer-Petris Act states, in part, that “existing public access to the shoreline and waters of the San Francisco Bay is inadequate.” The Commission can only approve a project within its jurisdiction if it provides maximum feasible public access, consistent with the project. The Bay Plan policies on Public Access state, in part, that “in addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline... Whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed.” The DEIR should discuss whether the General Plan elements would be consistent with the Bay Plan policies on Public Access.

**Recreation.** The Bay Plan policies on Recreation state, in part, that “Diverse and accessible water-oriented recreational facilities, such as a marinas, launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages, and income levels.” The NOP mentions that recreation policies will be included in the Environmental Quality Element of the General Plan. The DEIR should discuss whether the General Plan elements would be consistent with the Bay Plan policies on Recreation.

**Tidal Marshes and Tidal Flats.** The Bay Plan policies on Tidal Marshes and Tidal Flats state, in part, that these resources “should be conserved to the fullest possible extent. Filling, diking, and dredging projects that would substantially harm tidal marshes or tidal flats should be allowed only for purposes that provide substantial public benefits and only if there is no feasible alternative.” The NOP mentions that conservation of existing natural resources will be included in the update of the Environmental Quality Element. The DEIR should discuss whether the General Plan elements would be consistent with the Bay Plan policies on Tidal Marshes and Tidal Flats.

**Water Quality.** The Bay Plan policies on Water Quality state, in part, that “Bay water pollution should be prevented to the greatest extent feasible,” and that “New projects should be sited, designed, and constructed and maintained to prevent...or minimize the discharge of pollutants into the Bay...” The NOP mentions that improvement of water quality will be discussed in the Environmental Quality Element of the General Plan. The DEIR should discuss whether the General Plan elements would be consistent with the Bay Plan policies on Water Quality.

**Climate Change and Flooding.** The Bay Plan policies on Climate Change state, in part, that “When planning shoreline areas or designing larger shoreline projects, a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise...” and “To protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects—other than repairs to existing facilities, small projects that do not increase risks to public safety, interim projects and infill projects within existing urbanized areas—should be designed to be resilient



to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century.” Related Bay Plan policies on Safety of Fills state, in part, that “New projects on fill or near the shoreline should either be set back from the edge of the shore so that the project will not be subject to dynamic wave energy, be built so the bottom floor level of structures will be above the 100-year flood elevation that takes future sea level rise into account for the expected life of the project, be specifically designed to tolerate periodic flooding, or employ other effective means of addressing the impacts of future sea level rise and storm activity.” Related policies on Shoreline Protection state, in part, that “New shoreline protection projects and the maintenance or reconstruction of existing projects should be authorized if...(c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes future sea level rise into account...” Related policies on Public Access state, in part, that “Public access should be sited, designed, and managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding,” and “Any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby.” Additionally, Senate Bill No. 379 (Jackson, 2015) states, “This bill would, upon the next revision of a local hazard mitigation plan on or after January 1, 2017, or, if the local jurisdiction has not adopted a local hazard mitigation plan, beginning on or before January 1, 2022, require the safety element to be reviewed and updated as necessary to address climate adaptation and resiliency strategies applicable to that city or county.” The NOP indicates that the Health and Safety Element of the General Plan update would address flood hazards. The DEIR should discuss whether the General Plan elements would be consistent with the Bay Plan policies on or related to Climate Change and flooding, as well as with Senate Bill No. 379.

**Newly Adopted Bay Plan Policies.** BCDC recently adopted two amendments to the Bay Plan, which are now pending administrative law reviews and are likely to be in place by the time a DEIR is prepared for the City of Sausalito’s General Plan update. The first of these amendments includes policy revisions to allow fill for habitat projects and proposes amendments to the Bay Plan policies on Fish, Other Aquatic Organisms, and Wildlife; Tidal Marshes and Tidal Flats; Subtidal Areas; Dredging; and Shoreline Protection. If any habitat restoration projects are envisioned for inclusion in the General Plan update, the DEIR should discuss whether the General Plan elements would be consistent with these new Bay Plan policies. The second recently adopted Bay Plan amendment proposes a new section of the Bay Plan on environmental justice and social equity, as well as proposes revisions to the Public Access, Shoreline Protection, and Mitigation sections of the Bay Plan. The NOP indicates that diversity and community identity will be addressed in the Community Design and Historical Preservation Element. The NOP also included a brief summary of the two-year public process leading up to this General Plan update. BCDC commends the City for taking steps to create a community-driven process, as the newly adopted policies include requirements regarding meaningful community involvement. Additionally, Senate Bill No. 1000 (Leyva, 2016) states, in part, that “This bill would...add to the required elements of the general plan an environmental justice



element, or related goals, policies, and objectives integrated in other elements..." and "...would require the environmental justice element, or the environmental justice goals, policies, and objectives in other elements, to be adopted or reviewed upon the adoption or next revision of 2 or more elements concurrently on or after January 1, 2018." The DEIR should discuss whether the General Plan elements would be consistent with these new Bay Plan policies on environmental justice and social equity, as well as with Senate Bill No. 1000.

**Richardson Bay Special Area Plan (RBSAP).** The RBSAP applies to the Bay waters and shoreline areas covered by the General Plan. The RBSAP contains findings and policies on seven topics: the *Aquatic and Wildlife Resources* policies call for maximum protection of wildlife habitat and for buffers between development and the shoreline. The *Water Quality* policies address discharge into the Bay, including sewage and graywater discharge, urban runoff, and sediment due to erosion. The *Navigation Channels, Marinas, Anchorages, and Moorages* and *Dredging and Spoils Disposal* policies address the maritime future of Richardson Bay and discuss where dredging should occur, to what depth, and where the spoils should be placed. The *Residential Vessels and Floating Structures* policies address where certain vessels should be allowed. The *Public Access, Views, and Vistas* policies call for maximum feasible public access to and along Richardson Bay consistent with each project proposed there, and include information about how public access should be designed. In addition, the policies call for a continuous unified public access system around the entire periphery of Richardson Bay. The *Tidal Restoration and Marsh Enhancement* policies establish general guidelines, as well as specify goals for specific areas around Richardson Bay. Any projects proposed within the RBSAP area must be consistent with the RBSAP.

**Existing BCDC Permits.** There are a number of existing BCDC permits in the project area. The DEIR should discuss the effects, if any, that the changes to the General Plan would have on existing public access or other conditions required by these permits.

Thank you for the opportunity to comment on the NOP for the City of Sausalito's General Plan Update DEIR. If you have any questions regarding this letter, or any other matter, please do not hesitate to contact me by phone at 415/352-3613 or email, [clesi.bennett@bcdcc.ca.gov](mailto:clesi.bennett@bcdcc.ca.gov).

Sincerely,



CLESI BENNETT  
Coastal Planner  
San Francisco Bay Conservation and Development Commission

CB/ra

