

SAN MATEO



# LOCAL AGENCY FORMATION COMMISSION

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May 10, 2017

**To:** LAFCo Commissioners  
**From:** Martha Poyatos, Executive Officer *M. Poyatos*  
**Subject:** Draft Environmental Impact Plan Bay Area 2040 (Information Only)

On April 4th, the Draft Plan Bay Area 2040 Draft Environmental Impact Report was released for public review (available online at [2040.planbayarea.org](http://2040.planbayarea.org)). Plan Bay Area 2040, released in March 2017 is a focused update of the region's previous integrated transportation and land use plan, Plan Bay Area, adopted in 2013. The plan is a joint effort of the Metropolitan Transportation Commission (MTC), the region's transportation planning, financing, and coordinating agency; the Association of Bay Area Governments (ABAG); the Council of Governments, an official regional planning agency for the 101 cities and towns; and the nine counties of the San Francisco Bay Area.

The Draft Plan Bay Area 2040 discusses how the Bay Area will grow over the next 20 years and identifies transportation and land use strategies to enable a more sustainable, equitable, and economically vibrant future. Starting with the current state of the region, this document describes Plan Bay Area 2040 and its goals, a proposed growth pattern and supporting transportation investment strategy, and key actions needed to address ongoing and long-term regional challenges.

Alameda LAFCo invited other Bay Area LAFCos to cosign the attached comment letter on the Draft EIR. The comment letter requests inclusion of applicable sections of the Cortese-Knox-Hertzberg Act including the definition of prime agricultural land, updated wastewater capacity data, the need to include special districts that provide municipal services in environmental review and the value of LAFCo Municipal Service Reviews in preparing environmental documents.

Attached for your information is the comment letter and table from Plan Bay Area 2040 that summarizes the Plan's goals.

**COMMISSIONERS:** DON HORSLEY, CHAIR, County ▪ MIKE O'NEILL, VICE CHAIR, City ▪ JOSHUA COSGROVE, Special City ▪ ANN DRAPER, Public  
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**ALTERNATES:** VACANT, Special District ▪ VACANT, City ▪ SEPI RICHARDSON, Public ▪ DAVE PINE, County

**STAFF:** MARTHA POYATOS, EXECUTIVE OFFICER ▪ REBECCA ARCHER, LEGAL COUNSEL ▪ JEAN BROOK, COMMISSION CLERK

May 15, 2017

**DRAFT**

MTC Public Information  
375 Beale Street, Suite 800  
San Francisco, CA, 94105  
eircomments@mtc.ca.gov

Dear MTC Public Information Officer:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (EIR) for Plan Bay Area 2040. The Alameda Local Agency Formation Commission (LAFCo), Contra Costa LAFCo, and Marin LAFCo submitted comments in response to the Notice of Preparation circulated by the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) in June 2016 (see attached letters).

LAFCOs are independent agencies with discretion to approve or disapprove changes of organization and reorganization of cities and special districts. LAFCOs consider a variety of factors when evaluating a matter or project for approval, including potential impacts on agricultural land and open space, and on the provision of public services.

LAFCOs determine spheres of influence (SOIs) which are plans for the probable physical boundaries and service areas for cities and special districts. SOI plans include determinations on present and planned land uses; present and probable need for public facilities and services; present capacity and adequacy of public services and facilities; the existence of relevant social and economic communities of interest, and the present and probable public facility and services needs of any identified disadvantaged unincorporated communities. In light of this, Alameda, Contra Costa, Marin, and San Mateo LAFCOs offer the following comments pertaining to these environmental topics in the Draft EIR for Plan Bay Area 2040.

#### **Plan Bay Area 2040 Goals**

The proposed Plan Bay Area 2040 outlines seven goals. Among the goals are adequate housing, and open space and agricultural preservation. Regarding the goal of adequate housing, the draft EIR should include an analysis of whether adequate municipal services exist now as well as whether such services will be available in the future to support the proposed housing and transportation plans. Examples of municipal services that should be reviewed include water, sewer, police, fire, schools, etc.

#### **Agricultural Lands and Open Space**

We appreciate the inclusion of a table showing the number of farmland and open space acres potentially affected within Transit Priority Areas (TPAs). However, this table does not illustrate where these potential land use conflicts would occur. We therefore request that the EIR be updated to include a figure which overlays the farmland and open space areas with the TPAs, Priority Development Areas (PDAs), and potential future transportation projects.

As noted in the Regulatory Setting discussion on page 2.3-30, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov't. Code §56000 et. seq., hereinafter the "CKH Act") assigns LAFCOs a prominent role in regional planning issues by charging each LAFCo to consider a wide range of factors when it acts on matters under its jurisdiction such as setting SOIs, annexations, incorporations and other matters. Preserving agricultural and open space lands is a high priority for LAFCOs. Pursuant to §56001 of the CKH Act, LAFCOs have broad statutory responsibility to consider planned, orderly, efficient patterns of urban development that may assist in preserving agricultural and open space lands and

achieving a share of the region's housing needs. For these reasons, it is important to consider SOIs of both cities and special districts when analyzing the impact of implementing the proposed Plan. Additionally, several LAFCos in the Bay Area, including Contra Costa, Santa Clara, and Sonoma, have adopted agricultural and open space preservation policies. We would encourage MTC and ABAG to enhance its discussion in the EIR regarding the Priority Conservation Areas (PCAs) and include more specific measures for assessing the impacts of development on agricultural and open space lands.

CKH Act §56016 defines agricultural land as “land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.” Additionally, §56064 defines Prime agricultural land as:

*“an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:*

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.*
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.*
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the USDA in the National Range and Pasture Handbook, Revision 1, December 2003.*
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.*
- (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.”*

We recognize that the CKH Act definition of prime agricultural land is different from the significance criteria used in the California Environmental Quality Act (CEQA) regarding impacts to agricultural lands. In regards to agricultural lands and open space, we see an opportunity to improve the public discussion of Plan Bay Area 2040 and its EIR if the EIR were to integrate the two different sets of criteria related to potential impacts in the document, setting a model for local jurisdictions to likewise consider impacts under both criteria, especially when a project requires subsequent action by a LAFCo.

We, therefore, request that the Draft EIR include a reference to the CKH Act, include the definition of prime agricultural land per the CKH Act, and evaluate potential impacts of Plan Bay Area 2040 on agricultural lands pursuant to the definitions in CKH Act. Local land use projects whose CEQA documents seek to tier from the Plan Bay Area EIR without an evaluation of potential impacts to agricultural lands using the CKH definitions may find their CEQA document inadequate.

#### **Public Utilities, Public Services and Recreation**

The Draft EIR does not provide an update to the 2013 Plan Bay Area EIR Table 2.12-5, which depicts the flow and capacity of wastewater treatment facilities. The analysis of wastewater capacity references the previous estimates included in the table, but does not update data to reflect current capacities. LAFcos throughout California are required to periodically conduct Municipal Service Reviews (MSRs) for cities and special districts within their jurisdiction. Wastewater collection and treatment infrastructure are among the services included in MSRs. We request that the Plan Bay Area 2040 EIR be revised to include updated wastewater capacity information where available. If not already done, we encourage the EIR preparers to contact the Bay Area Clean Water Agencies for an opportunity to provide comment.

The Plan Bay Area should recognize special districts as critical service providers in addition to counties and cities. In many counties, including all counties in the Bay Area, sewer, water, fire, and parks and recreation services, among others, are provided by special districts. We strongly encourage the EIR preparers to reach out to special districts to provide opportunities to comment on the proposed Plan.

In general, we encourage the EIR preparers to avail themselves of the rich data source provided by LAFco MSRs as a way of presenting to the public an assessment of the degree to which necessary public services are available or would likely become available, in support of the anticipated growth embodied in Plan Bay Area 2040.

Thank you for your consideration of our comments.

Sincerely,

Mona Palacios, Executive Officer  
Alameda LAFco

Lou Ann Texeira, Executive Officer  
Contra Costa LAFco

Keene Simonds, Executive Officer  
Marin LAFco

Martha Poyatos, Executive Officer  
San Mateo LAFco

Goal		Target*	
	<b>Climate Protection</b>	1	Reduce per-capita CO <sub>2</sub> emissions
	<b>Adequate Housing</b>	2	House the region's population
	<b>Healthy and Safe Communities</b>	3	Reduce adverse health impacts
	<b>Open Space and Agricultural Preservation</b>	4	Direct development within urban footprint
	<b>Equitable Access</b>	5	Decrease share of lower-income households' budgets spent on housing and transportation
		6	Increase share of affordable housing
		7	Do not increase share of households at risk of displacement
	<b>Economic Vitality</b>	8	Increase share of jobs accessible in congested conditions
		9	Increase jobs in middle-wage industries
		10	Reduce per-capita delay on freight network
	<b>Transportation System Effectiveness</b>	11	Increase non-auto mode share
		12	Reduce vehicle operating and maintenance costs due to pavement conditions
		13	Reduce per-rider transit delay due to aged infrastructure

\* Complete target language as adopted by the Commission and ABAG Board can be found at: <http://planbayarea.org/the-plan/plan-details/goals-and-targets.html>  
Target language shown above is summarized for brevity.

 Environment     Equity     Economy

**TABLE 2.1 Final adopted goals and performance targets for Plan Bay Area 2040.**

Plan Bay Area 2040 includes seven goals and 13 performance targets covering three broad areas: the environment, equity and the economy. The aggressive and somewhat aspirational targets enable the plan to be evaluated by its performance in areas identified as key regional concerns, including equitable access, economic vitality, and transportation system effectiveness. The performance targets were the result of a robust public process and reflect MTC and ABAG's commitment to go beyond Plan Bay Area 2040's legal requirements.

Source: Metropolitan Transportation Commission - Resolution No. 4204, Revised, 2015

MTC and the ABAG Executive Board voluntarily adopted 11 additional targets as shown in Table 2.1. Key goals for Plan Bay Area 2040 included tackling the Bay Area's inequities through improved affordability and lessened displacement risk, ensuring a robust economy and protecting the environment for future generations. These targets are aggressive and some are quite aspirational. Yet they reflect MTC and ABAG's commitment to take a more holistic view

of the possibilities of integrated regional planning by going beyond the plan's legal requirements.

For more information on the development of Plan Bay Area 2040's performance targets, please see the [Performance Assessment Report](#).

The next section, "Forecasting the Future," will review the primary inputs to Plan Bay Area 2040.