

San Francisco Bay Conservation and Development Commission

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June 9, 2021

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Port of Oakland
530 Water Street
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Via email: cliang@portoakland.com

Governor's Office of Planning & Research

June 09 2021

STATE CLEARINGHOUSE

**SUBJECT: Notice of Preparation of A Draft Environmental Impact Report for the
Oakland International Airport Terminal Development Project; BCDC Inquiry
File No. MC.MC.7415.26**

Dear Ms. Liang:

Thank you for the opportunity to comment on the Notice of Preparation (NOP) of the Environmental Impact Report (EIR) for the Oakland International Airport Terminal Development Project received by our office on May 7, 2021.

The San Francisco Bay Conservation and Development Commission (BCDC) is a responsible agency for this project and will rely on the EIR when considering approvals related to the project. While the description of the project in the NOP is not specific enough for BCDC staff to comment on every potential issue that could be raised with respect to BCDC's laws and policies, staff has prepared the following comments outlining issues under BCDC's jurisdiction that should be addressed as part of the EIR. The Commission itself has not reviewed the NOP; the following comments are based on BCDC staff review of the NOP, the McAteer-Petris Act (Title 7.2 of the California Government Code), and the *San Francisco Bay Plan* (Bay Plan).¹

Based on the NOP, we understand that the Proposed Project will include the following components:

- **New Terminal.** Construction of a new terminal consisting of up to two levels located north of the existing terminal complex, with new connectors joining the new and existing terminals.
- **Terminal 1.** Demolition of the Terminal 1 check-in and baggage claim building and relocation of check-in and baggage processing functions to Terminal 2. Renovation of the Terminal 1 concourse and expansion of the Customs and Border Patrol facility.

¹ The most recent version of the Bay Plan (2020) can be found at <https://www.bcdc.ca.gov/publications/index.html>.



- **Terminal 2.** Expansion of check-in area, minor reconfiguration of the baggage screening area, development of a new outbound baggage makeup area, and expansion of the inbound baggage area.
- **Roadway and Parking.** Improvements to roadway and curb front configuration at new terminal, replacement parking facilities and new parking facilities for public and employee parking east of Airport Drive and at the western edge of the airport property.
- **Cargo and Support Facilities.** Demolition of freighter and belly cargo, public parking, and airline provisioning facilities. Relocation of freighter and belly cargo facilities in terminal area near Ron Cowan Parkway, involving demolition of existing Oakland Maintenance Center Hangar and relocation of employee parking. Relocation of airline provisioning and catering facilities and construction of a new consolidated receiving and distribution center northeast of existing main parking lot. Expansion and upgrading of existing fuel system and fuel farm.

BCDC Jurisdiction

A portion of the Proposed Project Area indicated in the NOP may be within BCDC permitting jurisdiction. Per the McAteer-Petris Act, BCDC is responsible for granting or denying permits for any proposed fill; extraction of materials; or substantial change in use of any water, land, or structure within the Commission's jurisdiction (Government Code Section 66632).

Based on the NOP project description, relevant areas of BCDC jurisdiction for the project may include the shoreline band, consisting of all territory located between the shoreline of the Bay and 100 feet landward of and parallel with the shoreline (Government Code Section 66610(b)). The EIR's project description and settings should clearly identify the shoreline band through mapping, and describe the project components taking place within BCDC jurisdiction. If any components of the Proposed Project would occur within the San Francisco Bay, defined as all areas subject to tidal action, including tidelands (land lying between mean high tide and mean low tide) and submerged lands (Government Code Section 66610(a)), the EIR should identify these components and note that they are within BCDC's Bay jurisdiction.

Note that per California Code of Regulations Section 10710, any "areas once subject to Commission jurisdiction remain subject to that same jurisdiction," including areas that may have been "filled or otherwise artificially altered." Thus, the EIR should state whether any portion of the Proposed Project would be located on Bay fill that was placed since 1965.

Land Use and Planning

The EIR should include information on the Bay Plan and the McAteer Petris Act, and assess the Proposed Project's consistency with both as part of the impact analysis for land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. The Bay Plan is BCDC's primary policy instrument and establishes policies for



development and resource conservation within the Commission's jurisdiction. Policy areas covered in the Bay Plan include water quality; airports; safety of fills; appearance, design, and scenic views; public access; and others.

Additionally, most of the Proposed Project would take place within BCDC's Airport Priority Use Area as designated by the San Francisco Bay Plan (see Plan Map 5). The EIR should acknowledge this land use designation and accompanying Bay Plan policies.

Hydrology and Water Quality

The EIR should consider the following policy issues as part of its Hydrology and Water Quality analysis.

WATER QUALITY

The Bay Plan includes the following policies in its Water Quality section:

- **Policy 1.** Bay water pollution should be prevented to the greatest extent feasible...
- **Policy 2.** Water quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay as identified in the San Francisco Bay Regional Water Quality Control Board's Water Quality Control Plan, San Francisco Bay Basin and should be protected from all harmful or potentially harmful pollutants....
- **Policy 3.** New projects should be sited, designed, constructed and maintained to prevent or, if prevention is infeasible, to minimize the discharge of pollutants into the Bay by: (a) controlling pollutant sources at the project site; (b) using construction materials that contain non-polluting materials; and (c) applying appropriate, accepted and effective best management practices, especially where water dispersion is poor and near shellfish beds and other significant biotic resources.
- **Policy 6.** To protect the Bay and its tributaries from the water quality impacts of nonpoint source pollution, new development should be sited and designed consistent with standards in municipal stormwater permits and state and regional stormwater management guidelines, where applicable, and with the protection of Bay resources. To offset impacts from increased impervious areas and land disturbances, vegetated swales, permeable pavement materials, preservation of existing trees and vegetation, planting native vegetation and other appropriate measures should be evaluated and implemented where appropriate.

- **Policy 7.** Whenever practicable, native vegetation buffer areas should be provided as part of a project to control pollutants from entering the Bay, and vegetation should be substituted for rock riprap, concrete, or other hard surface shoreline and bank erosion control methods where appropriate and practicable.

The EIR should discuss the potential for demolition, construction, and operational components of the Proposed Project to have an adverse effect on water quality, particularly to the extent that beneficial uses of Bay waters could be impacted. The analysis should address how the Proposed Project would manage potential pollution sources such as dust, debris, chemicals, and waste, including pollutants from nonpoint sources, and how any potential impacts would be mitigated.

FLOOD HAZARDS AND CLIMATE CHANGE

The Bay Plan includes a Climate Change section, which recognizes the various ways climate change and related rises in sea level could affect the communities in BCDC's jurisdiction, particularly through sea level rise and flooding. Policies in this section establish a basis for evaluating projects based on their resiliency to projected rises in sea level. BCDC highly recommends that the EIR investigate the probability and impact of sea level rise as a matter of hydrology and water quality and to consider how sea level rise may affect the significance of impacts in other topic areas, such as those related to geological hazards and hazards and hazardous materials. Sea level rise threatens water quality not only through the release of contaminants into shoreline developments by overland flooding, but also through groundwater contamination caused by saltwater incursions into fresh groundwater reservoirs.

The Climate Change policies include the following:

- **Policy 2.** 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 current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end of century based on the best scientific data available should be used in the risk assessment...
- **Policy 3.** ...[W]ithin areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects—other than repairs of 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.

As part of its flood hazard analysis, the EIR should include mapping of potential sea level rise scenarios using the best available science for projected water levels. It should reference the mapping in discussing potential impacts related to flood hazards over the life of the Proposed Project, including the potential for the Proposed Project to affect flood flows. As of June 2021, the best available science-based projections for sea level rise can be found in the State of California's 2018 Sea-Level Rise Guidance,² Resources available to assist the preparers of the EIR in the above assessments include BCDC's Adapting to Rising Tides (ART) maps and data products, including the Bay Shoreline Flood Explorer.³

The EIR should also determine the locations of possible groundwater incursions, and analyze the impact of saline groundwater rise on the level and quality of fresh groundwater and the efficacy of possible prevention and mitigation methods (e.g., groundwater barriers). The analysis should also consider whether potential groundwater rise could affect underground utility systems, and whether potential impacts could result in contamination.

In addition, the Bay Plan's Shoreline Protection section contains BCDC's policies for the design and implementation of shoreline protection. The EIR should state whether shoreline protection would be necessary to avoid or mitigate flooding impacts and assess how such protection would be consistent with policies of this section.

Geology and Soils

Section 66632 of the McAteer-Petris Act defines fill as "earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods, such as houseboats and floating docks." The EIR should note whether any portion of the Proposed Project would be taking place on fill. If so, The EIR should map and describe any areas of the project site subject to tidal action at any point since September 17, 1965 that have been subsequently filled, and describe in detail the proposed development, activity, and uses on these filled areas and consistency with the Commission's laws and policies. If any new fill is proposed as part of the project, the EIR should also indicate the location of such fill, the proposed method of fill (e.g., solid earth, pile-supported structure, cantilevered structure), the approximate volume and surface area of the Bay to be filled, and the proposed development, activity, and uses of the newly filled area.

² Available at: http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A OPC SLR Guidance-rd3.pdf.

³ Access resources and the Flood Explorer at <http://www.adaptingtorisingtides.org/maps-and-dataproducts>.

If new fill is proposed as part of the project or if portions of the project will be sited on existing fill, the EIR should include a description and consistency assessment for the Bay Plan's Safety of Fills policies, which include the following:

- **Policy 2.** Even if the Bay Plan indicates that a fill may be permissible, no fill or building should be constructed if hazards cannot be overcome adequately for the intended use in accordance with the criteria prescribed by the Engineering Criteria Review Board.
- **Policy 3.** To provide vitally needed information on the effects of earthquakes on all kinds of soils, installation of strong-motion seismographs should be required on all future major land fills....
- **Policy 4.** Adequate measures should be provided to prevent damage from sea level rise and storm activity that may occur on fill or near the shoreline over the expected life of a project....

Hazards and Hazardous Materials

The Bay Plan's Safety of Fills policies state that even where "the Bay Plan indicates that a fill may be permissible, no fill or building should be constructed if hazards cannot be overcome adequately for the intended use in accordance with the criteria prescribed by the Engineering Criteria Review Board" (Policy 2).

The EIR should identify whether any portions of the project site are contaminated with hazardous substances, any potential effects associated with such contaminants, and the role other regulatory agencies, including the State and Regional water boards and the Department of Toxic Substances Control, will take in reviewing and approving the project. The analysis should discuss any potential for demolition, construction, or operation associated with the Proposed Project to disturb and/or mobilize contaminants into the Bay. As noted above, changes in sea and groundwater levels may have the potential to mobilize contaminants in and above ground.

Transportation

The Bay Plan's Transportation policies state, in part, that "transportation projects on the Bay Shoreline...should be designed to maintain and enhance visual and physical access to the Bay and along the Bay shoreline" and "should include pedestrian and bicycle paths that will either be a part of the Bay Trail or connect the Bay Trail with other regional and community trails" (Policy 4). The EIR should discuss whether the Proposed Project would involve circulation improvements within BCDC's jurisdiction, or if it could otherwise affect circulation within BCDC's jurisdiction.

The Bay Plan also addresses transportation issues in its Public Access policies. Under the McAteer-Petris Act, the project must provide “maximum feasible public access, consistent with a proposed project.” The Bay Plan’s Public Access Policies expound on this directive, stating, in part, that “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” (Policy 2), and “access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available” (Policy 10).

There are public access routes in the vicinity of the Propose Project Area, including a designated Class I bike lane along Ron Cowan Parkway and existing and proposed Bay Trail segments along the airport’s perimeter. The EIR should discuss the potential for construction vehicles and operational traffic associated with the Proposed Project to impact public access routes, including whether they would pose a safety hazard for users of the routes. This should include an assessment of how the proposed project’s siting and the projected influx of new employees and customers to the airport could impact traffic in the area, any changes to road design and traffic patterns, and any areas expected to experience congestion or high speeds.

Aesthetics

The EIR should cite the Bay Plan’s Appearance, Design, and Scenic Views policies in the regulatory settings of the Aesthetics analysis. Policies that may be relevant to the analysis include, but are not limited to the following:

- **Policy 2.** All bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore....
- **Policy 4.** Structures and facilities that do not take advantage of or visually complement the Bay should be located and designed so as not to impact visually on the Bay and shoreline. In particular, parking areas should be located away from the shoreline....
- **Policy 8.** Shoreline developments should be built in clusters, leaving areas open around them to permit more frequent views of the Bay. Developments along the shores of tributary waterways should be Bay-related and should be designed to preserve and enhance views along the waterway, so as to provide maximum visual contact with the Bay.

Colleen Liang, Port of Oakland
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Environmental Justice

The Bay Plan includes a section on Environmental Justice and Social Equity. While environmental justice is not necessarily identified as a distinct resource area in and of itself to be analyzed under Appendix G of the CEQA Guidelines, many of the DEIR's topic areas touch on issues of environmental justice. Environmental Justice and Social Equity Policy 4 states: "If a project is proposed within an underrepresented and/or identified vulnerable and/or disadvantaged community, potential disproportionate impacts should be identified in collaboration with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to require mitigation for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the project is proposed."

In considering impacts related to resource topics such as air quality, noise, and transportation, which could affect quality of life for the surrounding community, the EIR should consider whether impacts may be borne disproportionately in vulnerable or disadvantaged communities. The EIR should base this determination on input gathered from meaningful engagement with potentially affected communities.

We appreciate your attention to the topics discussed above and for the opportunity to make the above comments on the scope of the EIR. If you have any questions or concerns regarding this matter, please do not hesitate to contact me at (415)-352-3650 or by email at katharine.pan@bcdc.ca.gov.

Sincerely,

DocuSigned by:

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