



SFMTA | Municipal Transportation Agency

**SAN FRANCISCO
PLANNING DEPARTMENT**

May 16, 2013

Plan Bay Area Public Comment
Metropolitan Transportation Commission
101 Eighth Street
Oakland, CA 94607

Subject: Draft Plan Bay Area Draft EIR, April, 2013; State Clearinghouse No. 2012062029

To Whom It May Concern:

For the last several years, the City and County of San Francisco has been participating with the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) in Plan Bay Area and its associated Environmental Impact Report (EIR). The Draft Plan Bay Area and Draft EIR were published in April 2013 and staff from the undersigned agencies has reviewed both of these documents. We appreciate the opportunity to provide the following comments.

The San Francisco Planning Department is the Lead Agency responsible for implementing the California Environmental Quality Act (CEQA) within San Francisco. As the Lead Agency, we are hopeful about the possibility of future programs and projects “tiering off” the programmatic Plan Bay Area EIR, as stipulated in CEQA and associated legislation.

As the Draft EIR correctly notes, prior to Senate Bill 375 (SB 375), there were already several provisions in CEQA for the exemption and streamlining of environmental analysis for subsequent projects consistent with a certified programmatic EIR. Many of San Francisco’s Priority Development Areas (PDAs) have already undergone or are currently undergoing a substantial community planning process, resulting in changes to development policies, including allowable uses, development controls and density. Subsequent projects within these community plan areas may qualify for a Community Plan Exemption per Section 15183 of the *CEQA Guidelines* and/or Public Resources Code Section(s) 21159.21, 21159.23, 21159.24, 21081.2, and 21083.3. The Planning Department has successfully relied on the Community Plan Exemption process for projects in community plan areas with certified EIRs since 2009. Based on our experience in applying the Community Plan Exemption to subsequent projects for which a “tier one” environmental document was prepared, we offer the following comments that are intended to provide greater clarity to lead agencies seeking to tier from the Plan Bay Area EIR.

1. *Compliance with Federal, State, and Local Regulations.* Throughout the Draft EIR, projects that generate significant impacts are identified and mitigation measures required even if federal, state, and/or local regulations reduce those impacts to less-than-significant levels. We note that this approach is different from how the San Francisco Planning Department makes a determination of significance. Specifically, if there are existing federal, state, and/or local regulations that reduce

environmental impacts, the Planning Department finds that a project results in less-than-significant impacts because the sponsor is obligated under the law to implement certain measures, which ensures a particular significance threshold is not reached. The Draft EIR, however, identifies compliance with federal, state and/or local regulations as mitigation measures. To the extent that existing federal, state, and/or local regulations ensure that a project does not result in a significant impact, we suggest that impacts be determined to be 'Less Than Significant' and the appropriate regulations identified/described in the body of the chapter. One way of achieving this would be to move the relevant language from the mitigation measure and place it in the impact statement. For example, Impact 2.13-3 could be revised as follows:

Combined Effects

The combined effects of development and transportation projects could increase the routine transport, use, storage, and disposal of hazardous wastes in the vicinity of new or proposed schools. Projects that comply with federal, state, and local regulations and laws related to hazardous materials near schools would have less-than-significant impacts.

If federal, state, and local regulations do not apply or exist in every Bay Area jurisdiction to reduce the particular impact, then the significant impact and mitigation measure should remain, with the specific regulation language removed. However, if federal, state, and local regulations do apply or exist in every Bay Area jurisdiction, then the impact should be less-than-significant and mitigation measures should not be required (this is the approach for Impact 2.13-7).

Furthermore, some jurisdictions have adopted, or could adopt policies in the future, that would reduce impacts to less-than-significant levels. Transit Priority Projects (TPP), Residential/Mixed Use Residential Projects, or Sustainable Communities Projects in these jurisdictions should not be penalized by having to identify significant impacts where there would be none as a result of complying with statutory requirements nor should they be required to fulfill MTC monitoring requirements as expressly laid out in the Plan Bay Area EIR. Therefore, we suggest the above additional language be added before every significant impact identified (e.g., Impact 2.2-2, Impact 2.6-1, Impact 2.8-1, Impact 2.8-3, Impact 2.8-4, Impact 2.8-5, Impact 2.8-6, Impact 2.8-7, Impact 2.9-4, and many others), and not just significant impacts with mitigation measures that currently state compliance with existing regulations.

2. *Applicability of Mitigation Measures.* The EIR should clarify how a lead agency would determine whether or not a mitigation measure is applicable to a proposed project or expressly state whether such a determination is at the discretion of the lead agency. We recommend a thorough discussion of the applicability of mitigation measures in the Introduction and/or the beginning of Chapter 2. For example, if a proposed project is not located in the Alquist-Priolo Hazard Zone, then, presumably the proposed project would not be subject to Mitigation Measure 2.7(a) or if a proposed project is located in a jurisdiction where local regulation or uniformly applied development policies would reduce impacts to less-than-significant, then, presumably it would not be subject to identified mitigation measures.

The Draft EIR states that in order to take advantage of the environmental review process under SB 375, projects would have to implement *all feasible mitigation measures* presented in the document in order to reduce the impact to a less-than-significant level. We suggest that the EIR indicate

whether the lead agency has discretion as to which measures should be adopted by an individual project sponsor so long as the impact is reduced to a less-than-significant level.

Additionally, throughout the EIR, mitigation measures state “mitigation measures shall be considered by implementing agencies and/or project sponsors where feasible based on project-and site-specific considerations that include, but are not limited to” Please clarify if the intent of this language is to allow lead agencies to implement their own set of prescribed measures that reduce impacts to less-than-significant levels. The EIR should allow for flexibility by lead agencies in adopting other equally effective measures that reduce impacts to less than significant levels.

Finally, the EIR often provides mitigation, even if impacts are identified as less than significant (e.g., Impact 2.3-1). In instances where impacts are determined to be less than significant, the EIR cannot require mitigation measures and none should be identified. Should MTC determine it beneficial to identify measures that would reduce a project’s less than significant impact even further, MTC has the ability under CEQA to identify improvement measures. We recommend that all impacts presented for informational purposes and impacts that are less than significant, for which the EIR identifies mitigation measures, be described as improvement measures and not CEQA-required mitigation measures.

3. *Transportation.* On page 2.1-32, the EIR notes that implementation of Plan Bay Area could result in a substantial increase in per capita Vehicle Miles Traveled on facilities experiencing level of service F during the AM peak period, PM peak period, or during the day as a whole and mitigation measure 2.1(c) calls for MTC to “pursue a policy that requires the implementation of ramp metering throughout the region’s highway network as a condition of discretionary funding.” San Francisco notes that ramp metering may not warrant the same implementation approach in all local contexts, and therefore opposes any blanket requirements to implement ramp metering. This traffic management tool should be examined through feasibility studies on a case-by-case basis and implemented only where appropriate, including where it would be effective in improving traffic operations beyond existing local signaling and congestion management measures. Safety considerations for both motorized and non-motorized travelers also require appropriate length and design of entrance ramps. We request that the mitigation measure be adjusted to afford this flexibility.

Further, on pages 2.1-35 and 2.1-36, the EIR discusses percent utilization of regional transit supply relative to demand, finding that implementation of Plan Bay Area would result in no adverse impact on system performance. We appreciate the inclusion of this indicator of capacity utilization as an impact measure at our request. However, the methodology to analyze this impact measure can be improved upon in future EIRs. Averaging percent utilization across all modes and across a four-hour peak period, masks the high, or potentially oversubscribed capacity utilization in certain high transit usage corridors, particularly during the peak hour of the four hour peak period (e.g. as is likely the case for the San Francisco-East Bay Transbay corridor). San Francisco agencies and the Bay Area Rapid Transit District (BART) collaborated with MTC to develop a more appropriate corridor-specific approach – similar to what is used in San Francisco – during the Plan Bay Area Alternatives Scenarios analysis process and hope we can work together to refine and incorporate this approach, at least for regional corridors, into subsequent Regional Transportation Plan EIRs.

Moreover, the document states that local transit capacity utilization impacts do not represent regional impacts to the overall system and as such, should be addressed by individual jurisdictions as part of the review and approval of future projects. While the EIR acknowledges that capacity constraints are an existing issue for transit lines in high-density locations like San Francisco and that such capacity limitations may continue into the future, we request additional discussion on this topic. All public transit systems with stops in San Francisco (Muni, AC Transit, Golden Gate Transit, SamTrans, BART, Caltrain, Ferry and eventually, High Speed Rail) are highly regional in nature, carrying sizable numbers of regional passenger trips, both today and in the future. As the transit hub of the region's core, San Francisco cannot, and should not be expected to accommodate the significant regional demand for transit as a purely local endeavor. Fortunately, in practice, the region has provided strong support for transit development in San Francisco and, although deep needs persist in terms of providing adequate state-of-good repair and operating resources, Plan Bay Area builds on that partnership going forward. This is especially important and appropriate given the high levels of job and housing growth anticipated by the Plan within San Francisco PDAs. We request that the EIR acknowledge the importance of the local San Francisco transit network in accommodating a substantial amount of existing as well as future regional transit demand, and the region's role in helping to address capacity and other core transit system needs. As such, the EIR could recognize Plan Bay Area's improvement measures to address local transit capacity issues in San Francisco and other parts of the region's core transit network. These measures include, but are not limited to, support for BART Metro and Muni Metro reliability and capacity improvement projects, addressing key vehicle, systems, facilities and other state-of-good-repair needs for all operators, and providing continued support for Central Subway, Bus Rapid Transit, Transbay Terminal/Downtown Extension of Caltrain, Caltrain Electrification and High Speed Rail development in San Francisco.

4. *Local Pollutant Analysis for San Francisco.* As discussed in the EIR, San Francisco has been collaborating with the Bay Area Air Quality Management District (BAAQMD) in development of a Community Risk Reduction Plan (CRRP). Thank you for recognizing San Francisco's efforts in developing a CRRP. We recommend that the discussion in Impact 2.2-5(c) include consideration of not only a formally adopted CRRP, but also adoption of standard development regulations that in combination would similarly protect new sensitive land uses that locate in areas with poor air quality. We believe that San Francisco CRRP meets the requirements of CEQA Guidelines Section 21155.1(a)(6)(C) because identified air pollution hot spots are derived from health protective standards that underlie federal and state ambient air quality standards for fine particulates and are intended to protect the public health and welfare. Furthermore, San Francisco's Health Code Article 38 requires residential projects located in proximity to high volume roadways that experience increased levels of particulate matter to install high-efficiency mechanical ventilation systems that are designed to remove a minimum of 80 percent of ambient particulate concentrations. This regulation can serve as a model for other jurisdictions within and outside of the region.
5. *Land Use and Physical Development.* The EIR states that implementation of the proposed Plan could result in residential or business disruption or displacement of substantial numbers of existing population and housing. The City would like to work with MTC and ABAG at the regional level

to assist in mitigating the displacement impacts through future non-transportation funding streams that could help specifically address this challenging and important issue, such as through the Regional Prosperity Plan and follow-on efforts.

6. *Technical Corrections.* We have identified a few minor corrections that should be addressed in the Final EIR. These include:

- Page 2.1-22: The discussion of recent countywide transportation plans should note the most recent San Francisco plan as the 2030 Countywide Transportation Plan adopted in 2004, and that the 2040 San Francisco Transportation Plan is expected to be adopted in Fall 2013.
- Page 2.2-25: At least for San Francisco, the map of Communities of Concern is not consistent with what MTC has publicized as the official Community of Concern designation as shown in the map at the website: (<http://geocommons.com/maps/118675>)
- Page C-17: The table of projects included by EIR alternative incorrectly indicates project # 240730, the San Francisco Pricing Program mobility improvements as being in the No Project Alternative. This project could not be in the No Project Alternative because it requires project #240728, which is not in the No Project Alternative.

Thank you for the opportunity to provide comments on Plan Bay Area Draft EIR. Please do not hesitate to contact Viktoriya Wise of the Planning Department (viktoriya.wise@sfgov.org) if you have any questions.



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