

**CALIFORNIA TAHOE CONSERVANCY
LAND BANK PIER PROGRAM GUIDELINES**

November 8, 2021

I. Purpose

These Land Bank Pier Program Guidelines (Guidelines) provide standards for Conservancy staff to approve transactions for land coverage and/or restoration credits for the construction of structures that provide access to new or existing piers, existing watercraft moorings, and other structures (e.g., walkways or steps) within the shorezone of Lake Tahoe that are consistent with the Land Bank Pier Program Initial Study/ Negative Declaration (IS/ND). The IS/ND addresses the sale of coverage and/or restoration credits for the construction of such structures that provide access on both public and private lands on the California side of Lake Tahoe in El Dorado and Placer counties. Through the process described in these Guidelines, Conservancy staff will review applications to ensure compliance with the IS/ND to satisfy the California Environmental Quality Act (CEQA) and consistency with the Tahoe Regional Planning Agency's (TRPA) 2018 Lake Tahoe Shoreline Plan (Shoreline Plan). The Conservancy will not implement any transaction for coverage and/or restoration credits that falls outside the scope of these Guidelines without additional environmental review and Board approval if required.

II. Background

In 1988, the Conservancy established its land bank program (Land Bank) on the California side of the Lake Tahoe Basin (Basin). The Land Bank was created through a Memorandum of Understanding (MOU) with the TRPA. The MOU describes the Conservancy's and the TRPA's duties and authorities with respect to the acquisition and sale of land coverage and development rights in the Basin. Through the Land Bank, the Conservancy acquires land from willing sellers, restores the land, banks various land coverage and development rights, and then has the option to transfer, sell, or retire the rights.

The TRPA regulates impervious land coverage and development rights within the Basin through the TRPA Code of Ordinances (TRPA Code). TRPA Code includes specific standards for allowable land coverage, including in the shorezone of Lake Tahoe, based on a parcel's soil type, slope, and other characteristics. The shorezone is defined as the area consisting of the nearshore, foreshore, and backshore. TRPA Code defines the geographic limits of those areas as follows:

Nearshore: The zone extending from the low-water elevation of Lake Tahoe, 6,223 feet, to a lake bottom elevation of 6,193 feet.

Foreshore: The zone of a lake-level fluctuation that is the area between the high and low-water elevations (6,229.1 feet and 6,223 feet, respectively).

Backshore: The land area located between the high-water line of the lake (6,229.1 feet) and the upland area of parcels.

In October 2018, the TRPA adopted the Shoreline Plan, establishing regulations (Chapters 80-85 of the TRPA Code) and a Shoreline Implementation Program for the shorezone of Lake Tahoe. Among other components, the Shoreline Plan set limits on the numbers of new shorezone structures, such as piers, moorings, marinas, and public boat ramps. The Shoreline Plan allows for the phased construction for a total of up to 138 new public and private piers throughout the California and Nevada sides of the Basin, which includes up to ten new public piers and up to 86 new private piers on the California side of the

Basin. It also establishes standards pertaining to the construction and use of such structures, including moorings. The Shoreline Plan allows for up to 2,116 new moorings (which includes buoys, boatlifts, and boat slips). Most new moorings would be buoys. The Shoreline Plan also establishes standards pertaining to the construction and use of such structures, the relocation/reconstruction of piers, modifications to existing piers and moorings, the construction of structures that provide access to new or existing piers, and other access structures in the shorezone.

To ensure that the Land Bank Pier Program complies with CEQA, in summer 2021 the Conservancy, acting as the lead agency, prepared the IS/ND for the Land Bank Pier Program. The Land Bank Pier Program IS/ND tiers from and incorporates by reference information from, the Shoreline Plan environmental impact statement (EIS), where appropriate. The TRPA prepared the Shoreline Plan EIS to analyze the environmental impacts of its shorezone regulations and to include mitigation measures to ensure compliance with the TRPA's environmental thresholds consistent with the Tahoe Regional Planning Compact, TRPA Regional Plan, and TRPA Code.

III. Process for review of applications under these Guidelines:

Conservancy staff will follow the process described below when reviewing Land Bank applications for the sale of coverage and/or restoration credits under these Guidelines.

A. Receipt of Applications: Staff will review applications and all associated documents to ensure completeness and that all necessary agency permits and approvals have been obtained or are in the process of being obtained. The documents submitted with the application should include: the deed for the property; the plans for the proposed construction work in the shorezone; the TRPA, City of South Lake Tahoe, and county permit submittals; the initial environmental checklist submitted to the TRPA; the IPES/Bailey score for the property; and any other relevant materials. Upon receiving an application, staff will evaluate any potential issues and as necessary depending on what resource areas may require further evaluation.

B. Environmental Review of Applications - Resource Evaluation:

Staff will evaluate each application to ensure the outlined standards below are met for each resource area. These standards are taken directly from the IS/ND, TRPA Code, and the Shoreline Plan EIS, where applicable. During this review, if questions arise during the analysis of each resource area, staff will refer back to the IS/ND, TRPA Code, and the Shoreline Plan EIS.

1. Aesthetics

Each application is required to comply with TRPA Code of Ordinances Chapter 66 – Scenic Quality, Chapter 36 – Design Standards, and Chapters 80-85 that are specific to the shorezone. These TRPA standards designate several shoreline travel units and roadway travel units within the Shoreline Plan and TRPA Code. Applications should be reviewed to determine if there is a less than significant impact in the travel units to scenic vistas and view sheds, damage to scenic resources (e.g., trees, rock outcroppings, historic buildings, etc.), and substantial light or glare. Construction of supporting structures such as walkways, steps, and pilings in the backshore resulting from the application may require temporary lighting to comply with safety standards.

2. Agriculture and Forest Resources

To comply with TRPA Code and the Shoreline Plan, applications should not contain any agricultural lands according to the Farmland Mapping and Monitoring Program of the California Natural Resources Agency. Therefore, each application should not convert prime farmland, unique farmland, farmland of statewide importance, or conflict with existing zoning for agricultural use. Forest resources are present near the shorezone in both El Dorado and Placer counties. Applications should only require tree removal for construction activities in the shorezone should be limited and is subject to existing regulations pertaining to removal of vegetation required for construction activities. As a result, there would be no conversion of forest land to non-forest uses. For each application, there should be no impact on agricultural and forest resources.

3. Air Quality

Impacts related to air pollution emissions under the application are the same as, although less than, those analyzed in the Shoreline Plan EIS, and therefore the analysis is tiered from and consistent with the Shoreline EIS. Applications will result in the construction and reconstruction of piers and other access structures using various equipment, including a floating or amphibious barge and a pile driver or large drill for pile installation. These activities will generate temporary equipment exhaust and dust emissions that could violate or contribute to air quality violations. To mitigate these impacts, applications are required to include the following TRPA mitigation measures:

- Dust shall not go beyond the property boundary during construction,
- No open burning of removed vegetation during infrastructure improvements,
- Idling time for all diesel-powered equipment shall not exceed 5 minutes, and
- Water shall be applied as needed to the construction site.

In addition, there should not be an increase in long-term operational emissions associated with the application because there would be no increase in recreational boating and associated new roadway vehicle trips. The application should not modify laws or regulations pertaining to air quality and the application is required to comply with Chapter 65 of the TRPA Code.

4. Biological Resources

As described in Chapter 14, "Terrestrial Biological Resources (Wildlife and Vegetation)," of the 2018 Shoreline Plan EIS, natural terrestrial habitats within the shorezone consist primarily of beach (with variable composition of sand, gravel, and cobble, depending on location) and a mix of conifer forest (Jeffrey pine, lodgepole pine, Sierran mixed conifer), scattered conifer trees and snags, and patches of montane riparian and wet meadow vegetation. The data review in the EIS identified 49 special-status terrestrial plant species and 39 special-status wildlife species known or with potential to occur in the shorezone or vicinity. Two special-status wildlife species (osprey and bald eagle), and one special-status group of wildlife species (waterfowl) as well as one special-status plant species (Tahoe yellow cress) are known to occur in the shorezone and were the focus of the impact analysis. Other special-status terrestrial species could use or occur in portions of the shorezone area but are not expected to be affected considerably by the proposed program.

As described in Chapter 5, "Fish and Aquatic Biological Resources," of the Shoreline Plan EIS, an application has the potential to affect fish and aquatic biological resources in Lake Tahoe. As a result of introductions and extirpations, Lake Tahoe currently supports a total of 20 native and introduced fish species.

The recommended TRPA mitigation measures from the Shoreline Plan EIS have been adopted into the TRPA Code and standard permit conditions. Required mitigation has been adopted by TRPA as a mandatory condition of approval. The applicable TRPA mitigation measures are listed on pages 3-19 to 3-22 in the IS/ND.

5. Cultural Resources

The prehistory and ethnography are described in detail in Chapter 16, "Cultural Resources," of the Shoreline Plan EIS, which includes summaries of the historic use of Lake Tahoe by the Washoe People. Federal, state, and regional regulatory agencies maintain inventories of historic and archaeological resources in the Basin. The National Register of Historic Places and the California Register of Historical Resources are comprehensive inventories of cultural resources. Additionally, the USDA Forest Service, Lake Tahoe Basin Management Unit; TRPA; and the California State Historic Preservation Office keep inventories of cultural resources. The California Historical Resources Information System includes the State Historic Resources Inventory as defined in California Public Resources Code § 5020.1(p), and many resource records and research reports managed by the nine California Historical Resources Information System Information Centers located throughout the State.

Historic and archaeological resources are site-specific and are inventoried on a case-by-case basis for individual projects in the Region. TRPA mitigation measures required to be taken to ensure a less than significant impact for cultural resources are listed on pages 3-24 to 3-25 of the IS/ND.

6. Energy

The use of energy would be temporary, lasting only the duration of pier construction, and no new long-term or operational energy use would occur as a result of the construction of private piers. Private piers cannot be used for permanent boat moorage, and would, therefore not affect ongoing boating activity.

In addition, in relation to public piers, a small and temporary increase in energy consumption required to construct piers would not be wasteful or inefficient because implementation of the application would benefit the public by providing piers for public use and recreation. Therefore, any impact to energy would be less than significant.

7. Geology and Soils

Effects related to geology and soils under the application are consistent with those analyzed in the Shoreline Plan EIS, and therefore the analysis is tiered from and is consistent with the Shoreline Plan EIS. Shaking potential in the Basin is generally considered to be low to moderate and the program would permit structures in the shorezone that could be damaged during an earthquake, however, this is a less than significant impact.

8. Greenhouse Gas Emissions

Impacts related to greenhouse gas (GHG) emissions under the application are the same as, although less than, those analyzed in the Shoreline Plan EIS, and therefore the analysis is tiered from and consistent with the Shoreline Plan EIS. The proposed program would result in GHG emissions during the construction of piers from vehicle and equipment use; however, it would be short-term, intermittent, and would not be expected to result in substantial GHG emissions.

TRPA mitigation measures required to be taken to ensure a less than significant impact are listed on page 3-34 of the IS/ND.

9. Hazards and Hazardous Materials

Hazards and hazardous materials associated with the application are consistent with those analyzed in the Shoreline Plan EIS, and therefore the analysis is tiered from and consistent with the Shoreline Plan EIS. The hazards and hazardous materials associated with the proposed program were analyzed and have a less than significant impact.

10. Hydrology and Water Quality

The Shoreline Plan EIS evaluated water quality impacts associated with buildout of the entire Shoreline Plan, including construction of new piers that could be facilitated by implementation of the application (TRPA 2018:6-15 through 6-17). The potential effects of constructing piers and support facilities (e.g., walkways, steps, pier decking, and pilings in the backshore) associated with the application on water quality are the same as those included in the analysis in the Shoreline Plan EIS; therefore, this analysis is tiered from and consistent with the Shoreline Plan EIS.

Compliance with existing state, federal, and TRPA regulations (e.g., Clean Water Act, California Water Code, Lake Tahoe Total Maximum Daily Load, Chapter 33 of the TRPA Code) would reduce potential short-term impacts from construction activities in the shorezone to a less-than-significant level (TRPA 2018b:6-17).

TRPA mitigation measures required to be taken to ensure a less than significant impact are located on page 3-42 of the IS/ND.

11. Land Use and Planning

The construction and operation of new piers around Lake Tahoe would not physically divide an established community because no communities exist in the shorezone and piers are small structures that would not impede access. In addition, the California State Lands Commission reviews pier applications in partnership with the TRPA to ensure public access along the shore of Lake Tahoe is not impeded. There are no impacts to land use and planning because the construction and operation of new piers would be consistent with all required regional and local plans.

12. Mineral Resources

No known and or available mineral resources are located within the shorezone and resource extraction is not permitted in the application area. Therefore, there are no impacts to mineral resources.

13. Noise

The Shoreline Plan EIS noted that changes in the number of moorings (e.g., buoys, slips, and boat lifts) and access points (e.g., boat ramps) would result in changes in the amount of motorized boating activity on Lake Tahoe (TRPA 2018:2-19). Because piers and moorings do not affect motorized boating capacity at Lake Tahoe, any increase in noise from motorized boating activities under the Shoreline Plan would not be associated with piers.

14. Population and Housing

As described in Chapter 18 – Other TRPA-Mandated Sections of the Shoreline Plan EIS, the Shoreline Plan would not impact existing levels of or demand for housing, because housing availability and demand are driven by primary land uses, not shorezone structures. All shoreline structures would be associated with existing or new primary uses, such as residences, public beaches, or marinas.

15. Public Services

As described in Chapter 18 – Other TRPA-Mandated Sections of the Shoreline Plan EIS, the Shoreline Plan would not impact existing levels of or demand for schools or for utilities such as power, natural gas, telecommunication, water, and wastewater disposal. All shoreline structures would be associated with existing or new primary uses.

16. Recreation

The potential effects related to access to the shoreline from piers that could be facilitated by the application are narrower in scope than those included in the analysis in the Shoreline Plan and therefore any effects will be at a lesser magnitude. Therefore, this analysis is tiered from and is consistent with the Shoreline Plan EIS. Changes in access to the shoreline could result in recreation users seeking out other shoreline areas.

17. Transportation

The Shoreline Plan EIS includes a brief discussion of potential impacts on transit service and bike and pedestrian facilities (TRPA 2018:13-1 and 13-2). The structures that could be developed under the application would be piers and upland access structures (e.g., walkways). Most of the piers would be located on private property associated with residences, which are generally accessed by private vehicles. Since only ten new public piers are allowed, impacts from waterborne transit related to those piers would be minimal.

18. Tribal Cultural Resources

As described in Chapter 16 – Cultural Resources of the Shoreline Plan EIS, there are at least 20 archaeological and tribal cultural resource features known to the TRPA within the Lake Tahoe area. Pursuant to PRC Sections 21080.3.1, 21080.3.2, and 21082.3, lead agencies undertaking CEQA review must, upon written request of a California Native American Tribe, seek consultation concerning the application. Pursuant to Assembly Bill 52 (AB 52) requirements, no requests were made. Impacts related to the application are consistent with the initial consultation, response received under AB 52, and would not cause a substantial adverse change in the significance of a tribal cultural resource.

The required TRPA mitigation measure for Tribal Cultural Resources (incorporated from the Shoreline Plan EIS) is located on page 3-66 of the IS/ND.

19. Utilities and Service Systems

Impacts pertaining to provision of public services under the application are consistent with those analyzed in the Shoreline Plan EIS, and therefore the analysis is tiered from and is consistent with the Shoreline EIS in Chapter 18 – Other TRPA-Mandated Sections of the Shoreline Plan EIS.

20. Wildfire

Impacts related to wildfire under the application are consistent with those analyzed in the Shoreline Plan EIS, and therefore the analysis is tiered from and consistent with the Shoreline EIS. Wildfire was discussed in Chapter 18 – Other TRPA-Mandated Sections of the Shoreline Plan EIS.

C. Environmental Review for Consistency with the IS/ND: Conformance Checklist

Land bank staff will review the application and complete the Conformance Checklist (Exhibit A). The Conformance Checklist is designed to assist review of each application after completing the in-depth, individual resource area review above, and incorporates the standards outlined above in a concise report. In filling out the Conformance Checklist, Land Bank staff will assess each application, including its geographic location, and any other specific circumstances related to the application, to assure it is consistent with these Guidelines and the IS/ND. Land Bank staff will work with legal staff on any potential issues that require further analysis. Consistency with the Conformance Checklist, therefore satisfying the standards outlined above in step “B,” requires a showing of substantial evidence. Land Bank staff will maintain a file for each transaction with a record of maps, resource surveys, and any other relevant information to support a determination that the application and proposed structure is consistent with the IS/ND. A completed Conformance Checklist will also be saved in each application file.

To complete the Conformance Checklist, staff will:

- Review the full Conformance Checklist;
- For each resource, describe the impact and summarize whether the impact is covered by the IS/ND;
- For each resource, answer the questions in the Conformance Checklist by indicating whether there are new significant impacts, substantially more severe impacts, or the impacts are within the scope of the IS/ND; and
- For each resource, provide supporting evidence specific to the application (maps, resource surveys, and other information pertinent to the application).

After completing the Conformance Checklist, staff may approve an application for the sale of coverage and/or restoration credits if, based on substantial evidence, the application is consistent with these Guidelines and the IS/ND. Staff also has the discretion to determine that a given application does not meet the standards outlined in these Guidelines and is inconsistent with the IS/ND, and therefore may find it appropriate to reject such applications.

Exhibit A – Land Bank Pier Program Environmental Conformance Checklist