

# **Chapter 1**

## **INTRODUCTION**

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### **1.1 PROJECT OVERVIEW**

In accordance with the Tahoe Regional Planning Agency's (TRPA) Compact, *Code of Ordinances* (Code) and *Rules of Procedure*, a Draft Environmental Impact Statement (DEIS) was prepared and circulated for public review and comment in July 2004 to evaluate the environmental impacts associated with five alternatives for regulation of Shorezone development in the Lake Tahoe Region. Pursuant to TRPA Code Subsection 54.3.B, the Shorezone DEIS considered modification of the fisheries location standards for structures in the Shorezone. The Proposed Project Alternative and three additional alternatives identified in the DEIS (not including the No Project Alternative) would modify TRPA Code Chapters 50 through 56, the Shorezone Provisions; Chapter 29, Historic and Cultural Resources; Chapter 79, Fish Resources; Chapter 75, Sensitive and Uncommon Plant Protection; and Chapter 2, Definitions, following the recommendations of the Shorezone Partnership Group, the Shorezone Policy Committee of the TRPA Governing Board, and TRPA staff. For purposes of the DEIS, the Shorezone includes the backshore, foreshore, and nearshore as defined by the TRPA Code, described in Chapter 1 of the DEIS, and illustrated in Figure 1-1.

TRPA has responsibility for planning and managing the Shorezone of the lakes in the Tahoe Region. TRPA's Regional Plan Package, including the *Goals and Policies*, *Code of Ordinances*, the *Plan Area Statements* (TRPA's zoning equivalent document), and other guiding documents, identifies requirements with respect to the Shorezone.

Through review of comments on the DEIS and additional stakeholder input, TRPA identified an additional alternative that would meet most of the project objectives and would address concerns related to shorezone structure allocation and distribution, scenic mitigation systems, water quality, drinking water intakes, simplicity and clarity of the program, and other concerns. TRPA has determined that supplemental environmental analysis should be prepared to fully address the impacts of Alternative 6.

### **1.2 STATUS OF THE PROJECT**

The Shorezone DEIS, prepared in 2004, provided an analysis of the existing situation in the shorezones and lakezones of the Tahoe Region's lakes and evaluated the proposed Shorezone ordinance revisions (Alternative 2) and four other alternatives for future development regulations. In accordance with Code Subsection 54.3.B, the main action was identified as the reconsideration of the location standards for piers, mooring buoys, boat ramps, floating docks, and platforms in prime fish habitat areas identified as "Feeding and/or Escape Cover Habitat," "Spawning Habitat," or "Areas Targeted for Habitat Restoration."

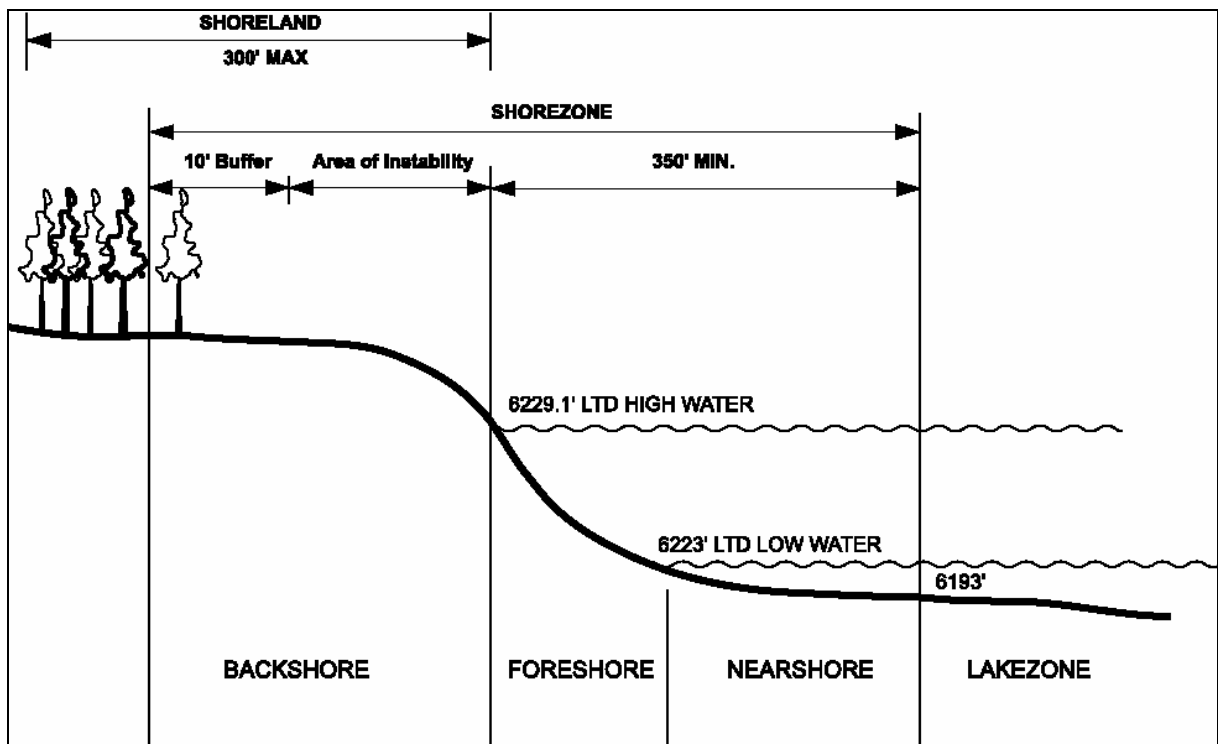
The original DEIS considered five alternatives:

- 1) Alternative 1 is the "No Project Alternative" and would result in maintaining the current Code.

- 2) Alternative 2, identified in the DEIS as the “Proposed Alternative,” represents the previous consensus agreements of the Shorezone Partnership Committee, comments from the TRPA Governing Board Shorezone Policy Committee, and TRPA staff’s professional opinion where agreements could not be found. Alternative 2 would lift the fish habitat restrictions but put in place regulatory structures to promote threshold compliance.
- 3) Alternative 3 would result in lifting the restrictions related to development in fish habitat areas.
- 4) Alternative 4 would allow development of public structures only.
- 5) Alternative 5 would result in the reduction of existing development.

The alternatives analyzed in the DEIS were developed to represent the following range of options. The No Project Alternative (maintaining the current Code) is required to be evaluated under the TRPA Code. Alternative 2 was initially considered the Proposed Alternative (a new Shorezone Ordinance permitting increased development with mitigation). Alternative 3 was selected because TRPA has been asked many times over the years to lift the prohibition on construction in prime fish habitat as a sole Code amendment. Alternative 4 was selected as a type of reduced alternative in that it would allow only public structures to be placed in the Shorezone and at the same time would address TRPA’s Recreation Threshold management standards and Recreation Goals and Policies. Alternative 5 would achieve a reduction of structures over the existing baseline number but would include the other code revisions from Alternative 2 that are consistent with the development reduction principle. All other alternatives (1, 3, and 4) contain the existing code provisions.

**Figure 1-1. Lake Tahoe Shorezone Areas**



The DEIS was circulated for a 90-day public review period (July 1–September 28, 2004). Several public meetings were held, at which comments were received from agencies, organizations, and private individuals on the analysis contained in the DEIS and on the proposed Code amendments themselves. Written comments were also received during the public review period.

Following the close of the comment period, TRPA intended to prepare responses to comments and circulate a Final EIS (FEIS) that addressed those comments and included any revisions to the DEIS proposed as a result of the comments.

A substantial number of comments were received that noted the complexity of the proposed project as reflected in Alternative 2. Many commenters felt that the overlapping structure of Code amendments, permitting requirements, and mitigation measures identified in Alternative 2 was too complex and that the impacts of the development permitted under that scenario were excessive.

In response to these comments, TRPA reevaluated the range of alternatives that had been analyzed. Based on the comments that were submitted, TRPA crafted an alternative that would incorporate many of the mitigation measures identified in the DEIS to mitigate for significant environmental impacts of the five originally proposed alternatives. In essence, Alternative 6 was designed as a self-mitigating approach to amending the Code, in that its provisions would require little additional mitigation.

### **1.3 PURPOSE OF AND NEED FOR THE SUPPLEMENTAL DEIS**

According to Section 6.15, Article 6 of the TRPA Rules of Procedure, a supplemental EIS is required following preparation of an EIS if any of the following circumstances apply:

- (1) Subsequent changes are proposed in the project which involve new significant adverse effects not considered in the prior EIS; or
- (2) Substantial changes occur with respect to circumstances under which the project is undertaken, which involve new significant adverse effects not considered in the prior EIS; or
- (3) New information of substantial importance becomes available that shows any of the following:
  - i. The project may have a significant adverse effect not considered in the prior EIS;
  - ii. Significant adverse effects would be substantially more severe than previously discussed in the prior EIS; or
  - iii. Mitigation measures or alternatives, previously not found to be feasible or not previously discussed, would substantially reduce a significant adverse effect of the project or matter which has not already been reduced to a less than significant level.

Although the new alternative is a variation of those already analyzed (i.e., many features of Alternative 6 were included in one or more of the five originally proposed alternatives) and would not likely result in greater impacts than the alternatives already defined, the combination of features and the slow annual approach to approval of facilities were

determined to be different enough to constitute a substantial change in the project. For this reason, TRPA determined that a Supplemental DEIS shall be prepared to evaluate the potential for Alternative 6 to have significant adverse effects on the environment that have not been considered previously. The Supplemental DEIS is being recirculated for public comment, as described in Section 1.6 below.

Section 6.17, Article 6 of the TRPA Rules of Procedure allows that “[a]ll or part of other documents, including prior EISs, may be incorporated by reference in environmental documents.” This Supplemental DEIS contains new information regarding environmental impacts of the newly proposed Alternative 6. All information included in the original DEIS, published in July 2004, remains relevant and applicable to the Shorezone Ordinance amendment project, and the original DEIS is hereby incorporated by reference. This Supplemental DEIS adds to but does not replace the original DEIS; it supplements the DEIS and is not intended as a stand-alone document. Information provided in the original DEIS about environmental conditions and trends, regulatory considerations, thresholds of significance, and environmental impact analysis for the five originally proposed alternatives remains applicable to the analysis contained in this Supplemental DEIS and is referenced throughout this document. To review the full environmental analysis provided for the Shorezone Ordinance amendment project, refer to the original DEIS along with this Supplemental DEIS. The original DEIS is available at the TRPA office, 128 Market Street, Stateline, NV, and is also available online at <<http://www.trpa.org>>.

## **1.4 FORMULATION OF ALTERNATIVE 6**

Alternative 6 proposes revisions to the Shorezone provisions of the Code similar to those of Alternative 2, with several key differences in approach. The general goal of this alternative is to limit shorezone development to a level that would have minimal environmental impacts because of up-front environmental protection measures that would be included in the Code. This goal, minimizing the environmental impacts of development, would be achieved through dual means:

- (1) limiting development in the shorezone to 220 private piers and 10 public piers over the planning period, with a maximum of 10 private piers allocated each year; and
- (2) designing new structures and mitigation measures to promote threshold attainment and maintenance.

The evaluation conducted for this alternative is linked to the PATHWAY 2007 Regional Plan program. It involves a slow authorization of development with performance criteria, monitoring, and adaptive refinement of density and design criteria in 5-year increments. This will ensure that thresholds are met and with the intent of avoiding significant environmental effects in the context of Lake Tahoe's status as an Outstanding Natural Resource Water (ONRW).

The planning approach of Alternative 6 is fundamentally different from that of the alternatives evaluated in the DEIS. Alternatives 1 through 5 were evaluated assuming a maximum number of potentially authorized shorezone structures, based on estimated buildout scenarios, which could occur within a longer or shorter timeframe. As described above, Alternative 6 also considers a maximum number of potentially authorized shorezone structures. Rather than using an estimate of buildout, however, the maximum number of potentially authorized structures for Alternative 6 is based on a maximum annual allocation of private piers over a planning horizon of 20 years, linked to the PATHWAY 2007 Regional

Plan timeframe, with the opportunity for review, adaptive management, and revision every 5 years. This approach gives TRPA an opportunity to consider environmental, regulatory, technological, and other changes over time that may call for changes in policy or direction with regard to shorezone structures.

When the EIS compares the relative environmental effects of the alternatives, the comparison is associated with the impacts of the maximum number of potentially authorized shorezone structures. For any of the alternatives, the maximum number of potentially authorized shorezone structures could not be exceeded without a subsequent environmental review and action to change the ordinances by the TRPA Governing Board.

As described in the DEIS at page 2-14, full buildout of piers under the different alternatives would likely occur in different timeframes—2011 is a reasonable estimate for Alternative 1 and 2021 is estimated for Alternative 2. Though the term “buildout” does not apply to Alternative 6 because of the different planning approach, 230 additional piers at year 2027 is assumed to be the condition and timeframe at which all shorezone structures authorized under this alternative would be realized. Because any additional structures would require consideration and approval of a subsequent action by the TRPA Governing Board, direct comparison of alternatives is meaningful in the context of long-term planning.

Alternative 6 was crafted to address comments regarding several topics, as described below.

## **SCENIC RESOURCES**

TRPA staff arrived at a slow annual approval rate for structures in the Shorezone as a way to address comments regarding the potential for increased visual clutter under the previous alternatives. Also addressing this issue are new 50-foot setback requirements (compared to a 50-foot lakefront requirement in Alternative 2) and different average density standards for shoreline units based on visual character (no more than 1 pier on average per 100 feet for visually modified or dominated areas, and no more than 1 pier on average per 200 feet for visually sensitive areas). To help ensure the improvement of scenic character along the lakeshore, parcels would be eligible for permits only when they meet the 25-point contrast rating or comply with TRPA’s visual dominance curve. In addition, permit applications would be prioritized based on the length of shoreline retired, encouraging multiple private property owners to group together to apply for a multi-use pier and thereby reducing the visual impact of structures along the shoreline. In scenic non-attainment areas, any new piers would be multi-use.

## **PUBLIC ACCESS**

Protection and improvement of public access was a concern of many commenters. With Alternative 6, a \$100,000 recreation threshold fee would be paid to TRPA upon granting of a pier permit to improve and mitigate public access to the lakeshore. Alternative 6 specifies that new piers shall not unreasonably impair legal littoral access. In addition, the allocation of public piers (up to 10) is a separate process from the private pier allocation process. The public pier allocation will be environmentally sited to minimize impacts on the Shorezone or stream environment zone (SEZ) contiguous to the Shorezone.

## **WATER QUALITY**

Concerns were raised about possible water quality degradation as a result of the increased number of piers and the resulting increase in the number of boats on the lake. Alternative 6 requires all public launch sites to be equipped with boat washing facilities. A boat sticker program would be initiated, with the funds collected being allocated toward water quality monitoring and mitigation, monitoring for noise, administration, enforcement, and public outreach. Shorezone structure setbacks of ¼ mile from public drinking water intakes would be maintained unless the responsible agency provides a risk assessment that waives or reduces the setback requirement.

## **FISH HABITAT**

Protection of fish habitat during the process of pier approval and construction was another concern raised by many commenters. With Alternative 6, stream mouths with migratory fish habitat would have variable setbacks to restrict pier construction. In areas where piers would be constructed in spawning habitat, restoration or enhancement of spawning habitat at a ratio of 1.5:1 must be committed to, or the property owner must fund a portion of an Environmental Improvement Program (EIP) spawning habitat project. Alternative 6 also establishes seasonal restrictions on the construction period to protect spawning.

## **1.5 SCOPE AND ORGANIZATION OF THE SUPPLEMENTAL DEIS**

As stated above, this Supplemental DEIS has been prepared to evaluate the potential environmental impacts of a new alternative. The document is organized in the same way as the original DEIS and evaluates the same issues, as follows:

- The Executive Summary presents a summary of the purpose and need for the project and this Supplemental DEIS, discusses Alternative 6, identifies areas of controversy and issues to be resolved, and provides a summary of potential environmental impacts and mitigation measures.
- Chapter 1 – Introduction: Provides an overview of the project, updates the status of the project, describes the purpose of the original DEIS and the purpose of and need for a Supplemental DEIS, explains the formulation of Alternative 6, and provides information about the public review process for the Supplemental DEIS.
- Chapter 2 – Alternative 6 Description: Provides a description of Alternative 6 as it compares to the five originally proposed alternatives.
- Chapters 3 through 15: With the exception of land use, cultural and historic resources, and economics, the remaining 10 chapters cover environmental threshold carrying-capacity (thresholds) categories. Please note that information about current conditions in the Shorezone was provided in the original DEIS and is not repeated in this Supplemental DEIS unless it is essential for an understanding of the Alternative 6 analysis. The 13 resource categories are:
  - Land Use
  - Fisheries
  - Water Quality

- Scenic Resources
- Recreation
- Air Quality and Transportation
- Noise
- Vegetation
- Soil Conservation
- Wildlife
- Archaeological, Historical, and Cultural Resources
- Economics
- Public Health and Safety

In conjunction with the analysis provided in the original DEIS, these chapters provide a basis for comparison of what conditions would be like if one of the six alternatives under consideration is selected for implementation. Within each chapter, potential environmental impacts are identified, and information about the different types of impacts that would result from implementation of Alternative 6 is discussed.

The existing conditions and the standards that were used to identify potential impacts are not described in this Supplemental DEIS unless they differ from the information provided in the original DEIS. The potential significant impacts for Alternative 6 are presented, along with required mitigation measures, followed by the potential non-significant impacts, and then the potential beneficial impacts.

Environmental impacts are numbered throughout the chapters of the DEIS, beginning with the chapter number, the alternative number, and then followed sequentially by the impact number. For example, impacts for Alternative 6 in Chapter 3 (Land Use) are numbered as follows: 3.6.1, 3.6.2, etc. Only those impacts considered to be potentially significant are numbered in each resource chapter. Impacts that are deemed non-significant or beneficial are not numbered.

Mitigation measures are also numbered to correspond to the chapter number, and to the impact(s) that they will mitigate in the order that they appear in the chapter. As a result, a mitigation number may be used for more than one impact within a particular resource chapter. Mitigation Measures for Alternative 6 in Chapter 4 (Fisheries) are numbered as follows: 4.6.1a, 4.6.1b, etc. Therefore, any given impact may have several different mitigation measures and mitigation measures may be applicable for several impacts.

- Chapter 16 – Other Environmental Impacts: Discusses significant adverse effects that cannot be mitigated, the relationship between short-term uses of the environment and enhancement of long-term productivity, irreversible and irretrievable commitment of resources, growth-inducing impacts, and monitoring/future study needs.
- Chapters 17–20 of the DEIS have no changes.
- Appendices: Various appendices are included to offer additional documentation of resources used in preparing this Supplemental EIS.

## 1.6 PUBLIC REVIEW PROCESS

In accordance with TRPA Code 5.8.A (4), this Supplemental DEIS is being distributed for a 60-day public comment period. Comments on the Supplemental DEIS may be made either in writing before the end of the review period or at the public hearings to be held before the TRPA Advisory Planning Commission and Governing Board meetings. These meeting times and locations are listed in the Notice of Circulation accompanying this Supplemental DEIS. Written comments on the DEIS should be forwarded to:

Ms. Coleen Shade  
Tahoe Regional Planning Agency  
128 Market Street  
Stateline, NV 89449-5310  
E-mail: coleens@trpa.org

The public review period provides the opportunity for agencies, organizations, and members of the public to provide comments on the new analysis published in the Supplemental DEIS only. Because this is a supplemental document and not a full recirculation of the original DEIS, TRPA is not obligated to accept comments on the previously published DEIS; that document was circulated for a 90-day public comment period, which closed in September 2004. The comment period for this Supplemental DEIS, beginning on July 1, 2005, and ending on August 31, 2005, is limited only to the new information presented in this Supplemental DEIS.

Comments previously submitted will be responded to in a FEIS that will be prepared to address both the public comments on the original DEIS and comments on this Supplemental DEIS. Reviewers need not resubmit their comments on the original DEIS. The FEIS will take the form of a fully revised EIS and will incorporate Alternative 6 along with the five originally proposed alternatives. Text changes resulting from new information and responses to comments will be indicated in that document. The entire EIS will be considered, along with any revisions to the DEIS made in response to comments received, before the TRPA Governing Board renders a decision on the amendments to the Shorezone Ordinance.