

TO: ABAG Administrative Committee DATE: October 15, 2021
 FROM: Therese W. McMillan, Executive Director
 SUBJECT: City of Sausalito Appeal of Draft RHNA Allocation and Staff Response

OVERVIEW

Jurisdiction: City of Sausalito

Summary: The City of Sausalito requests the reduction of its Draft RHNA Allocation by 579-599 units (80-83 percent) from 724 units to 125-145 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
 - Existing and projected jobs and housing relationship.
 - Sewer or water infrastructure constraints for additional development due to laws, regulatory actions, or decisions made by a provider other than the local jurisdiction.
 - Availability of land suitable for urban development or for conversion to residential use.
 - Distribution of household growth assumed for Plan Bay Area 2050.
- ABAG failed to determine the jurisdiction’s Draft Allocation in accordance with the Final RHNA Methodology and in a manner that furthers, and does not undermine, the RHNA Objectives.

Staff Recommendation: Deny the appeal.

BACKGROUND

Draft RHNA Allocation

Following adoption of the Final RHNA Methodology on May 20, 2021, the City of Sausalito received the following draft RHNA allocation on May 25, 2021:

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Sausalito	200	115	114	295	724

Local Jurisdiction Survey

The City of Sausalito did submit a Local Jurisdiction Survey. A [compilation of the surveys submitted](#) is available on the ABAG website.

Comments Received during 45-Day Comment Period

ABAG received nearly 450 comments during the 45-day public comment period described in Government Code section 65584.05(c). Some comments encompassed all of the appeals submitted and there were 12 comments that specifically relate to the appeal filed by the City of Sausalito. All 12 comments oppose the City's appeal. [All comments received](#) are available on the ABAG website.

ANALYSIS

The City of Sausalito argues ABAG mischaracterized the statutory grounds for appeal under Government Code Section 65584.05(b)(2). The City argues that a local government has the right to appeal based on ABAG's failure to include information identified in Section 65584.04 and the local government's appeal is not limited to only the information it provided in the local government survey. ABAG developed the RHNA Appeals Procedures in accordance with applicable law and responds to the substance of each of the City's arguments below.

The City's appeal also states that it requested data from ABAG regarding its RHNA methodology in letters from [October 2020](#) and [November 2020](#). However, while the letters recommended proposed changes to the RHNA methodology, neither of them included a request for information. ABAG addressed the City's comments about the proposed RHNA methodology in its [response letter](#). More details about how ABAG-MTC staff provided local jurisdictions with access to data related to Plan Bay Area 2050 and the RHNA methodology is provided in the response to Issue 1 below.

***Issue 1:** Sausalito argues that ABAG failed to adequately consider readily available information about the availability of land suitable for urban development or for conversion to residential use. The City also asserts that ABAG's Draft RHNA Plan does not provide sufficient information about each jurisdiction's land availability.*

ABAG-MTC Staff Response: The final RHNA methodology adequately considers information about land available for housing development through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast Sausalito's share of the region's households in 2050, which is an input into its RHNA allocation.

The City of Sausalito indicates it used the HESS Tool to evaluate whether ABAG adequately considered the availability of land suitable for urban development in the RHNA methodology.

Per Government Code Section 65584.05(b), this is not a valid basis for an appeal, because the HESS Tool is not used as an input in the RHNA methodology, and thus played no role in determining Sausalito's RHNA. The HESS Tool is a web-based mapping tool developed by ABAG-MTC staff to assist Bay Area jurisdictions with preparing the sites inventory required for their Housing Element updates. When Sausalito activated its HESS account, the City received an email noting that the tool was under active development and the data presented was preliminary. ABAG anticipates releasing version 1.0 of the HESS Tool this month. Local jurisdictions will be able to review this data and submit corrections directly to ABAG for future iterations of the HESS Tool. Even with the updates in version 1.0, the HESS Tool still plays no role in RHNA.

Sausalito's appeal states that it reviewed HESS data because its staff were not able to review the underlying data for the Plan Bay Area 2050 Final Blueprint, but both the land use modeling results and the inputs used to produce them have been made available to local staff. In fall 2019 ABAG-MTC staff collected local development policy data (i.e., information about zoning and general plans) from local jurisdictions for use in Plan Bay Area 2050 forecasting and modeling. Local jurisdiction staff had several months to review and correct their land use and development pipeline data.¹ Jurisdictions then had an opportunity to review the growth pattern for the Draft Blueprint in summer 2020 and prior to the adoption of the Final Blueprint in January 2021, with office hours available to local jurisdictions to discuss model inputs and forecasted growth from the Bay Area UrbanSim 2.0 model. Additionally, the modeling assumptions for Plan Bay Area 2050 are documented in the *Draft Forecasting and Modeling Report* published in May 2021 and the *Final Forecasting and Modeling Report* published in October 2021.² While only county and sub-county projections are adopted for Plan Bay Area 2050, the jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were then provided for use as the baseline allocation for the RHNA Methodology, in the Proposed Methodology report (October 2020), Draft Methodology report (February 2021), and the Draft RHNA Plan report (May 2021). Local jurisdictions, stakeholders, and the public at-large also had access to an online tool enabling them to compare RHNA baseline options, as well as factors and weights, during the

¹ Communications to local staff about BASIS and review of Plan Bay Area 2050 baseline data included the following:

- Invitation to a webinar on August 6, 2019 about BASIS and how baseline information would be gathered for use in Plan Bay Area 2050.
- Email on August 26, 2019 asking staff to identify someone to review jurisdiction's baseline data in fall 2019.
- [Videos](#) to assist local staff with the data review process were made available on YouTube.
- Email on October 4, 2019 to jurisdictions who had not identified a staff contact to review BASIS land use data.
- Email reminder on October 29, 2019 to local staff about the BASIS data review process.
- Email to Bay Area planning directors on July 10, 2020 about office hours where local staff could have a one-on-one consultation with ABAG-MTC staff to provide feedback on the Plan Bay Area 2050 Draft Blueprint or BASIS.
- Additional office hours were held in December 2020 to discuss Plan Bay Area 2050 Final Blueprint outcomes and the draft RHNA methodology.

² For more details, see the [Plan Bay Area 2050 Draft Forecasting and Modeling Report](#) and the [Plan Bay Area 2050 Final Forecasting and Modeling Report](#).

Housing Methodology Committee (HMC) process to develop the RHNA methodology throughout 2020.

All relevant data and calculations for the RHNA Methodology are available in the Draft RHNA Plan. As Plan Bay Area 2050 does not include growth forecasts at the jurisdiction level, the first column in Appendix 4 shows the information from the Plan Bay Area 2050 Final Blueprint that is relevant to the RHNA methodology, namely each jurisdiction's share of the region's total households in 2050 (baseline allocation). The other data in Appendix 4 shows the raw score for each factor, the scaled factor score for each factor, and the impact that each factor has on each jurisdiction's baseline allocation from the Plan Bay Area 2050 Final Blueprint. Appendix 5 shows the number of units, by income category, that each jurisdiction receives as a result of each factor in the methodology. Although the numbers presented in these tables are rounded to a single decimal point, the calculations were done using un-rounded numbers. ABAG-MTC staff provided access to a jurisdiction's un-rounded baseline allocation through the public open-source RHNA calculations posted on GitHub.³ The City of Sausalito is welcome to contact ABAG-MTC staff with any questions related to this data.

The City of Sausalito also uses information from the HESS Tool to argue it does not have sufficient developable land available to accommodate its RHNA. The data from the HESS Tool cited in Sausalito's appeal comes from an early version of the HESS Tool that was still under development. Sausalito was notified that this data was preliminary and under active development when it activated its HESS account. The City is correct that the beta version of the HESS Tool included errors that overstated the total acreage of parcels and included some inaccuracies regarding the existing uses of parcels. The acreage error has been corrected and local planning staff will have the ability to leverage their expertise and local knowledge to edit inaccuracies regarding the existing uses of parcels in version 1.0 of the HESS Tool. As noted previously, none of the data from the HESS Tool was used in either the modeling for Plan Bay Area 2050 or in the RHNA methodology. Thus, the errors in the initial version of the HESS Tool had no impact on calculating the draft RHNA for Sausalito and do not represent evidence that the RHNA methodology fails to accurately consider the availability of land suitable for urban development in Sausalito.

It is also important to note that the HESS Tool evaluates potential sites based on *existing* local development policies. Housing Element Law specifically prohibits ABAG from limiting RHNA based on the existing zoning or land use restrictions that are shown in the HESS Tool. Importantly, as HCD notes in its comment letter on submitted appeals, Government Code Section 65584.04(e)(2)(B) states that ABAG:

³ Source: https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris_baselines.xlsx

“may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out or limited due to other natural constraints such as fire and flood risk areas must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.”⁴

Importantly, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects existing and future housing demand in the Bay Area.

Per Government Code Section 65584.04(e)(2)(B), the City of Sausalito must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. In addition to considering non-vacant sites, sites identified in the HESS Tool as “environmentally constrained” may still be developable. The HESS Tool designates sites as environmentally constrained if they possess hazard risks or other restrictive environmental conditions such as critical habitats and California protected areas. Local jurisdictions are generally advised to avoid locating new housing on these sites where possible. However, local jurisdictions may find that siting housing on sites with hazards is unavoidable in order to accommodate their housing need, in which case appropriate mitigation measures should be considered. For additional guidance on how to integrate resilience into the Sites Inventory and the Housing Element more broadly, refer to ABAG’s Resilient Housing Instruction Guide and associated resources.⁵

Based on the information above, staff concludes that Sausalito’s claims about the HESS Tool are neither evidence that the RHNA Methodology failed to consider the availability of land suitable for development nor do they provide evidence that Sausalito is unable to consider

⁴ See [HCD’s comment letter on appeals](#) for more details.

⁵ The Resilient Housing Instruction Guide is available on ABAG’s website: https://abag.ca.gov/sites/default/files/documents/2021-07/0_ResilientHousingInstructionGuide.docx. Additional resources for incorporating resilience in Housing Element updates are available here: <https://abag.ca.gov/our-work/resilience/planning/general-plan-housing-element-updates>.

underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.⁶

Issue 2: *The City argues that ABAG failed to consider the availability of land suitable for urban development or for conversion to residential use in Sausalito because the RHNA methodology fails to exclude land at risk of wildfires and flooding.*

ABAG-MTC Staff Response: As noted in the response to Issue 1, the final RHNA methodology adequately considers the potential development constraints described in Sausalito’s appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands Sausalito’s concerns about the potential for future growth in areas at risk of natural hazards. However, with only a small exception, Housing Element Law does not identify areas at risk of natural hazards as a potential constraint to housing development.”⁷

Given the significant natural hazard risks in the Bay Area, whether to incorporate information about hazard risks when allocating RHNA units was one of the topics most thoroughly discussed by the Housing Methodology Committee (HMC) during the methodology development process.⁸ Ultimately, HMC members came to consensus that though housing in high hazard areas is a concern, adding a specific hazard factor to the RHNA methodology may not be the best tool to address this issue. In large part, this is because the Plan Bay Area 2050 Final Blueprint, which forms the baseline of the final RHNA methodology, already addresses concerns about natural hazards, as the Final Blueprint excludes areas with unmitigated high hazard risk from Growth Geographies.

As noted in Sausalito’s appeal, the Final Blueprint Growth Geographies exclude CAL FIRE designated “Very High” fire severity areas in incorporated jurisdictions, and “High” and “Very High” fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Sausalito.⁹

Plan Bay Area 2050 assumes one foot of sea level rise by 2035 and two feet of rise in 2050, and includes adaptation solutions targeted along portions of shoreline that have inundation with just two feet of rise. Importantly, Plan Bay Area measures impacts up to two feet of permanent

⁶ See HCD’s [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

⁷ Government Code Section 65584.04(e)(2)(B) states “The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.”

⁸ See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

⁹ The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.

inundation by sea level rise based on the recommendation by the State of California for impacts in 2050.¹⁰ As Sausalito notes in its appeal, the adaptation solutions envisioned in Plan Bay Area 2050 do not protect its shoreline from inundation because there is only 1 residential unit that will be affected by sea level rise. Because the potential inundation areas are not protected by investments, the Final Blueprint does not envision additional households in these areas. As a result, the household growth forecasted for the City, and thus its baseline allocation in RHNA, is lower than if the land was protected and available for future residential use. With regard to areas at risk of flooding, Sausalito, it has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources that the flood management infrastructure is inadequate to avoid the risk of flooding, consistent with Government Code Section 65584.04(e)(2)(B).

As noted previously, the UrbanSim 2.0 model used to develop the Plan Bay Area 2050 Final Blueprint assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with development constraints, such as the steep hillsides. As a result of the higher development costs for these parcels, growth is directed to locations that are not susceptible to landslides.

Although ABAG-MTC staff understands the City's concerns about earthquake-related hazards and the importance of planning for evacuation in the event of a natural disaster, these concerns affect all jurisdictions in the Bay Area. Throughout the region, it is essentially impossible to avoid all hazards when siting new development, but jurisdictions can think critically about which areas in the community have the *highest* hazard risk. Notably, the residents of new development are likely to be safer from hazards than current residents living in older structures, as new construction is built to modern standards that more effectively address hazard risk. In developing its Housing Element, Sausalito has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the City can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

Per Government Code Section 65584.04(e)(2)(B), Sausalito must consider the availability of underutilized land, opportunities for infill development, and increased residential densities to accommodate its RHNA. The City does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.¹¹

¹⁰ For more information, see page 18 of [State of California Sea-Level Rise Guidance \(2018 update\)](#).

¹¹ See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

Issue 3: *The City argues that the RHNA methodology fails to consider the lack of capacity for sewer or water service in Sausalito related to the Marin Municipal Water District's declaration of a water emergency in April 2021.*

ABAG-MTC Staff Response: Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period."

However, the arguments put forward by Sausalito do not meet the requirements for a valid RHNA appeal. Although the City cites information from the Urban Water Management Plan (UWMP) prepared by the Marin Municipal Water District, Sausalito has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by this water service provider. While the Marin Municipal Water District has discussed a potential moratorium on new water connections in response to the drought, this action has not yet been implemented. Even if a moratorium is implemented in the future, there is no indication that it would extend for the next ten years until the end of the RHNA planning period in 2031. Thus, at this time, there is no evidence that Sausalito is precluded from accommodating its RHNA allocation.

Importantly, future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.¹² A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve

¹² San Francisco Bay Area Integrated Regional Water Management Plan, 2019.

new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050’s strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, “these issues do not affect one city, county, or region in isolation. ABAG’s allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts.”¹³

Action can be taken to efficiently meet the region’s future water demand, even in the face of additional periods of drought. Eight of the region’s largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.¹⁴ The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area’s lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan

¹³ See [HCD’s comment letter on appeals](#) for more details.

¹⁴ See the [Drought Contingency Plan](#) for more information.

will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

Issue 4: *The City argues ABAG failed to adequately consider Sausalito's jobs-housing relationship. The City asserts ABAG must provide a jurisdiction-level evaluation of existing and projected jobs and housing growth and also demonstrate that the RHNA does not result in a detrimental jobs-housing balance.*

ABAG-MTC Staff Response: The RHNA methodology incorporates each jurisdiction's jobs-housing relationship through use of the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The Final Blueprint incorporates information about each jurisdiction's existing and projected jobs and households. The Final Blueprint emphasizes growth near job centers and in locations near transit, including in high-resource areas, with the intent of reducing greenhouse gas (GHG) emissions. It includes strategies related to increased housing densities and office development subsidies to address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments in an effort to ensure past and future transportation investments are maximized. The strategies incorporated into the Final Blueprint help improve the region's jobs-housing balance, leading to shorter commutes—especially for low-income workers. The Draft RHNA Allocation was also found to be consistent with Plan Bay Area 2050, which meets the statutory GHG reduction target.

The final RHNA methodology amplifies the Plan Bay Area 2050 Final Blueprint's emphasis on improving jobs-housing balance by using factors related to job proximity to allocate nearly half of the Regional Housing Needs Determination (RHND). It is important to note that Housing Element Law requires that the RHNA methodology improve the *intraregional* relationship between jobs and housing—not the jobs-housing balance in any particular jurisdiction. The job proximity factors direct housing units to those jurisdictions with the most jobs that can be accessed with a 30-minute commute by automobile and/or a 45-minute commute by transit. The inclusion of the Job Proximity – Transit factor encourages growth that capitalizes on the Bay Area's existing transit infrastructure, while the Job Proximity – Auto factor recognizes that most people in the region commute by automobile.

These factors measure job access based on a commute shed to better capture the lived experience of accessing jobs irrespective of jurisdiction boundaries. Housing and job markets extend beyond jurisdiction boundaries—in most cities, a majority of workers work outside their jurisdiction of residence, and demand for housing in a particular jurisdiction is substantially influenced by its proximity and accessibility to jobs in another community. As the City notes in its appeal, Plan Bay Area 2050 forecasts a decline in the number of jobs in Marin County. However, regional transportation, environmental, and housing goals aim for a jobs-housing balance at the regional level, and Sausalito remains in close proximity to many of the region's jobs. Even in jurisdictions that lack robust transit service or where most residents commute by

automobile, adding more housing in areas with easy access to jobs can lead to shorter commutes, helping to reduce vehicle miles travelled (VMT) and GHG.

Notably, state law also requires the RHNA methodology to consider the balance between the number of low-wage jobs and the number of affordable housing units in each jurisdiction, as described in Government Code Section 65584.04(e)(2)(B). Data from the Census Bureau indicates that Sausalito has an imbalanced ratio between low-wage jobs and affordable housing units, with more than 15 low-wage jobs per unit of rental housing affordable to low-wage workers and their families.¹⁵ Accordingly, the allocation of 315 units of lower-income RHNA assigned to the City could enable many of the low-wage workers in Sausalito to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower GHG.

Importantly, HCD has confirmed that the RHNA methodology furthers the RHNA objective to improve the region's jobs-housing balance. Housing Element Law gives HCD the authority to determine whether the RHNA methodology furthers the statutory objectives described in Government Code Section 65584(d), and HCD made this determination.¹⁶ Regarding the RHNA objective related to "*Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction,*" HCD made the following findings:

The draft ABAG methodology¹⁷ allocates more RHNA units to jurisdictions with more jobs. Jurisdictions with a higher jobs/housing imbalance receive higher RHNA allocations on a per capita basis. For example, jurisdictions within the healthy range of 1.0 to 1.5 jobs for every housing unit receive, on average, a RHNA allocation that is 61% of their current share of households. Jurisdictions with the highest imbalances – 6.2 and higher – receive an average allocation 1.21 times their current share of households. Lastly, higher income jurisdictions receive larger lower income allocations relative to their existing lower income job shares.

Issue 5: *The City argues the RHNA allocation does not meet the statutory requirement for consistency with the development pattern in Plan Bay Area 2050. Specifically, the City asserts the method ABAG-MTC staff used to determine consistency is flawed because it does not consider the capacity of an individual jurisdiction to accommodate growth, does not reflect the growth horizon of Plan Bay Area 2050, and will result in growth in jurisdictions beyond what is planned for in Plan*

¹⁵ For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Sausalito>.

¹⁶ For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

¹⁷ Pursuant to Government Code Section 65584.04(i), HCD must review the Draft RHNA Methodology developed by the Council of Governments. On May 20, 2021, ABAG adopted the Draft RHNA Methodology without any modifications as the Final RHNA Methodology.

Bay Area 2050. The City also states that its share of the region’s RHNA is larger than its share of the region’s households in 2050, based on the forecasted growth from Plan Bay Area 2050.

ABAG-MTC Staff Response: While Government Code Statute 65584.04(m) requires that the RHNA plan allocate units consistent with the development pattern included in the Sustainable Community Strategy, the statute does not specify how to determine consistency. In the absence of statutory direction, ABAG has discretion to identify the framework to be used for establishing that RHNA is consistent with Plan Bay Area 2050.

Plan Bay Area 2050 includes adopted growth forecasts at the county and subcounty levels, not the jurisdiction level where RHNA is statutorily focused.¹⁸ Therefore, staff developed an approach for determining consistency between RHNA and Plan Bay Area 2050 that received support from the Housing Methodology Committee, the Regional Planning Committee, and the Executive Board. This approach compares the 8-year RHNA allocations to the 35-year housing growth from the Plan Bay Area 2050 Final Blueprint at the county and subcounty geographies used in the plan. If the 8-year growth level from RHNA does not exceed the 35-year housing growth level at either of these geographic levels, then RHNA and Plan Bay Area 2050 are determined to be consistent. Staff evaluated the draft RHNA allocations using this approach and found the RHNA allocations are fully consistent with Plan Bay Area 2050, including the allocations to the South Marin County superdistrict where Sausalito is located (see Table 1 below for more details).

Table 1. Superdistrict Forecasted Growth in Final Blueprint Compared to Draft RHNA*

Superdistrict	County	Superdistrict Name	Blueprint Final 2015-2050 Growth	Draft RHNA
34	Marin	South Marin County	9,000	5,976

* The South Marin County superdistrict contains the following jurisdictions: Belvedere, Corte Madera, Mill Valley, Sausalito, Tiburon, Larkspur, and portions of unincorporated Marin County.

As noted previously, RHNA reflects both existing and future housing demand in the Bay Area, which is captured with the use of total households in 2050 as the baseline allocation for the adopted RHNA methodology. The factors in the RHNA methodology – Access to High Opportunity Areas and Job Proximity – adjust a jurisdiction’s baseline allocation from the Final Blueprint to emphasize near-term growth during the 8-year RHNA period in locations with the most access to resources (to affirmatively further fair housing) and jobs (to improve the intraregional relationship between jobs and housing). Sausalito’s high share of existing households living in areas designated as Highest Resource or High Resource on the State’s

¹⁸ View the table of 35-year household growth at https://www.planbayarea.org/sites/default/files/pdfs_referenced/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf

Opportunity Map¹⁹ and access to a significant share of the region's jobs relative to other jurisdictions in the region adjusts its baseline allocation upward, resulting in more RHNA units. However, its lower access to jobs by transit relative to other jurisdictions adjusts its baseline allocation downward.

Issue 6: *Sausalito argues that a portion of the City is mistakenly designated as a Growth Geography. The City states that there should not be any Growth Geographies in Sausalito because the City does not meet the minimum transit service thresholds.*

ABAG-MTC Staff Response: As noted by the City, a portion of Sausalito is identified as a Transit-Rich and High-Resource Area in the Plan Bay Area 2050 Final Blueprint. The designation of the Transit-Rich and High-Resource Area in the Final Blueprint is based on the Sausalito Ferry Terminal. Contrary to what is stated in the City's appeal, this is a major transit stop based on Public Resources Code Section 21064.3, since the ferry terminal is served by bus service; there is no frequency requirement for ferry terminals under state law. Directing growth to these types of Growth Geographies is an essential component to addressing the policy priorities required for Plan Bay Area 2050 and RHNA, including promoting efficient development patterns, reducing greenhouse gas emissions, and affirmatively furthering fair housing.

Issue 7: *The City argues that the way in which the factors in the RHNA methodology adjust the allocations results in infeasible growth and allocations that are inconsistent with Final Blueprint development pattern.*

ABAG-MTC Staff Response: This argument by the City challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD. A valid appeal must show ABAG made an error in the application of the methodology in determining the jurisdiction's allocation; a critique of the adopted methodology itself falls outside the scope of the appeals process. Jurisdictions had multiple opportunities to comment as the methodology was developed and adopted between October 2019 and May 2021. Housing Element Law gives HCD the authority to determine whether the RHNA methodology furthers the statutory objectives described in Government Code Section 65584(d), and HCD made this determination.²⁰ While Sausalito contends that ABAG should have applied the methodology's factor adjustments differently, the City does not identify any mistakes in how its RHNA was calculated by ABAG using the adopted methodology. Additionally, ABAG-MTC staff have concluded that the draft RHNA allocations are consistent with the development pattern in Plan Bay Area 2050, as discussed in the response to Issue 5 above.

¹⁹ For more information about the Opportunity Map, visit <https://www.treasurer.ca.gov/ctcac/opportunity/2020.asp>.

²⁰ For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

Issue 8: *The City argues that ABAG did not adequately consider data on overcrowding in developing the RHNA methodology, as required by Government Code Section 65584.04(e)(7). Additionally, the City contends that ABAG should have created an overcrowding factor to ensure that additional units were allocated to jurisdictions with the highest percentages of overcrowding.*

ABAG-MTC Staff Response: Overcrowding rates are inputs into the Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the final RHNA methodology. Plan Bay Area 2050 also directly incorporates multiple strategies to address housing affordability, and these strategies also seek to reduce overcrowding. Like housing cost burden, overcrowding indicates a lack of adequate housing supply, especially housing units affordable for lower-income households. The final RHNA methodology seeks to expand the housing supply, and especially the supply of affordable units, within the most expensive parts of the region, which can help reduce the rates of overcrowding experienced by Bay Area households. Notably, the final RHNA methodology results in the jurisdictions with the highest housing costs receiving a larger percentage of their RHNA as lower-income units than other jurisdictions and a share of the region's total RHNA that is 8 percent larger than their share of the region's households.

The City's suggestion to include an overcrowding factor challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD. As stated previously, critiques of the RHNA methodology itself do not represent a valid basis for a RHNA appeal.

Issue 9: *The City critiques the way HCD incorporated vacancy rates in its calculation of the Regional Housing Needs Determination (RHND), and argues that ABAG should have established a vacancy factor in the RHNA methodology to assign more units to areas with low vacancy.*

ABAG-MTC Staff Response: Critiques of the RHND calculation do not represent a valid basis for an appeal. As HCD noted in its comment letter on submitted appeals, "The council of government may file an objection within 30 days of HCD issuing the RNHD, per Government Code section 65584.01(c)(1). ABAG did not object to the RHND. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation. There are no further appeal procedures available to alter the ABAG region's RHND for this cycle."

The City's suggestion to include a vacancy factor challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD. As stated previously, critiques of the RHNA methodology itself do not represent a valid basis for a RHNA appeal.

Issue 10: *The City critiques use of the 2050 Households baseline and suggests the methodology should be adjusted to distribute RHNA where growth is anticipated in the near- and mid-term.*

ABAG-MTC Staff Response: The City's suggestion to alter the baseline allocation challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD. As stated previously, critiques of the RHNA methodology itself do not represent a valid basis for a RHNA appeal.

Issue 11: *The City argues that the RHNA methodology's Equity Adjustment is flawed because this component of the methodology does not consider a jurisdiction's capacity to accommodate growth, does not address jobs-housing balance, and does not account for constraints to development.*

ABAG-MTC Staff Response: This argument by Sausalito again challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and thus falls outside the scope of the appeals process. The Equity Adjustment included in the Final RHNA Methodology helps ABAG make even greater progress towards its statutory obligation to affirmatively further fair housing. HCD commended the methodology's use of the Equity Adjustment in its April 2021 letter affirming that ABAG's RHNA Methodology successfully furthers all statutory objectives, including the mandate to affirmatively further fair housing. This adjustment ensures that the 49 jurisdictions identified as exhibiting racial and socioeconomic demographics that differ from the regional average receive a share of the region's lower-income RHNA units that is at least proportional to the jurisdiction's share of existing households. Most of these 49 jurisdictions, including Sausalito, receive allocations that meet this proportionality threshold based on the final RHNA methodology's emphasis on access to high opportunity areas. However, the Equity Adjustment ensures that 18 jurisdictions that might exhibit racial and economic exclusion but do not have significant shares of households living in high opportunity areas also receive proportional allocations.

Issue 12: *The City provides calculations that indicate the maximum growth potential in Sausalito during the 6th RHNA Cycle is 145 units, and the City argues its allocation should not exceed this amount.*

ABAG-MTC Staff Response: As stated earlier, by statute, ABAG "may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions." Notably, available land suitable for urban development or conversion to residential use, as expressed in 65584.04(e)(2)(B), is also not restricted to vacant sites; rather, underutilized land, opportunities for infill development, and increased residential densities are a component of "available" land. Statute forbids ABAG from calculating RHNA using the same constraints that Sausalito included in its calculation of near-term development capacity.

Additionally, as HCD notes in its comment letter on submitted appeals, "...even communities that view themselves as built out or limited due to other natural constraints such as fire and

flood risk areas must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.” While Sausalito asserts it is built out and has little urban land available for development, it does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need. Furthermore, Sausalito’s recalculation of its RHNA does not identify mistakes in the application of the adopted RHNA methodology. Rather, this recalculation represents a critique of the adopted methodology, and such critiques are not a valid basis for a RHNA appeal.

RECOMMENDED ACTION

ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the City of Sausalito to reduce its Draft RHNA Allocation by 579-599 units (from 724 units to 125-145 units).