

# *City of Brisbane*

## *Planning Commission Workshop*

**TO:** Planning Commission

For the Meeting of September 10, 2015

**FROM:** John Swiecki, Community Development Director

**SUBJECT:** Brisbane Baylands Planning and Environmental Review Workshop #1

### **Background:**

In August 2015, the Planning Commission established a hearing schedule (see attached) for consideration of the Baylands Final EIR and related planning applications.

Tonight's workshop is the first scheduled meeting. As a reminder, it is a workshop, not a formal public hearing. The purpose of this first workshop is for the City's consultant to provide an informational and procedural overview to help frame the Planning Commission's upcoming hearings on the Baylands over the next few months.

Specifically, tonight's workshop will:

- Provide a brief synopsis of the various components that together comprise the proposed Baylands Development Project;
- Discuss the relationship between the environmental review process embodied in the Final EIR for the Baylands and its purpose/function in the broader Baylands planning process;
- Briefly address key planning and CEQA concepts relevant to the Planning Commission's review of the Baylands Final EIR and related planning applications; and
- Outline the Planning Commission's public hearing process, including meeting structure and organization for subsequent meetings

### **Discussion:**

The Brisbane Baylands encompasses a total of approximately 733 acres primarily within the Brisbane city limits. This includes areas identified in the 1994 General Plan as the Baylands Subarea, portions of the Northeast Bayshore Subarea, and the Beatty Subarea. The remainder of the Project Site encompasses property within San Francisco that is part of the existing 44.2-acre Recology Solid Waste Transfer Facility, which lies within both Brisbane and San Francisco.

### ***Brisbane Baylands Development Components***

Under the California Environmental Quality Act (CEQA), an EIR is required to broadly define a development activity (or "project" in CEQA terminology) to ensure that the EIR evaluates the

“whole of an action” that has the potential, directly or ultimately, to result in a physical change to the environment ([\*CEQA Guidelines Section 15378\*](#)). This includes all phases that are reasonably foreseeable, and all related activities that are directly linked to the project. To ensure that the EIR for the Baylands Project provided the broad review required under CEQA, a number of components that collectively comprise the entirety of the development activity (or “project” as defined in CEQA) were specifically identified in the EIR ‘Project Description’ and evaluated in the EIR.

It is critical to understand that not all of the projects components identified in the EIR as listed below represent planning applications or proposals that are before the Planning Commission as part of these scheduled public hearings. Some of these components will be subject to Planning Commission review at a later time when a formal planning application is made. Some components will not be subject to Planning Commission review, and other components are not subject to discretionary control by the City of Brisbane. The status of the various components as they relate to the Planning Commission’s review authority is summarized below.

While the project components are not all subject to Planning Commission review at the current time, the EIR evaluates the environmental impacts of all the components associated with Baylands development. The Planning Commission has the authority and obligation to evaluate the adequacy of the EIR as it relates to all of the project components, even those that are not formally under consideration by the Planning Commission at the present time.

#### ***Project Components Analyzed in the EIR for Current Consideration by the Planning Commission***

- **A Concept Plan** for the development of the Baylands, as required by the Brisbane General Plan prior to development within the Baylands. Four Concept Plans are evaluated in the EIR at an equal level of detail:
  - ***Developer-Sponsored Plan (DSP)***. The DSP scenario was proposed by Universal Paragon Corporation (UPC) in the February 2011 *Draft Brisbane Baylands Specific Plan* (Specific Plan). The DSP includes only the 684-acre portion of the Baylands within the Brisbane city limits and excludes the 44.2-acre Recology site and adjacent road rights-of-way. The DSP proposes approximately 7 million square feet of office/ retail /industrial/ institutional uses, 4,434 residential units, approximately 169.7 acres of “open space/open area,” and approximately 135.6 acres of “lagoon” area. Total new development under the DSP would be approximately 12.1 million square feet.
  - ***Developer-Sponsored Plan – Entertainment Variant (DSP-V)***. The DSP-V scenario is also proposed by UPC in the Specific Plan. The DSP-V encompasses the same 684-acre area as the DSP. It is similar to the DSP in its development intensity and land use pattern, but replaces the retail and office/research and development (R&D) uses proposed under the DSP in the northeast portion of the Project Site with entertainment-oriented uses, including a 17,000- to 20,000-seat sports arena, a 5,500-seat concert theater, a multiple-screen cinema, and more conference/exhibition space and hotel rooms than are proposed under the DSP. New development under the DSP-V also includes 4,434 residential units, and would total approximately 12.0 million square feet.

- **Community Proposed Plan (CPP).** The CPP scenario was developed through extensive community input and designated for study in the EIR by the Brisbane City Council in 2010. The CPP provides for approximately 7.7 million square feet of new office, industrial, commercial, and institutional uses, along with approximately 330 acres of open space/open area and the 135.6-acre lagoon. In addition to the 684-acre area included in the DSP, the CPP includes the 44.2-acre Recology site, and adjacent roadway rights-of-way for a total area of 733 acres. The CPP does not include residential development.
- **Community Proposed Plan – Recology Expansion Variant (CPP-V).** The CPP-V scenario encompasses the same 733-acre area as the CPP scenario, and differs from the CPP in that it proposes expansion of the existing Recology facility in the northeast portion of the Brisbane Baylands. Under the CPP-V scenario, Recology would expand southward from its current boundary, replacing hotel and R&D uses proposed under the CPP. The existing 44.2-acre Recology site would expand by 21.3 acres to a total of 65.5 acres, consolidating existing offsite recycling and corporation yard facilities into one location within the Baylands. Total new development under the CPP-V scenario would be approximately 8.1 million square feet.

In considering the four Concept Plan scenarios, the Planning Commission need not recommend selection of any one of the plans, but could recommend (1) a combination of two or more concept plans, or (2) a new concept plan for the Baylands.

- Amendments to the Brisbane General Plan as needed to ensure consistency of proposed development with the provisions of the General Plan.
- A Specific Plan submitted to the City by Universal Paragon Corporation (UPC) detailing development for the two “Developer-Sponsored Plan” scenarios.

***Project Components Analyzed in the EIR Which Will Be Subject to Subsequent Review and Separate Approval at a Later Time When a Formal Planning Application is Filed***

- Proposed expansion of the existing Recology facility, which is included in the CPP-V Concept Plan scenario only.
- Relocation of existing lumberyards to a different location within the Baylands, which is proposed under each of the four Concept Plan scenarios.
- Construction and operation of an onsite recycled water plant, which would provide tertiary treatment of wastewater for recycled water re-use within the Project Site, which is proposed under each of the four Concept Plan scenarios.

***Project Components Analyzed in the EIR to be considered by the City Council***

- Importation of water supply to the Baylands and City of Brisbane, which is proposed for each of the four Concept Plan scenarios. Under the proposed water supply agreement, the City would acquire a supplemental water supply of up to 2,400 acre-feet per year (AFY) via a water transfer agreement with the Oakdale Irrigation District (OID). The 2,400 AFY includes up to 2,000 AFY to serve the Baylands and 400 AFY to accommodate planned growth within Brisbane as a whole.

### ***Project Components Analyzed in the EIR that are under the Regulatory Authority of Outside Agencies***

- Remediation of hazardous materials contamination within the former railyard and landfill areas of the Project Site, which is proposed under each of the four Concept Plan scenarios.

### ***Purpose/Function of Final EIR in Baylands Planning Process***

#### ***CEQA Review***

An EIR is an informational document prepared to inform public agency decision-makers and the public of the significant environmental effects of a project or program, and to identify measures and alternatives that would avoid or minimize the significant effects.

Under CEQA, the City must identify the physical environmental effects that would result from proposed Baylands development and determine whether these effects are “significant” or “less than significant.” This significance determination is made by comparing physical environmental effects to each specified “threshold of significance,” which is defined in CEQA as “an identifiable quantitative, qualitative or performance level of a particular environmental effect.” If an environmental effect of proposed Baylands development would exceed an identified significance threshold, the effect is “significant” and implementation of feasible mitigation is required to avoid or reduce the significant effect.

Consistent with CEQA’s mandate, the Baylands EIR serves an informational purpose related to identification of physical environmental effects and mitigation of significant effects. It does not address planning issues that will be addressed separately, such as providing value judgments about what may be “good” or “bad” for Brisbane and the surrounding region, evaluating what the community may or may not want for the future of the Baylands, or addressing the extent to which the project may facilitate or hinder achievement of the community’s vision of its future.

As required by CEQA, the Baylands EIR:

- Describes the proposed Baylands development;
- Defines baseline environmental conditions;
- Evaluates changes to the physical environment (impacts) that would result from proposed Baylands development;
- Determines whether impacts would exceed identified significance thresholds;
- Imposes all feasible mitigation measures to avoid significant environmental effects or to reduce significant effects to below identified significance thresholds; and
- Describes a reasonable range of alternatives designed to reduce or avoid the significant effects of the project while meeting its basic objectives.

While CEQA requires that an EIR identify all feasible mitigation to avoid or reduce the significant impacts, it also permits public agencies to approve a project or program even if it would result in one or more significant unavoidable environmental effects. Because the Baylands EIR concludes that a number of significant unavoidable impacts, approval of such development would require the City to prepare a statement of overriding considerations to identify the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, that outweigh its significant unavoidable effects. Thus, whether a “significant unavoidable” impact

is “acceptable” or “unacceptable” to the community is ultimately a determination for the City Council, not the EIR, to make.

The EIR prepared for the Brisbane Baylands is a “program” EIR prepared pursuant to CEQA Guidelines Section 15168(a), which states that a single program EIR may be prepared to address a series of actions that “are related either:

1. Geographically,
2. As logical parts in the chain of contemplated actions,
3. In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or
4. As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.”

An advantage of a program EIR is that it allows the City to “consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts” (CEQA Guidelines Section 15168(b)(4)).

As a program EIR, the Brisbane Baylands EIR *does not* evaluate site-specific development within the Baylands, and the City may not approve site-specific development<sup>1</sup> by relying solely on this EIR. Prior to approving *any* site-specific development, the City must conduct further environmental review under CEQA. Consistent with CEQA’s requirements, the specificity of the program-level analysis in the EIR corresponds to the level of detail that is currently available for proposed Baylands development.

The program-level analysis provided in the EIR enables the City to establish mitigation requirements for proposed Baylands development *before* detailed site planning, engineering, and design are undertaken. By providing the public, the City, and other permitting agencies with an opportunity to review and consider the reasonably foreseeable environmental impacts of proposed Baylands development as a whole, prior to City decisions on any site-specific development, the EIR is fulfilling two mandated goals of the CEQA process: (1) providing for environmental review and long-range disclosure of impacts and required mitigation at the earliest feasible time, and (2) avoiding “piecemeal” review that could underestimate the combined environmental impacts of a development program as large and complex as the Brisbane Baylands.

The program EIR prepared for the Baylands will assist in later CEQA review of site-specific development projects, i.e., environmental documents prepared for the later projects may incorporate by reference the general discussions and broad analysis from the program EIR, concentrating their analysis on issues specific to the effects of the particular project (project-specific impacts and mitigation measures). At such time as site-specific development projects are proposed within the Baylands, the City would undertake further environmental review under CEQA, and would prepare future CEQA documents for those subsequent site-specific development projects.

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<sup>1</sup> In addition, no site-specific development proposals have been requested of the City at this time.

### ***Planning Review***

Issues of social and economic effects, what may be “good” or “bad” for the community, how best to achieve community goals, and ways to optimize proposed land uses to maximize benefits to the community are the critical planning issues for the Baylands. However, such considerations are beyond the CEQA environmental review process. This type of evaluation and others like it occur as part of the City’s planning review process, which will be the subject of studies some of which have been completed and others of which are currently under way, staff reports to be presented at the Planning Commission’s public hearings, public testimony at public hearings, and the Planning Commission’s deliberations on proposed Baylands development. These planning studies, which will be described in more detail at the Planning Commission’s September 24 workshop, include a Sustainability Framework, fiscal and economic studies, and a public opinion survey.

In addition to planning studies and reports, the Planning Commission will conduct public hearings to solicit input from the public on what land use and EIR recommendations should be made. After the close of public hearings, the Planning Commission will be asked to make a recommendation to the City Council based on the Final EIR, all other available information, and public testimony received during public hearings.

### ***Planning Commission Public Hearing Process***

Following the next workshop, which is scheduled for September 24, and described below under “Next Steps,” the Planning Commission will open a series of seven (7) public hearings:

**October 1, 2015:** Biological Resources, Cultural Resources

**October 8, 2015:** Geology, Hazards and Hazardous Materials, Hydrology and Water Quality

**October 13, 2015:** Traffic and Circulation, Noise

**October 22, 2015:** Air Quality, Greenhouse Gas Emissions, Energy Resources

**October 29, 2015:** Public Services and Facilities, Recreation, Utilities and Service Systems, Water Supply

**November 4, 2015:** Aesthetics, Land Use and Planning Policy, Population and Housing, Alternatives

**November 12, 2015:** Applicant and Community Group Presentations

While the EIR and pending planning applications can be discussed at each of the public hearings, the hearings will be focused on specific topics. This approach recognizes that the topics to be discussed on a weekly basis are relevant to both the EIR as well as the planning decisions that are ultimately to be made for the Baylands, and that planning and environmental issues are best addressed in a holistic manner.

On a weekly basis, the staff reports for the public hearings will identify the issue(s) at hand, summarize the EIR conclusions and known issues of contention, and provide some context regarding the potential implications on the planning issues that are before the Planning Commission.

The seventh public hearing, November 12, will include the applicant’s presentation of its project, as well as organized presentations from community groups. The specific groups that will be presenting at this hearing are still to be determined.

Following the public hearings, additional meetings for Planning Commission deliberations are tentatively scheduled for November 16 and December 10, 2015.

## ***Key Planning and CEQA Concepts***

### ***Role of the Brisbane General Plan***

The City's General Plan is its lead planning document, providing land use guidance both citywide and for the Baylands area. The Planning Commission's recommendations relating to Concept Plans and the proposed Specific Plan must be consistent with the City's General Plan. Such consistency can be achieved either by (1) revising proposed development [Concept Plan and Specific Plan] to be consistent with the provisions of the General Plan, (2) amending the General Plan, or (3) a combination of the modifying proposed development and amending the General Plan.

The City's General Plan describes appropriate land uses within the Baylands as follows:

- Trade Commercial, Planned Development - Trade Commercial  
"Mix of commercial uses including warehouses, distribution facilities, offices, retail uses, restaurants, commercial recreation, personal services, as well as light industrial, research and development, and uses of a similar character."
- Heavy Commercial  
Bulk sales, offices, meeting halls, vehicle storage, equipment maintenance
- Marsh/Lagoon/Bayshore  
Open space

While the General Plan sets a maximum development intensity for individual development sites within the Baylands, it does not establish an overall maximum development intensity for the entire Baylands area. Rather, the General Plan states that the maximum overall development intensity for the Baylands is to be "well below" the maximum allowed for individual sites within the Baylands. As stated in the General Plan, development intensity for the Baylands "was represented in terms of the maximum impact of a combination of factors, including trip generation, water use, wastewater generation and stormwater flow. However, since the actual holding capacity of the land was unknown, a specific plan and environmental review was required before any development project could be considered." Thus, the City's General Plan currently requires preparation of a specific plan to determine the holding capacity (maximum development intensity) of the Baylands.

As a guide, the EIR for the 1994 General Plan estimated buildout of the Baylands as:

- Near-term (10 years): 650,000 sf of commercial use
- Long-term: Up to 1.0 – 4.2 million sf of development based on type(s) of uses
  - 1.0 million sf based on high traffic generating uses (e.g., retail)
  - 4.2 million sf based on low traffic generating uses (e.g., warehouse)

### ***Specific Plan Requirements***

The *Planned Development* (PD) designation, which applies to the Baylands Subarea, requires that a specific plan be prepared and adopted prior to development of the property. Brisbane Municipal

Code Section 17.15.040A, which sets forth development regulations for the Beatty Subarea, also requires preparation of a specific plan prior to expansion of the square footage of building area within that subarea.

A specific plan is a tool for the implementation of a community's general plan. It effectively establishes a link between implementing policies of the general plan and individual development proposals. Under state law, a specific plan may be as general as simply setting forth broad policy concepts, or may provide direction to the type, location, intensity, and design of permitted uses; design and capacity of infrastructure; resources to be used to finance public improvements; and design guidelines for future development.

California Government Code Section 65450 grants local government agencies the authority to prepare and adopt specific plans for development of any area covered by the general plan, for the purpose of establishing systematic methods of implementation of the agency's general plan. While the City's general plan addresses the entire city, a specific plan concentrates on the development issues of a particular area, setting requirements for site-specific development. The proposed Brisbane Baylands Specific Plan prepared by the applicant for the DSP and DSP-V scenarios addresses development issues for the Brisbane Baylands, excluding the existing Recology site.

Section 65451 of the Government Code sets forth content requirements for specific plans as follows:

- (a) A specific plan shall include a text and a diagram or diagrams, which specify all of the following in detail:
  - (1) The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.
  - (2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
  - (3) Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.
  - (4) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).
- (b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

Section 17.15.040 of the Brisbane Municipal Code specifies that specific plans shall "meet the requirements of the California Government Code Sections 65451 and 65452" and does not establish any content requirements beyond those set forth in the Government Code.

State law and the Brisbane Municipal Code do not require specific plans to include site plans, or to identify specific building locations, orientation, or architectural design including building heights for individual buildings as part of the specific plan.



### ***Concept Plan Requirements***

In addition to the requirement for preparation and adoption of a specific plan, as noted above, the Brisbane General Plan requires preparation of a Concept Plan for development of the entire Baylands prior to or in conjunction with the first Specific Plan for the Baylands subarea. Thus, the General Plan permits consideration of a concept plan for the Baylands *before* preparation of a specific plan.

General Plan Policy 329 requires the Concept Plan to include:

1. An overall conceptual plan, illustrative in nature, showing uses and locations by means of bubble and schematic diagrams with accompanying text;
2. A general description of conceptual uses, densities, intensities, and locations consistent with the adopted General Plan; and
3. A listing of responsible state, federal, or local agencies that have jurisdiction over the development of the site in the manner contemplated by the Concept Plan and a description of the studies to be concluded and the issues to be resolved with such agencies.

The content requirements set forth in General Plan Policy 329 do not require that Concept Plans include site plans or identify specific building locations, orientation, or architectural design including building heights for individual buildings as part of the Concept Plan.

General Plan Policy 329 specifically states: "The conceptual plan need not represent a commitment by the owner to any form of development. In no event shall a submitted Concept Plan be deemed an application for any form of development project approval under the City's subdivision or Zoning regulations." Thus, the Concept Plan required by General Plan policy is just that – a concept – and is **not** an application for a specific development.

### **Next Steps:**

The next Planning Commission Workshop for the Baylands is scheduled for September 24, 2015. That workshop will provide an overview of Baylands-related planning documents which are either currently available or will be available during the public hearing process. The September 24<sup>th</sup> workshop will also provide additional detail regarding the Final EIR for the Baylands. The workshop will also outline a range of potential options available to the Planning Commission in making recommendations to the City Council.

### **Attachments:**

Planning Commission hearing schedule

## **Baylands Planning Commission Schedule/Hearing Outline**

### **Workshop #1 (September 10): Brisbane Baylands Planning and Environmental Review**

- Project Components.
  - General Plan Amendment.
  - Concept Plan Scenarios.
  - Specific Plan.
  - Proposed Water Transfer Agreement.
  - Site Remediation and Title 24 Landfill Closure.
- Relationship of the Planning and Environmental Processes for the Baylands.
  - Purpose/Function of Final EIR in Baylands planning process.
- Key Planning and CEQA Concepts and Terms.
- Outline of Planning Commission public hearing process.

### **Workshop #2 (September 24): Brisbane Baylands Final EIR and Planning Documents**

- Summary of the Documents to be Considered by the Planning Commission.
  - UPC's proposed Brisbane Baylands Specific Plan for the DSP and DSP-V scenarios.
  - Final EIR
    - Draft EIR.
    - Comments received on Draft EIR.
    - Written Responses to comments received on Draft EIR.
    - Revisions to the Draft EIR.
    - Mitigation Monitoring and Reporting Program.
  - Other Planning Documents being Prepared.
    - Fiscal and Economic studies.
    - Brisbane Sustainability Framework.
    - Community Opinion Survey.
- Discuss the various options the Planning Commission has in relation to their recommendations to the City Council.

### **Public Hearing #1 (October 1): Biological Resources, Cultural Resources**

- Staff presentation of major issues.
- Planning Commission questions.
- Public Comment.

**Public Hearing #2 (October 8): Geology, Hazards and Hazardous Materials, Hydrology and Water Quality**

- Staff presentation of major issues.
- Planning Commission questions.
- Public Comment.

**Public Hearing #3 (October 13): Traffic and Circulation, Noise**

- Staff presentation of major issues.
- Planning Commission questions.
- Public Comment.

**Public Hearing #4 (October 22): Air Quality, Greenhouse Gas Emissions, Energy Resources**

- Staff presentation of major issues.
- Planning Commission questions.
- Public Comment.

**Public Hearing #5 (October 29): Public Services and Facilities, Recreation, Utilities and Service Systems, Water Supply**

- Staff presentation of major issues.
- Planning Commission questions.
- Public Comment.

**Public Hearing #6 (November 4): Aesthetics, Land Use and Planning Policy, Population and Housing, Alternatives**

- Staff presentation of major issues.
- Planning Commission questions.
- Public Comment.

**Public Hearing #7 (November 12):**

- Applicant Presentation.
- Other Organization Presentations (TBD).
- Staff Report/Recommendations.
- Planning Commission questions.
- Public Comment.
- Close Public Hearing.

**Planning Commission Deliberations (November 16 and December 10)**

- Planning Commission discussion and final recommendation to City Council.