

City of Brisbane



Parks & Recreation Committee

CEQA Training A Brief Introduction to CEQA

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Section 1

BACKGROUND AND POLICY OF CEQA

CEQA Haiku

Environment law

Disclose significant change

Mitigate impacts



What CEQA is, and What it Isn't

- CEQA is a process, not a permit:
 - It doesn't prescribe development standards
 - It doesn't prescribe acceptable levels of risk
 - It doesn't specify regulations that projects must follow (local, state, and federal codes apply)
 - It doesn't prescribe study methods
- It *does* require analysis and disclosure of the project's potential impacts, mitigation when feasible, and discussion of those impacts through a public process
- CEQA places primary responsibility in the hands of the Lead Agency

CEQA Doesn't Approve or Deny the Project

- CEQA does not prescribe the outcome of the deliberations over a project:
 - An EIR does not “approve” a project:
 - The EIR provides enough information to enable informed decision-making
 - The Agency may choose to deny
 - An EIR does not “deny” a project:
 - An agency may approve a project with significant, unavoidable impacts
 - If so, it must make a fact-based “statement of overriding considerations” describing project’s specific overriding benefits



Section 2

THE ENVIRONMENTAL IMPACT REPORT

One Project, One Document

- The Lead Agency is responsible for preparing the EIR:
 - Makes the key decisions: content, methods, impact significance, alternatives, etc.
 - City Council certifies the EIR's adequacy
- The Responsible Agencies are obligated to use that EIR for their decisions:
 - Limited exceptions to this rule
- A responsible agency may still deny the project if it so chooses:
 - It will also apply conditions of approval

How Does an EIR Influence Decision-making?

- The Lead and Responsible Agencies must consider the information in the EIR before taking final action on the project
- Feasible mitigation must be incorporated into the approval, reducing the project's environmental impacts:
 - Mitigation becomes conditions of approval or other requirements enforced by the agency
- City Council must explain itself
 - “Findings” are adopted that describe the disposition of each significant impact:
 - “Statement of Overriding Considerations” if any impacts are unavoidable



Section 3

PROGRAM EIRS IN GENERAL

PEIR Scope and Level of Detail

- Program EIR must examine the project and related actions
- Level of detail is commensurate with project's level of detail:
 - Reasonable analysis cannot be deferred
- Mitigation measures cannot be deferred to subsequent CEQA analyses:
 - But, measures may be broad if they include performance standards for specific application and measures of effectiveness
- Each later discretionary action to implement the project will be examined for its potential environmental impact
- That examination may result in a subsequent EIR, supplement to the EIR, or addendum



Section 4

TYPICAL EIR PREPARATION PROCESS

The Key Steps – NOP and DEIR

- Notice of Preparation -- Advance notice of EIR
 - Brisbane has completed this step
- Draft EIR:
 - Analyzes project's potential impacts on the environment:
 - Incorporates available information and studies
 - Discloses significant impacts
 - Identifies feasible mitigation
 - Identifies potentially feasible alternatives
- City will provide a 120-day DEIR review period

Typical DEIR Contents

- Table of Contents
- Executive Summary
- Project Description
 - Including project objectives
- Impact Chapters:
 - Environmental setting, impact analysis, impact conclusion, mitigation measures
- Project Alternatives
- Cumulative and Growth-Inducing Impacts
- Lists of Preparers and References
- Technical Appendices

The Key Steps -- FEIR

- Final EIR Contents:
 - Comments
 - Written responses to comments
 - List of commenters
 - DEIR and any revisions to the DEIR
- Often a two-part document
 - FEIR with comments, responses, list of commenters, DEIR revisions
 - DEIR
- The FEIR must be “certified” before a project may be approved:
 - FEIR meets CEQA requirements; it reflects “independent judgment;” and is familiar to the decision-makers

Public Involvement

- Comment on the DEIR:
 - The Baylands DEIR 120-day review period
- Participate in Planning Commission meetings on the DEIR:
 - Submit written or verbal comments
- Participate in the City's hearings on the project:
 - Submit written or verbal comments

The City Council must consider all written and verbal comments on the EIR before it takes final action on the project

- This includes comments received outside of the formal 120-day review period



Section 5

EIR CONSIDERATIONS

Environmental Setting/Baseline

- The EIR must describe the physical environment in the vicinity of the project as it exists when environmental analysis begins
 - The setting will *vary with the resource* being examined
- The setting includes the regulatory setting
 - Applicable laws and regulations that protect the environment
- Environmental setting is *normally* the baseline for determining significance of impacts
 - There is flexibility in determining what constitutes the baseline
- Impact = Difference between the baseline and project

CEQA Guidelines sec. 15125

Significance Determinations

- Is the project's impact "significant?"
 - "Significant" = a substantial adverse physical change from the baseline conditions that *results from the project*
- EIR discloses the significance each impact:
 - Feasible, fully enforceable mitigation measures must be adopted for each significant impact
- What makes an impact significant?
 - Exceeding a threshold or standard, certainly
 - Conflicting with community values, perhaps

A Range of Alternatives

- The EIR must examine the “no-project” alternative and a range of other alternatives
- The alternatives must:
 - Be potentially feasible
 - Meet most or all project objectives
 - Substantially reduce one or more significant impacts
- The EIR will examine three alternatives (incl. no-project)
- Alternatives may be examined at a lower level of detail than the project
 - The Community Alternative will be examined at the same level of detail as the project

Cumulative Impacts

- Significant impacts that result from the collective contributions of past, present, and foreseeable future actions
- The EIR describes the cumulative impacts to which the project will contribute
- The EIR determines whether the project's incremental contribution is "considerable" in the cumulative context:
 - Even a less-than-significant individual impact may be considerable in the cumulative context
 - Cumulative impact mitigation is limited to the project's incremental contribution

Mitigation Measures

- Mitigation - An action that will avoid, minimize, reduce or eliminate, rectify, or compensate for a significant effect
- Mitigation must be feasible and fully enforceable
- Measures must be sufficiently detailed to be effectively implemented
- An EIR is not required to mitigate every impact below the level of significance if that isn't feasible
- The Lead Agency cannot defer its obligation to adopt feasible mitigation measures

Mitigation Measures

- Where permitting is not yet completed or project design is not sufficiently advanced, detailed mitigation measures cannot be prepared
- In those situations, the mitigation measures must include:
 - A commitment to mitigate;
 - Performance standards that will ensure that adequate mitigation is implemented, or a menu of effective mitigation measures; and
 - Objective criteria for measuring success

Mitigation Monitoring and Reporting Program

- The Lead Agency must adopt a MMRP that will ensure the mitigation measures imposed by the agency will be implemented
- Each Responsible Agency must adopt its own MMRP to ensure that the mitigation that it imposes will be implemented

Section 6

Issues of Concern



Parks & Recreation Considerations

- CEQA Guidelines: would project require new parks & rec facilities? What would be the impacts of the facilities?
- CEQA focuses on physical change, not social change:
 - Emphasis is not on impact on parks (crowding, etc.), but rather on potential impacts of new or expanded facilities
- CEQA would not require provision of new parks
 - That “mitigation” is actually development exaction and not the reduction of a CEQA impact

Parks & Recreation Exactions

- CEQA has no standard parks or recreation requirements
- City can apply its “Quimby Act” ordinance
 - Or, Specific Plan may set alternative City standard for Baylands
- But -- City cannot mandate that project improvements exceed project demand
 - Project can provide extra improvements voluntarily
- Impact fees cannot be used for operations and maintenance
 - Long-term O & M require HOA or special tax funding
 - Benefit assessments not suitable for park funding

Mitigation Considerations

- Mitigation must match the impact
 - “Nexus” between impact and mitigation
- Mitigation must be feasible and fully enforceable
- What physical impacts would result from the new park & recreation facilities?
 - Water quality affected by runoff?
 - Traffic from visitors?
 - Noise from visitors?
 - Lights from playfields?
- Mitigation may be implemented through:
 - Project design
 - Conditions of approval

Section 7

Public Interaction



Park & Recreation Committee's CEQA Role

- The Committee will offer project-related recommendations in its areas of its responsibility
 - Analysis
 - Impacts on parks and recreation facilities
 - Mitigation linked to project impacts (“nexus”)
- The Committee meeting is not a venue for receiving comments on the Draft EIR
- The Committee may make comments on the Draft EIR – but that is not required by CEQA

Thank you for attending

**Parks & Recreation Committee --
Brief Introduction to CEQA**