



CANDLESTICK PRESERVATION ASSOCIATION

October 27th, 2015

City of Brisbane
City Council and Planning Commission
50 Park Place
Brisbane, CA 94005

Dear Honorable Members:

Please accept this letter as public comments for the ongoing Environmental Impact Report and planning processes for the Brisbane Baylands development and Recology expansion projects (collectively “Projects”).

The comments are also a direct response to the recently published Final Environmental Impact Report for the Brisbane Baylands development project (“FEIR”), which builds on the Baylands Draft Environmental Impact Report (“DEIR”).

Candlestick Preservation Association (“CPA”) is primarily concerned with the impact that the aforementioned Projects will have on the recreational activity of windsurfing directly to the East of the Baylands in the San Francisco Bay as well as on the air quality in this vicinity.

We are encouraged that the FEIR finds that “None of the Project scenarios would reduce wind speeds enough to substantially impair windsurfing in prime windsurfing areas on San Francisco Bay.”

However, the FEIR does not define what are the sufficient and necessary conditions for windsurfing in this vicinity and does not connect such a definition to the impact created by the proposed Projects.

No definition of requirements for the impacted resource

Without such a definition and connection, there is no logically consistent way to anticipate what impact the Projects will likely have on this recreational activity. Without such a definition, “windsurfing” is simply an abstract concept that is vaguely and arbitrarily dependent on wind.

While the FEIR does refer to a document submitted by the San Francisco Boardsailing Association, we maintain that document does not provide this critical definition relevant to this particular location. Every location has unique characteristics including topology, tidal activity, orientation, and hazards that collectively localize the sufficient and necessary conditions for windsurfing. Furthermore, no attempt to utilize any definition for availability of the resource is made in any analysis in the DEIR.

CPA’s 96-page submittal to the DEIR contained a survey of active windsurfers who regularly use this recreational resource. This survey was conducted to specifically establish necessary conditions for use of this resource and was further used to establish a baseline level of availability for this resource. Our work was informed in part by over 150 concerned respondents to a petition we established in conjunction with our submittal. The criteria established by this survey was used to show that based on the proposed wind speed and turbulence impacts, a substantial taking would in fact occur under even the most conservative scenarios.

In the response to the public comments, the consultant states that the criteria provided in our DEIR comments relies on a wind measurement sensor that they dispute as authoritative or relevant for the analysis we are proposing. Whether they chose to accept the use of this sensor or our analysis, the fact remains that without clearly defining the necessary and sufficient conditions for this recreational activity in this vicinity, there is no way to determine if the changes to average wind speed and turbulence will result in a de facto taking with respect to the availability of this recreational activity.

Responsibility of the FEIR as a “program EIR”

Given that the FEIR is a “program EIR” (as defined under CEQA Section 15168), it should, among other things, “Provide the basis in an initial study for determining whether the later activity may have any significant effects.”

Without the aforementioned definition of sufficient conditions necessary for this recreational activity, subsequent “project EIRs” will likely inherit a vague and useless conclusion from this Final Environmental Impact Report that there is simply no substantial impact and no further analysis is

necessary. The FEIR should therefore also define what is meant by “substantial” impact or impairment and should indicate when precisely further project-specific analysis is warranted.

Without these additions, the FEIR currently amounts to an ad-hoc study of a hypothetical conceptual development without a criteria for determining whether the results of that study actually have any bearing on the environmental resource being examined. The FEIR essentially suggests that no further studies or mitigations are warranted under any circumstance, which is clearly inappropriate given that there is no way to anticipate all future planning and building envelopes and therefore impacts.

Proposed FEIR additions

Given these shortcomings, we propose the following additions (or those of equivalent intent) be included in the FEIR and as guidance in any future development review for these Projects. If the engineering consultants are in fact confident in their results and the City of Brisbane is sincere in its desire to comply with the spirit and legal requirement of CEQA, then these additions should be entirely acceptable.

1. Conditions sufficient for windsurfing on any given day between April 1st and September 30th at Candlestick Park State Recreation Area require a two-hour window between 12pm and 7pm local time wherein 75% of wind meter observations have an average wind speed of 16 miles per hour, a minimum lull of 10 miles per hour, a minimum gust of 20 miles per hour, and a dominant wind direction either West, West-Northwest, or Northwest. The wind speed impacts determined by the impact study should be assessed against a wind meter that is calibrated to be comparable to the existing Candlestick wind sensor, which is professionally maintained by Weatherflow, Inc.
2. The impact area to be studied includes the area immediately off the Eastern shore of the Baylands area as described in the “Practical Sailing Area” designated below:



3. Substantial impact is defined as a reduction in number of sailable days based on the above criteria and impact study area greater than 10% of the baseline no-build scenario based on average existing, historic, and project wind speeds and turbulence over the Practical Sailing Area.

These first three additions are easily accommodated by applying any proposed wind speed impacts to historical wind speed measurements over several years at the Candlestick sensor to determine the likely change in sailable days from proposed development. This data is readily available from Weatherflow, Inc. and CPA is happy to assist in its procurement and application. This approach is consistent with methodology proposed in the DEIR to translate projected relative wind speed impacts to absolute levels.

4. Subsequent developments to be constructed as high or higher than the current maximum constructed elevation above sea level within the area contained in the Projects shall be required to apply these criteria in demonstrating that their construction will not have substantial impact on windsurfing recreation. Such a study should include the surrounding existing and planned/approved contextual development. This would include wind energy or other energy generation or collection systems regardless of their construction height.
5. No discernible dust or odor and no toxic air or water contaminant above minimum applicable legal limits shall be detectable within the “Practical Sailing Area” attributable to any development of the Projects.

We reiterate that without additions such as we have proposed here, the FEIR is disingenuous, does not meet reasonable standards of engineering care, does not comply with the requirements of a program EIR, and is invalid with respect to its assessment of the impact of the Projects on recreational activity in this vicinity.

Finally, in the absence of the above proposed changes to the FEIR, we reserve the right to take any and all available legal action to ensure that this rare and valuable recreational resource that has been in continual use for over 30 years is protected and preserved including seeking injunctive relief.

Thank you for your attention to this matter, and we look forward to your positive response.

Sincerely,

Brad Lee
President
Candlestick Preservation Association