

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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April 16, 2026

Julia Ayres, Acting Director
Community Development Department
City of Brisbane
50 Park Place
Brisbane, CA 94005

RE: City of Brisbane Housing Element Implementation – Corrective Action Letter

Dear John Swiecki:

The California Department of Housing and Community Development (HCD) has reviewed the City of Brisbane's (City) obligations under the housing element and hereby issues its written findings that the City has failed as of this date to implement Program 2.A.2 (Adopt the Baylands Specific Plan/Zoning), a program to rezone adequate sites to accommodate the need for groups of all household income levels pursuant to Government Code section 65583.2, subdivision (c). Pursuant to the housing element, the City plans to accomplish the required rezoning via adoption of the Baylands Specific Plan, currently under review by the City.¹

The City has a Regional Housing Needs Allocation (RHNA) of 1,588 which includes 785 above moderate, 303 moderate, and 500 lower-income units. The Baylands Specific Plan represents 81 percent of the total sites inventory and almost half of the sites needed to meet the RHNA for lower income². Therefore, completion of the Baylands project and the Specific Plan are critical for meeting the City's future housing needs and must be facilitated to meet the City's housing obligations under state law.

In consultation with the California Air Resources Board, we also note the Baylands Project is supportive of California's climate and environmental goals. Indeed, the Baylands Project is characteristic of the type of project encouraged in Appendix D of California's Climate Change Scoping Plan. The Project is an infill project that is both mixed-use and transit oriented. It will develop new housing in an area that is currently predominantly industrial use, on a site that is close to high-quality transit. The Project will develop both housing and commercial uses adjacent to a CalTrain route with a proposed multi-modal station directly to the east of the planned residential uses.

¹ 2023-2031 Housing Element City of Brisbane, adopted 5/18/23, at p. 3-1, 3-2.

² Table 3-2 2023-2031 Housing Element City of Brisbane, adopted 5/18/23, p. 3-6.

The Project also includes certain on-site mitigation measures that will align the Project with Appendix D recommendations, including additional zero-emission vehicle (ZEV) infrastructure and reduced parking requirements.

As you are aware, the City adopted its housing element on May 18, 2023. The program for rezoning adequate sites must be completed no later than three years from the date the housing element is adopted, or May 18, 2026, pursuant to Government Code section 65583, subdivision (c)(1)(A). As of the date of this letter, the Baylands Specific Plan has not been adopted. Failure to adopt the required rezones by May 18, 2026 will result in a violation of Housing Element Law.

State Housing Element Law

HCD must review any action or failure to act by a City that it determines to be inconsistent with an adopted housing element or section 65583 generally, and it must issue written findings to the City accordingly.³ HCD must give the City a reasonable time, no longer than 30 days, to respond to these findings.⁴ If HCD does not receive a written response from the City within 30 days, or the response does not demonstrate that the program can be completed before its deadline, then HCD will revoke its findings that the City's housing element substantially complies with Housing Element Law.⁵

Additionally, HCD may notify the California Office of the Attorney General when a City takes actions that are inconsistent with an adopted housing element or Government Code sections 65583 and 65915, among other laws.⁶

Findings

On May 25, 2023, HCD found the City's housing element in substantial compliance with Housing Element Law. HCD based its compliance finding on, among other things, a commitment to implementing housing element Program 2.A.2. This program commits to completion of required rezones pursuant to subdivision (c)(1)(A) to meet the City's 2023-2031 RHNA by adopting the Baylands Specific Plan by January 31, 2026⁷.

The City failed to achieve Program 2.A.2 timelines by not releasing the Draft Environmental Report (EIR) by October 2023 and not completing public review and hearings for the Final EIR and Specific Plan by December 2024. In a January 18, 2025 email to HCD, the City acknowledged these delays but claimed sufficient time remained before the three-year statutory deadline to adopt the Specific Plan and rezoning. However, the City also failed to meet the Program's January 31, 2026 Specific Plan adoption timeline.

³ Gov. Code, § 65585, subd. (i)(1).

⁴ Gov. Code, § 65585, subd. (i)(1)(A).

⁵ Gov. Code, § 65585, subd. (i)(1)(C).

⁶ Gov. Code, § 65585, subd. (j).

⁷ Program 2.A.2, 2023-2031 Housing Element City of Brisbane, adopted 5/18/23, p. 5-6.

On December 15, 2025, HCD sent the City a Letter of Inquiry requesting an update on the City's progress implementing Program 2.A.2. The City provided a written response on January 9, 2026 stating that the City is on schedule to commence public hearings on the Final EIR and Specific Plan in March 2026 with the target of formal plan adoption in May 2026. The City's response did not, however, specify that adoption of the Specific Plan will accomplish the necessary rezones, nor did it provide a timeline for rezone completion.

Based on May 18, 2026, deadline for rezoning and the lack of a clear timeline for the completion of the rezones, HCD finds that the City will likely fail to implement the required rezone program action within the statutorily required timeframe. Should the City fail to complete the required rezones by this date, HCD will commence actions to revoke HCD's finding that the City's housing element is in substantial compliance with Housing Element Law authorized by Government Code section 65585, subdivision (i).

Consequences of Noncompliance

Consequences apply if the City does not have a housing element in substantial compliance with Housing Element Law. First, noncompliance results in ineligibility or delay in receiving state funds that require compliant housing, including, but not limited to, the following:

- Permanent Local Housing Allocation Program
- Local Housing Trust Fund Program
- Infill Infrastructure Grant Program
- Senate Bill 1 Caltrans Sustainable Communities Grants
- Affordable Housing and Sustainable Communities Program

Second, under the Housing Accountability Act, jurisdictions that do not have a substantially compliant housing element are subject to the Builder's Remedy.⁸

In addition, HCD may notify the California Office of the Attorney General.⁹ Furthermore, state law provides for court-imposed penalties for persistent noncompliance, including enhanced financial penalties. Government Code section 65585, subdivision (l)(1), establishes a minimum fine of \$10,000 per month, up to \$100,000 per month for jurisdictions that fail to comply with a court order to bring its housing element into compliance. If a jurisdiction remains noncompliant, a court may multiply those penalties by a factor of three and then six, depending on the duration of the continued noncompliance.¹⁰ If a jurisdiction fails to comply after six months from the imposition of fees, the court may also appoint a receiver.¹¹

⁸ Gov. Code, § 65589.5, subds. (d)(6), (f)(6), and (h)(11).

⁹ Gov. Code, § 65585, subd. (j).

¹⁰ Gov. Code, § 65585, subds. (l)(2) and (3).

¹¹ Gov. Code, § 65585, subd. (l)(3)(B).

Finally, in any action brought by the Attorney General or HCD to enforce the adoption of housing element revisions, jurisdictions are subject to additional fines of between \$10,000 and \$50,000 per month for each violation, accrued from the date of the violation until the date the violation is cured, including investigation costs, expert fees, attorneys' fees, costs, and any other relief the court deems appropriate.¹²

Next Steps

HCD provides the City until May 15, 2026, to send a written response to these findings. If you have questions, need additional information, or wish to schedule a meeting, please contact me at Melinda.Coy@hcd.ca.gov or Mary Milner at Mary.Milner@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', followed by a long, sweeping horizontal line.

Melinda Coy
Housing Accountability Unit Chief

¹² Gov. Code, § 65009.1, subd. (a).