

**CHAPTER 6:
DELTA PROTECTION
COMMISSION AND DELTA
STEWARDSHIP COUNCIL**

6.1 DELTA PROTECTION COMMISSION

6.1.1. Land Use and Resource Management Plan

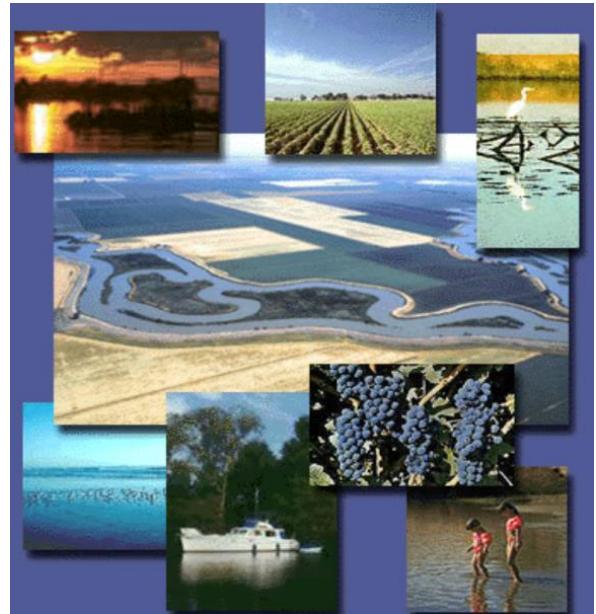
A primary function of the Delta Protection Commission (DPC) is to adopt, maintain and implement a comprehensive management plan for the Primary Zone of the Delta. [The Land Use and Resource Management Plan \(LURMP\)](#) guides projects impacting land use, agriculture, natural resources, recreation and accessibility, water, levees, and utilities and infrastructure. General plans and projects in the five Delta counties must be consistent with the LURMP, and are subject to review by the Commission. The Commission also comments on projects in the Secondary Zone that have the potential to impact the Primary Zone. The Commission acts as an appeal body if a project in the Primary Zone is challenged as inconsistent with the LURMP. If the appeal is upheld, the proposed project must be brought into conformity with the LURMP before it can proceed. Please see **Exhibit 6.1** on the next page (pg. 55) that displays the Commission's review process. **Exhibit 6.2** (pg. 56) displays the Commission's appeal process. The Commission's website has [information](#) on the appeal process.

6.1.2. Primary Zone of Legal Delta

To determine if the project is in the Primary Zone of the Legal Delta and thus needs review by the Delta Protection Commission, please see Exhibit 6.4 on page 58.

For the project applicant, it is recommended that the applicant contact the DPC if the project is within the Primary Zone. This should be done before the project is submitted to County Planning and Environmental Review (PER).

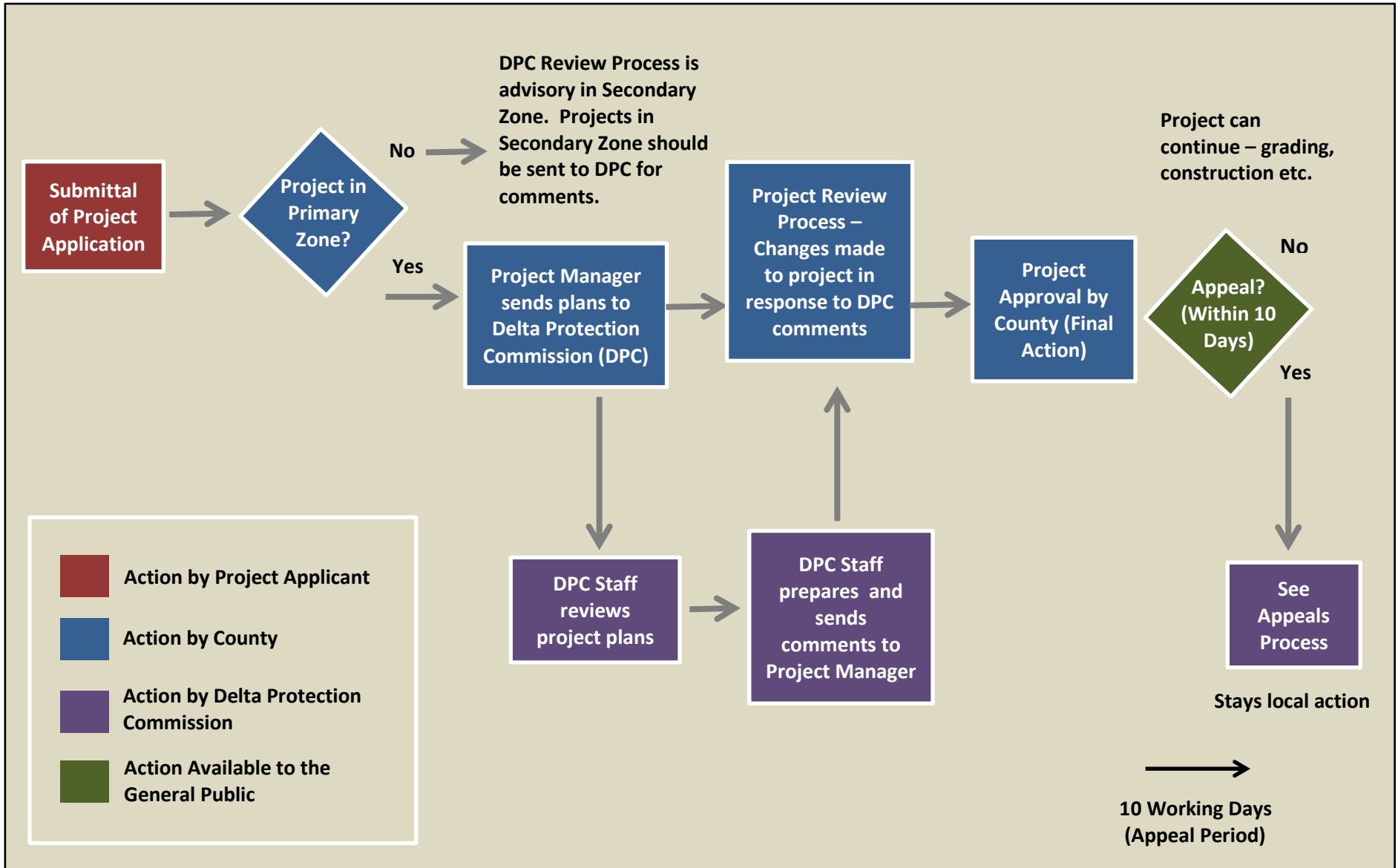
For the PER Project Manager, it is recommended that proposals located in either the Primary or Secondary zones be sent to DPC staff for their review and comment soon after the project application is deemed complete by PER staff.



Elements of the DPC Land Use and Management Plan

- Land Use
- Agriculture
- Natural Resources
- Recreation & Access: Including Marine Patrol, Boater Education, and Safety Programs
- Water
- Levees
- Utilities and Infrastructure

Exhibit 6.1
Delta Protection Commission (DPC) Review Process



**Exhibit 6.2
Delta Protection Commission (DPC) Appeal Process**

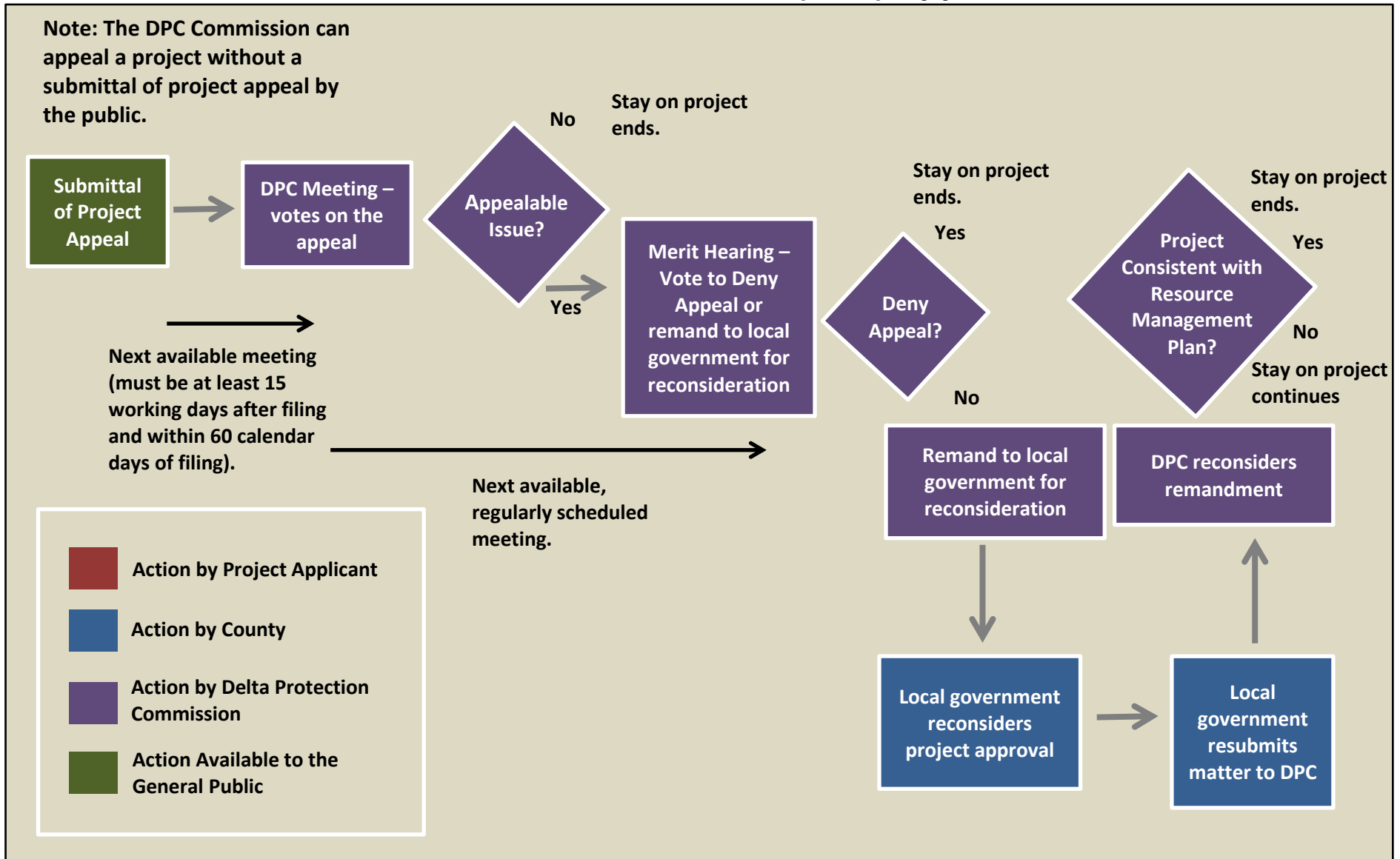


Exhibit 6.3

QUESTIONS TO DETERMINE WHETHER PROJECT IS IN THE PRIMARY ZONE

1. Is the project site located in the Legal Delta?

Look at the Primary/Secondary Zones - Legal Delta Map – **Exhibit 6.4** (pg. 58) to determine.

No – The project is subject to the County’s Development Policies and Codes and Project Review Processes covered in Chapters 2-5.

Yes – Go to the next question (Question #2)

2. Is the project site located in one of the six (6) Delta communities in unincorporated Sacramento County?

Look at the Unincorporated Town Maps (pgs. 59-62) to determine.

No – Go to the next question (Question #3)

Yes – The project is subject to the County’s Development Policies and Codes and Project Review Processes listed in Chapters 2-5.

3. Is the project site located in the Primary Zone of the Legal Delta?

Consult the Primary/Secondary Zones - Legal Delta Map (pg. 58) to determine.

No – The project is subject to the County’s Standard Development Policies and Codes and Project Review Processes listed in Chapters 2-5.

Yes - The Planning and Environmental Review Project Manager will need to send the project plans to Delta Protection Commission for review and comment.

Primary/Secondary Zones – Legal Delta Map (DPC)

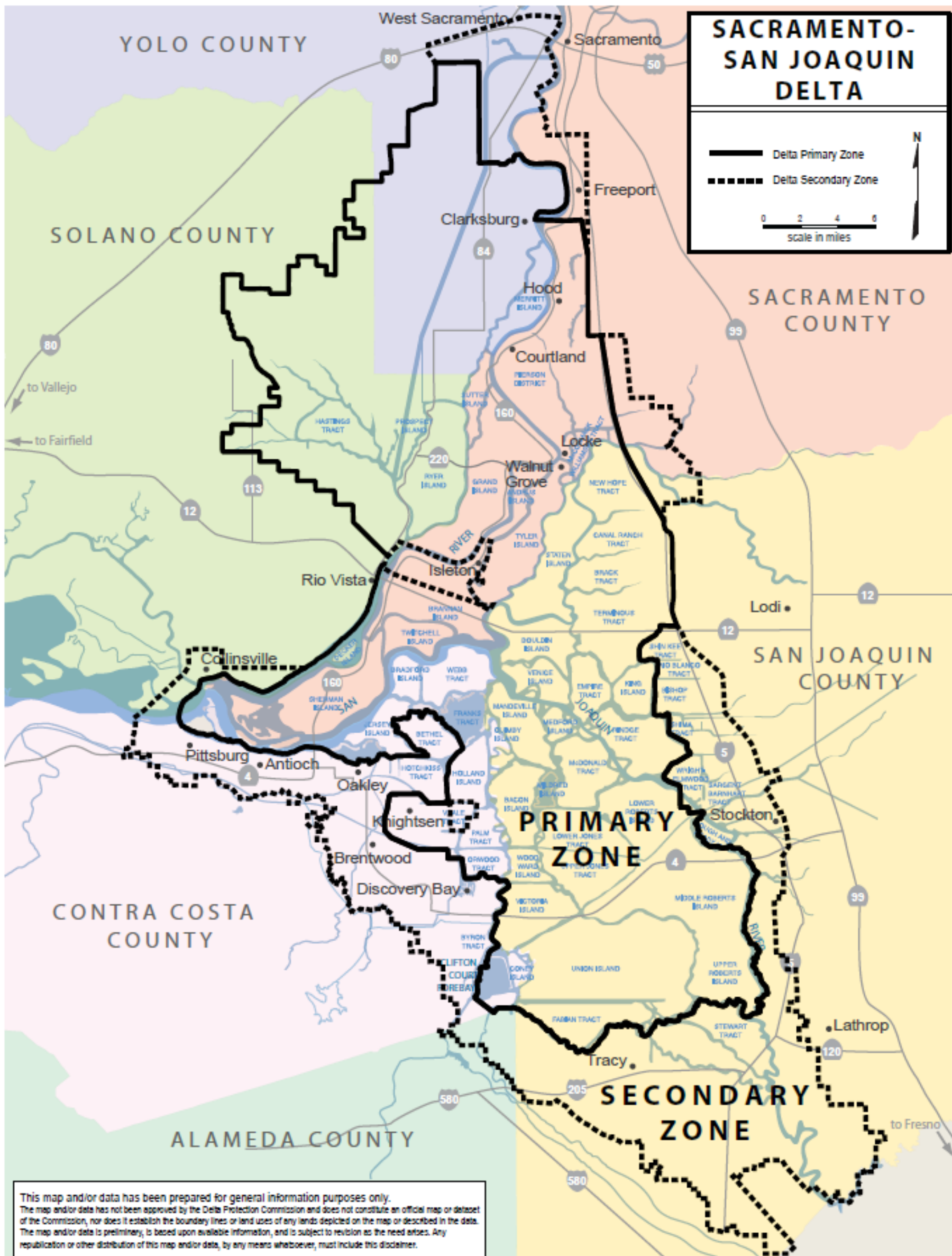


Exhibit 6.5
Unincorporated Town – Courtland (DPC)

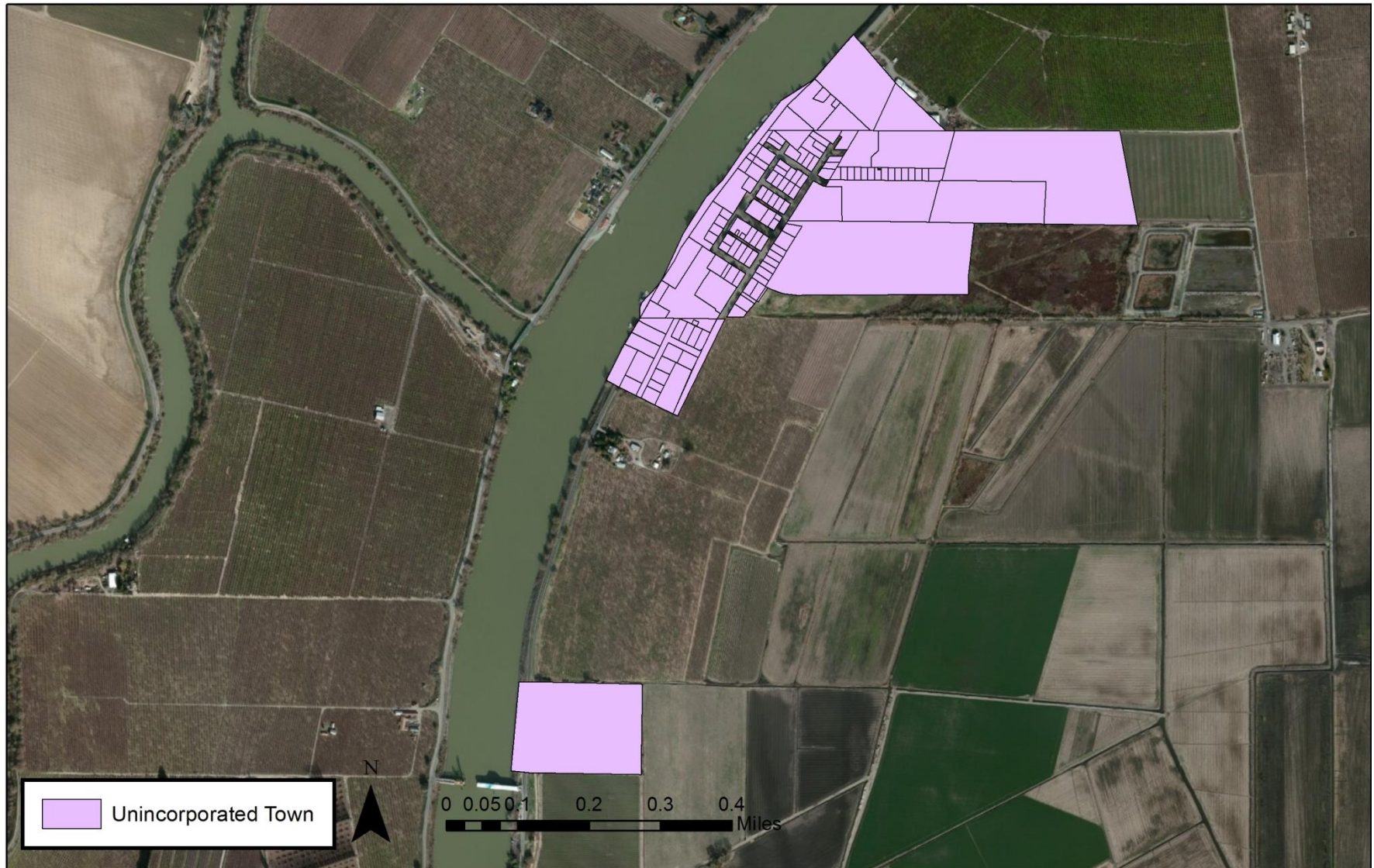


Exhibit 6.6
Unincorporated Town – Hood (DPC)



Exhibit 6.7

Unincorporated Town – Ryde (DPC)



Exhibit 6.8

Unincorporated Town – Walnut Grove/Locke (DPC)



6.2 DELTA STEWARDSHIP COUNCIL (DSC)

6.2.1 DSC's Delta Plan

The Delta Stewardship Council's [Delta Plan](#) is a comprehensive, long-term management plan for the Delta that was required by the Sacramento-San Joaquin Delta Reform Act of 2009 (Act). The Delta Plan has a much larger geographic scope than the DPC's Land Use and Resource Management Plan, which only applies to the Primary Zone. The Delta Plan's policies and recommendations apply to projects and programs proposed within the boundaries of the Delta's Primary and Secondary zones, and the Suisun Marsh.

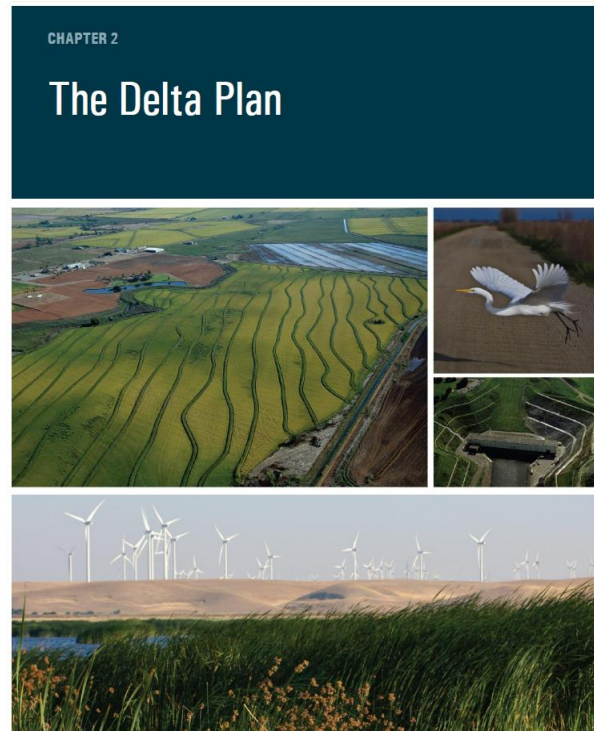
6.2.2 Covered Action

Section 85225 of the Act describes a project self-certification process for demonstrating consistency with the Delta Plan. A State or local agency that proposes to carry out, approve, or fund a plan, program, or project is the entity that must determine whether that plan, program, or project is a "covered action". If the State or local agency determines that their plan, program or project is a covered action under the Delta Plan, they are required to submit a written certification (Certification of Consistency) to the Delta Stewardship Council (DSC), with detailed findings, demonstrating that the covered action is consistent with the Delta Plan. If an agency determines that a proposed plan, program or project is not a covered action, then that proposed plan, program or project is not subject to Council regulatory review.

Please see **Exhibit 6.9** (pg. 65) that displays the Certification of Consistency review process. There is also **Exhibit 6.10** (pg. 66) that displays the Certification of Consistency's appeal process.

To determine if the project is a "Covered Action" and thus a Certificate of Consistency is required to be submitted, see Exhibit 6.11 on page 67.

It is recommended that the Planning and Environmental Review Project (PER) manager have a consultation with [DSC staff](#) early in the project review process to determine if the project is a "Covered Action".



Covered Action

Only the lead CEQA state or local agency may determine whether that plan, program, or project is a covered action. That determination must be reasonable, made in good faith, and consistent with the Delta Reform Act and relevant provisions of the Delta Plan.

An agency's determination that a proposed plan, program, or project is not a covered action is not subject to DSC regulatory review, but may be subject to judicial review as to whether it was reasonable, made in good faith, and is consistent with the Delta Reform Act and relevant provisions of the Delta Plan.

For the PER Project Manager: A draft of Certification of Consistency should be sent to the Delta Stewardship Council (DSC) before officially submitting form. The DSC will review and comment on form.

For the PER Project Manager: The project Certification of Consistency needs to be scheduled on the Board of Supervisors agenda and reviewed by the Board through a hearing with public comments. The Board's "blessing" should be attained before Certificate is submitted to the DSC.

Exhibit 6.9

Delta Stewardship Council (DSC) Certification of Consistency

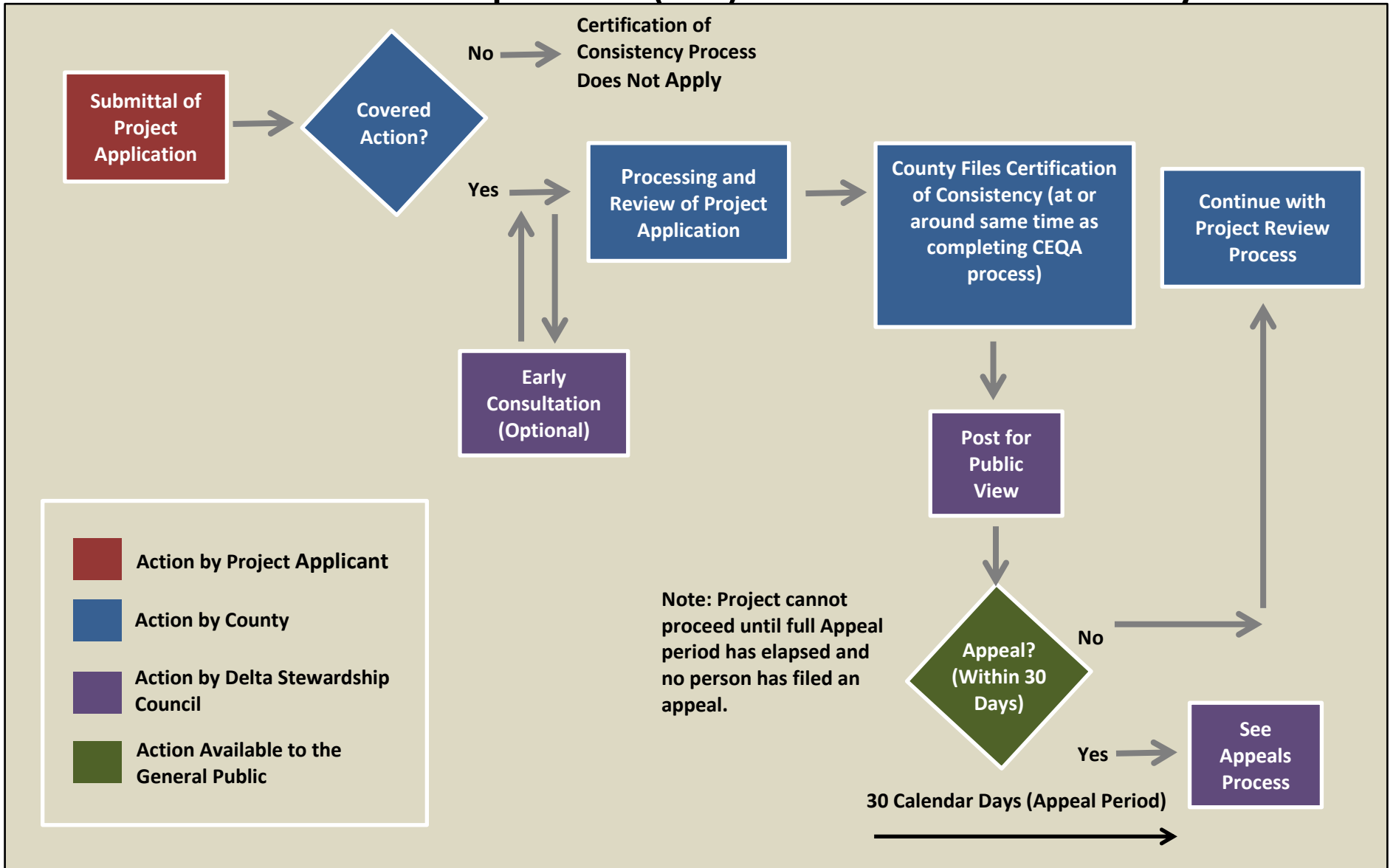


Exhibit 6.10

Delta Stewardship Council (DSC) Certificate of Consistency Appeal Process

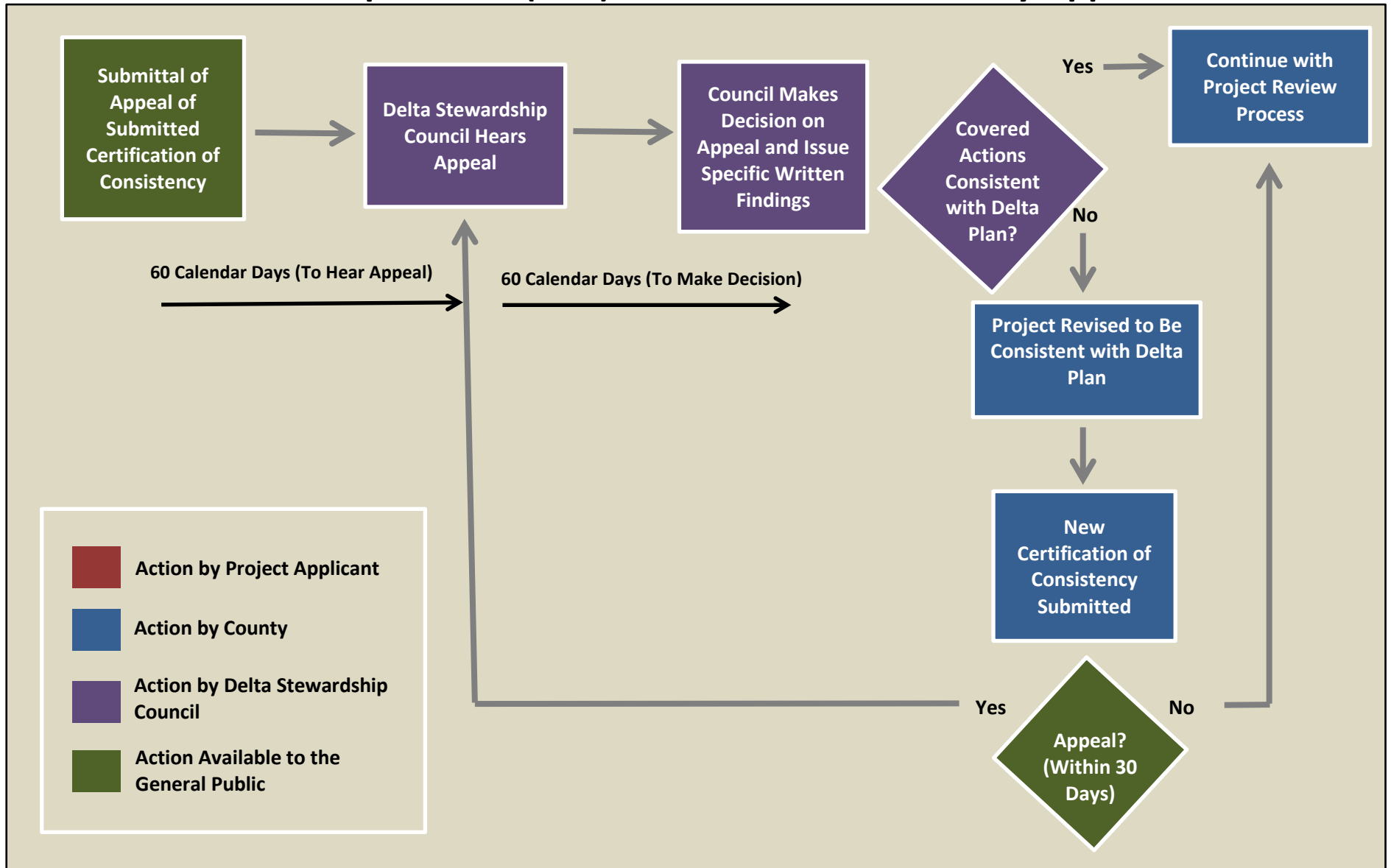


Exhibit 6.11

QUESTIONS TO DETERMINE WHETHER PROJECT IS A COVERED ACTION

You may also want to review the [Council's checklist](#).

- 1. Is the plan, project or program statutorily excluded from the definition of covered action and are exempt from the Council's regulatory authority (Water Code section 85057.5(b))?**

A complete list is included in [Appendix F](#) of the Delta Plan.

- 2. Is the plan, project or program a "Project" as defined by Section 21065 of the Public Resources Code?**

In other words, does the plan, program, or project meet the definition of a project under the California Environmental Quality Act (CEQA)? See **Exhibit 6.12** (pg. 68).

If the plan, program, or project does meet the definition of project under CEQA, the next step in determining a covered action is to review the four additional screening criteria in the definition of covered action, *all* of which must be met by a proposed plan, program, or project for it to qualify as a covered action.

- 3. Will the plan, project or program occur in whole, or in part, within the boundaries of the Legal Delta or Suisun Marsh?**

To qualify as a covered action, a project must include one or more activities that take place at least partly within the Delta or Suisun Marsh.

Refer to the Delta Plan Map_- **Exhibit 6.13** (pg. 69) to determine.

Projects within certain communities are exempt from Section 5010 "Locate New Urban Development Wisely" and Section 5013 "Require Flood Protection for Residential Development in Rural Areas" of the Delta Plan (also known as DP P1 and RR P2). See **Exhibits 6.14 through 17** (pgs. 70-73) to see the communities and their boundaries.

- 4. Will the plan, project or program be carried out, approved, or funded by the State or a local public agency?**
- 5. Will the plan, project or program have a significant impact on the achievement of one or both of the coequal goals (improved water supply, ecosystem restoration) or the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta?**

For list of projects that will not have a significant impact, click [here](#) and look at pgs. 49-50.

If the above four screening criteria are met, then for purposes of the Delta Plan, the plan, program, or project is referred to as a “proposed action.” Although a proposed action meets the first four screening criteria, the action has not yet been reviewed by the State or local agency to determine whether it meets the fifth screening criterion: is the proposed action covered by one or more Delta Plan policies? If the proposed action is covered by at least one Delta Plan regulatory policy, then the proposed action is a “covered action.” If the proposed action is not covered by any Delta Plan regulatory policy, it is not a covered action.

6. Will the plan, project or program covered by one or more provisions of the Delta Plan?

Refer to Chapters 3 through 7 of the Delta Plan to make determination.

If the project is deemed to be a “Covered Action”, a Certificate of Consistency will need to be submitted by Planning and Environmental staff to the [Delta Stewardship Council](#).

Exhibit 6.12

What Does CEQA Consider a “Project”?

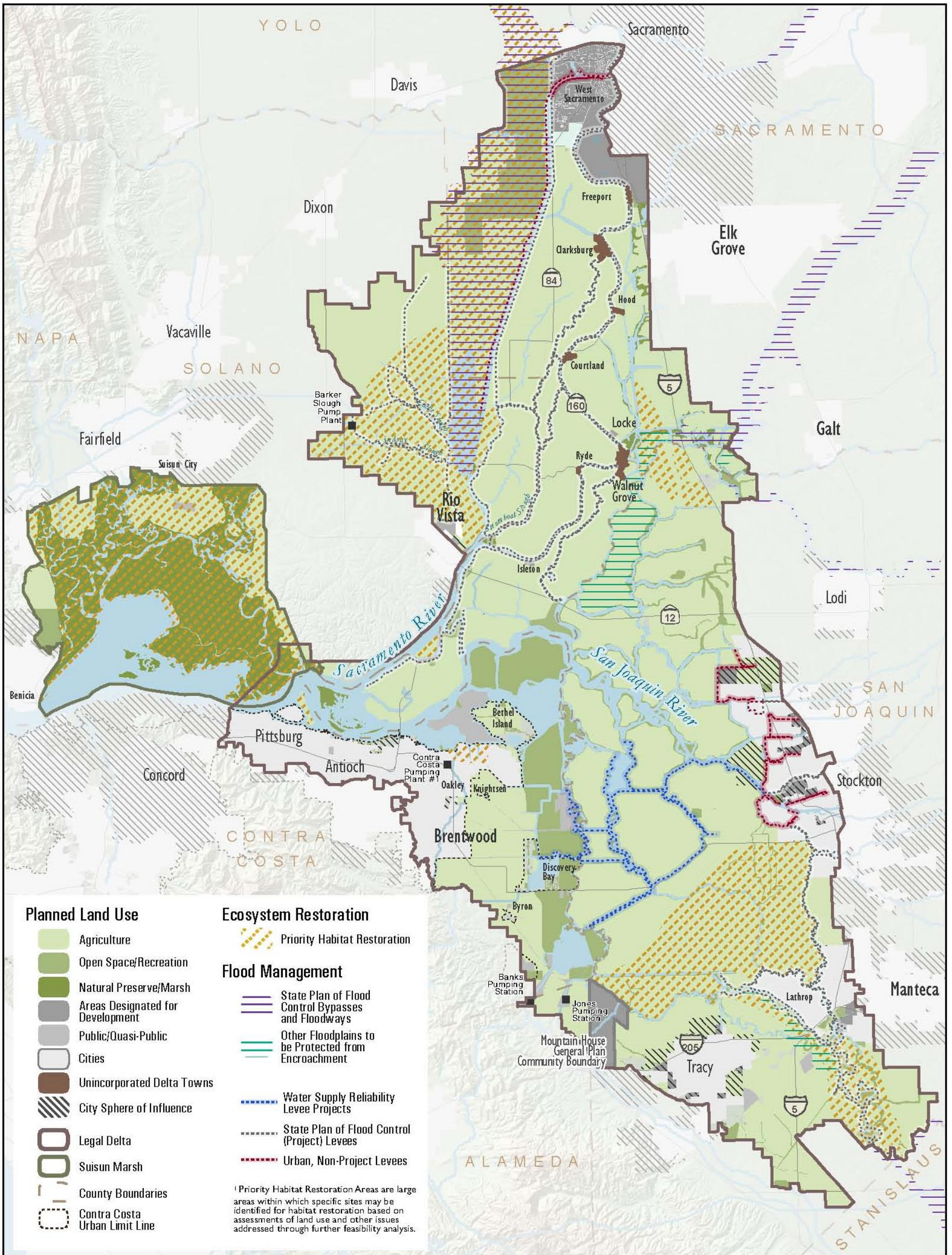
Public Resources Code section 21065 (which is incorporated by reference in the Delta Reform Act) defines the term “project” in the following manner:

20165. “Project” means an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- (a) An activity directly undertaken by any public agency.*
- (b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.*
- (c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.*

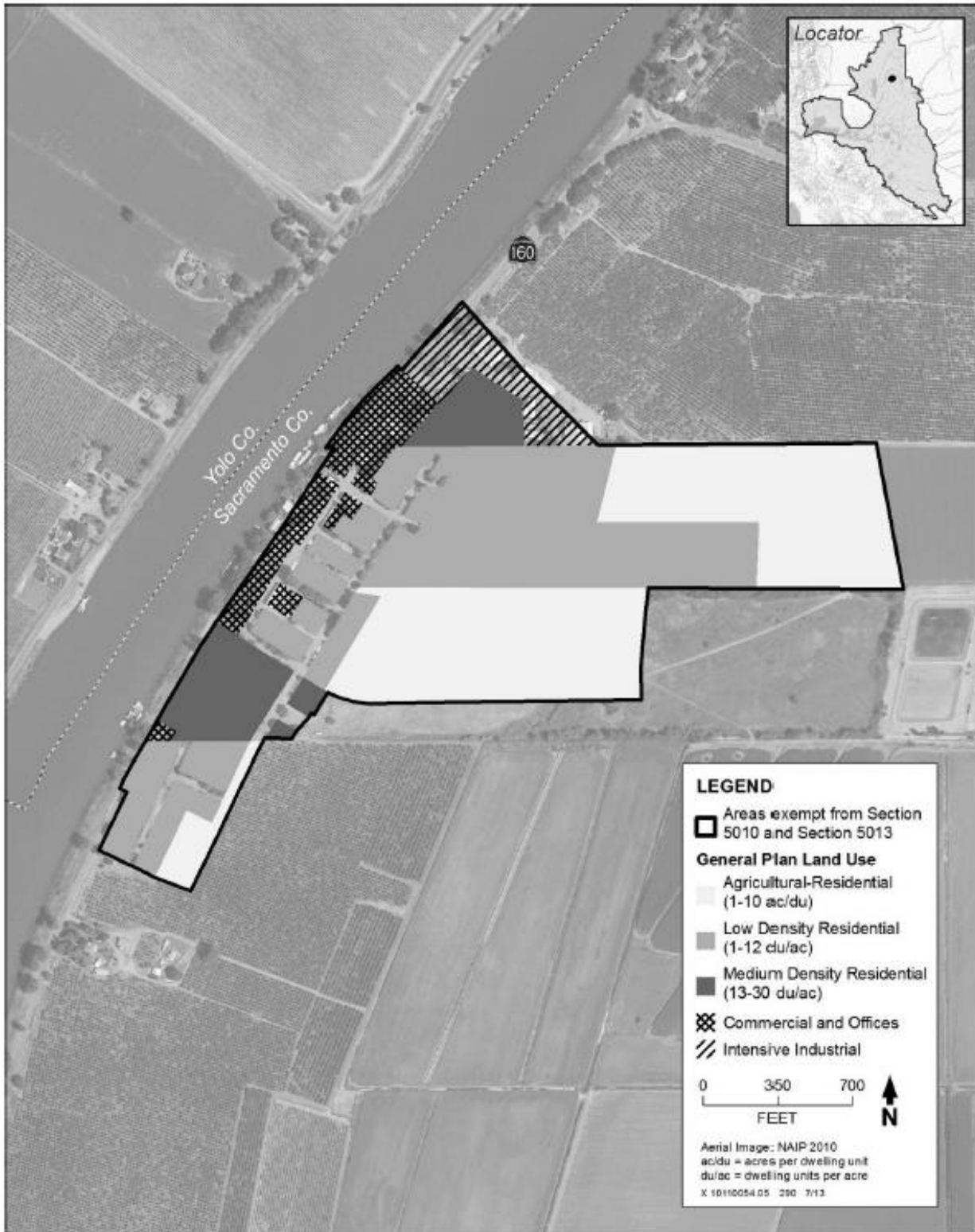
Source: Delta Stewardship Council, (2013). *The Delta Plan*, p. 49.

Area Covered by the Delta Plan (DSC)



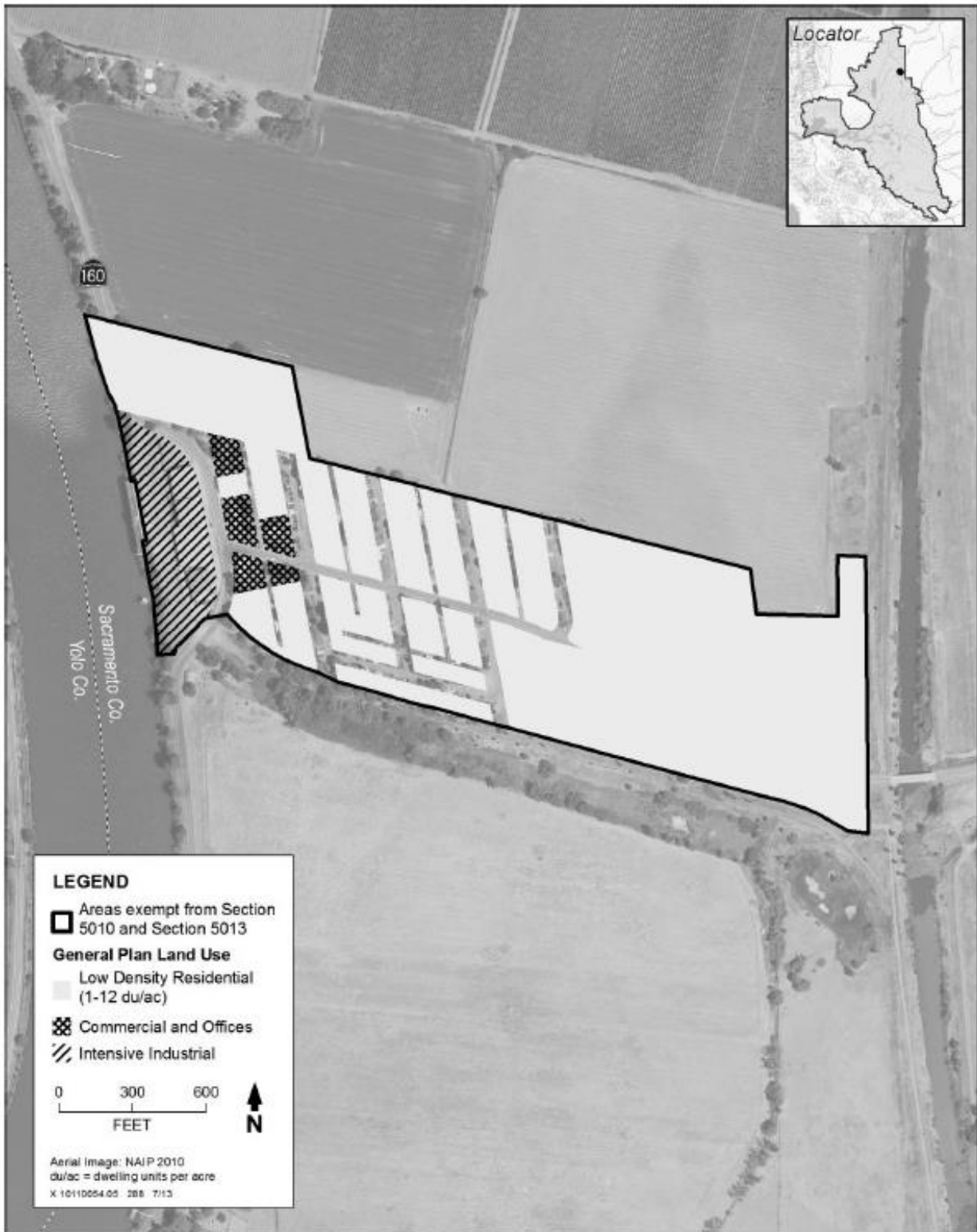
Source: Delta Stewardship Council, (2013). *The Delta Plan*

Exhibit 6.14
Courtland
Areas Exempt from Sections 5010 and 5013 (DSC)



Source: Delta Stewardship Council, (2013). *The Delta Plan*

Exhibit 6.15
Hood
Areas Exempt from Sections 5010 and 5013 (DSC)

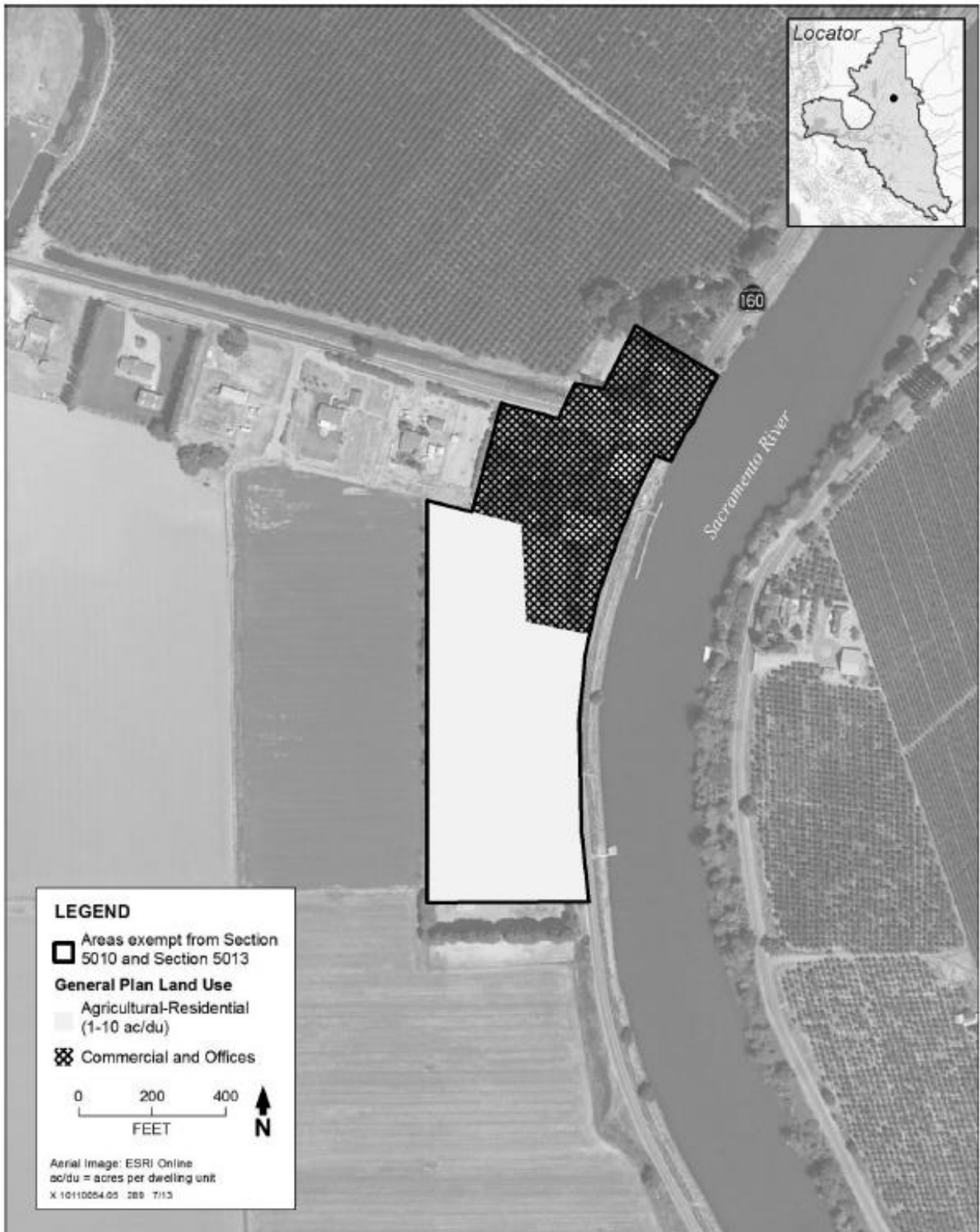


Source: Delta Stewardship Council, (2013). *The Delta Plan*

Exhibit 6.16

Ryde

Areas Exempt from Sections 5010 and 5013 (DSC)

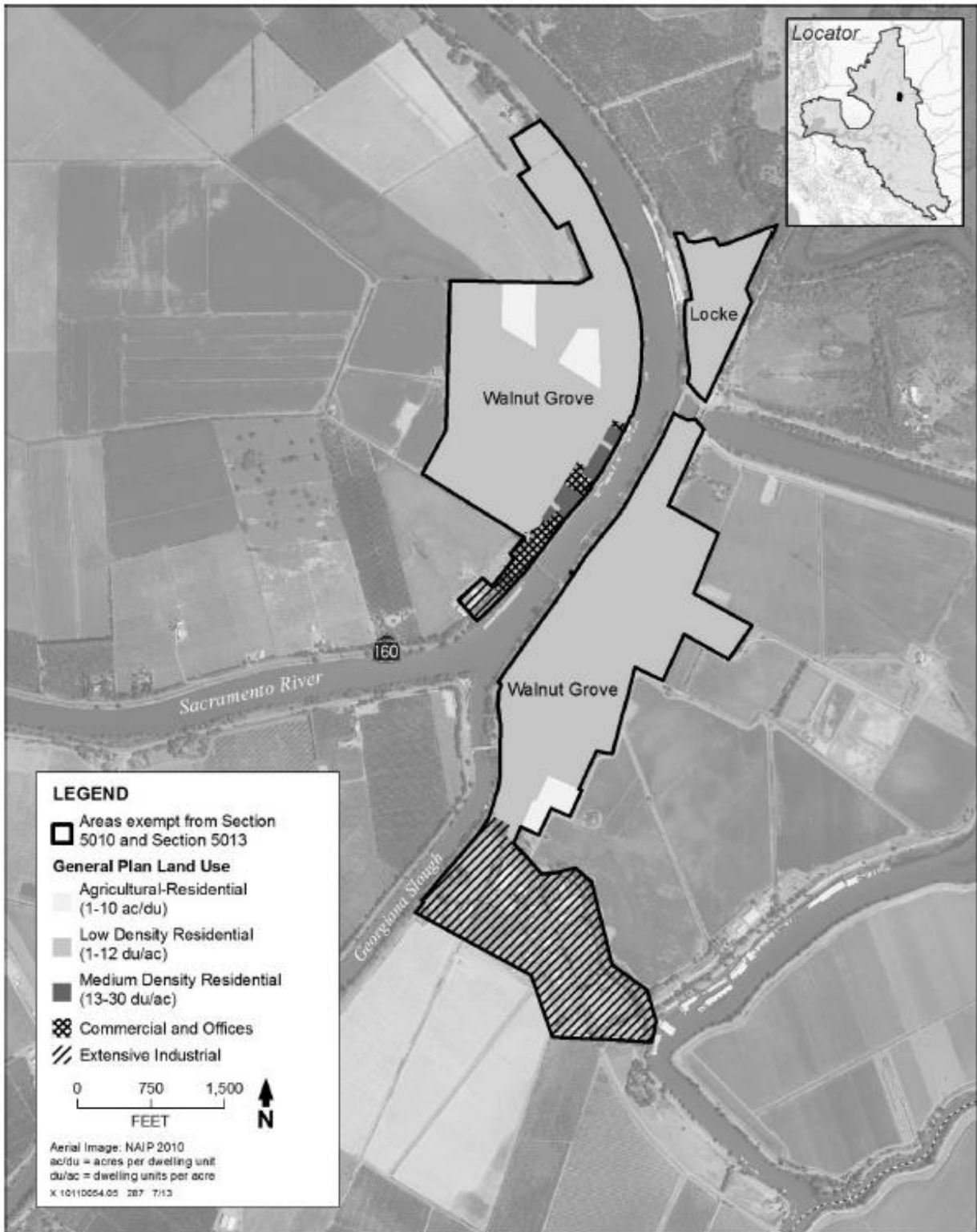


Source: Delta Stewardship Council, (2013). *The Delta Plan*

Exhibit 6.17

Locke/Walnut Grove

Areas Exempt from Sections 5010 and 5013 (DSC)



Source: Delta Stewardship Council, (2013). *The Delta Plan*

CHAPTER 6 LINKS

| 6.1 | |
|---|---|
| The Land Use and Resource Management Plan | http://www.delta.ca.gov/land_use/land_use_plan/ |
| Information on the Commission's Appeal Process | http://www.delta.ca.gov/land_use/land_use_plan/land_use_appeals/ |
| Delta Protection Commission Staff | http://www.delta.ca.gov/Contact.htm |
| 6.2 | |
| Delta Plan | http://www.deltacouncil.ca.gov/delta-plan-0 |
| Delta Stewardship Council Staff | http://deltacouncil.ca.gov/contact-us |
| Appendix F of the Delta Plan | http://deltacouncil.ca.gov/sites/default/files/documents/files/AppF_Statutory%20Exemptions_2013.pdf |
| List of Projects which do not have significant impact | http://deltacouncil.ca.gov/sites/default/files/documents/files/CH_02_2013.pdf (pgs. 49-50) |
| Delta Stewardship Council Checklist | http://deltacouncil.ca.gov/sites/default/files/2014/11/2014-11-25-Covered-Actions-Checklist.pdf |