

WHAT IS ENVIRONMENTAL REVIEW

History and Purpose

- California Environmental Quality Act (CEQA). In 1970 the California Legislature passed the California Environmental Quality Act requiring cities and other public agencies to consider what effects their discretionary actions might have on the environment before making decisions on a wide range of public and private projects. In addition to providing information, the process requires that significant impacts be reduced or mitigated whenever possible.
- The City's Environmental Clearance Ordinance (Title 21) specifies how environmental review is carried out in San José.

Definitions

- Environmental Exemption. Certain projects that will clearly have no significant effect on the environment are exempt from environmental review.
- Initial Study. If a project is not exempt and has not already gone through environmental review an Initial Study is prepared as a preliminary evaluation of the potential environmental impacts of a proposed project. Through the Initial Study process staff determines whether a Negative Declaration can be issued or if an Environmental Impact Report is required.
- Significant Impact. A substantial negative change in any of the physical conditions in an area affected by the project.
- Negative Declaration (ND). A public document that states that a project will not have any significant effect on the environment. The applicant may need to change the project or include mitigation measures to reduce or eliminate significant impacts before an ND can be granted.
- Mitigation. An action taken to avoid or reduce an impact or to repair or restore an environment that has already been negatively impacted.
- Feasible Mitigation. Mitigation that can be accomplished in a successful manner within a reasonable period of time taking into account economic, environmental, legal, social and technological factors.
- Environmental Impact Report (EIR). An EIR must be prepared if a project is likely to result in a significant impact on the environment that may be difficult to mitigate or reduce. An EIR discusses the proposed project, its environmental setting, its probable impacts, realistic means of reducing or eliminating those impacts, its cumulative effects, and alternatives to the project. CEQA requires that draft EIRs be made available for review by the public and other agencies prior to consideration of the project. When the decision making body approves a project, it must certify the adequacy of the environmental review. If its decision to approve a project will result in unavoidable significant impacts, the decision making body must not only certify the EIR, but also state, in writing, its overriding reasons for granting the approval and how the impacts are to be addressed.
- An ND or an EIR is an informational document. It does not, in itself, approve or deny a project.

Typical EIR Contents

- Project Description. The project description includes a “worst case” scenario discussion of the project objectives as well as describing the project location, project characteristics, scope of the project and approvals required.
- Environmental Setting. The EIR is required to include a description of the existing physical environmental conditions in the vicinity of the project from a local and regional perspective.
- Environmental Impacts. An EIR must assess the significant environmental effects of a project limited to an examination of changes in the existing physical conditions of the affected area.
- Cumulative Impacts. Cumulative impacts are two or more individual impacts which, when considered together, are considerable or which compound or increase other environmental impacts.
- Mitigation Measures. See above definition.
- Alternatives. An EIR must describe reasonable and feasible alternatives to the project that would avoid or lessen any of the significant impacts of the proposed project. Alternatives include reduced scale, alternative sites or no-project.

STEPS IN THE ENVIRONMENTAL IMPACT REPORT (EIR) PROCESS

1. EIR Scoping

- Notice of Preparation (NOP) sent to public agencies requesting comments on the scope of EIR
- Public scoping meeting held to receive input on issues to be addressed in EIR

2. Preparation of Draft EIR (DEIR)

- An environmental consultant prepares with expert input from specialists (e.g., traffic consultants) and professional staff.

3. Public Review of Draft EIR (DEIR)

- Notice of Availability (NOA) posted at County, published in Mercury News, sent to owners and occupants within 1,000 feet of project site; EIR posted on Planning website and hardcopies available at main library and appropriate branch libraries.
- DEIR circulates for 45-day review to public and interested public agencies
- Written comments received on DEIR at end of 45-day review
- City and Consultant prepare responses to comments in First Amendment to DEIR
- Final EIR consisting of DEIR and First Amendment distributed to persons who submitted comments, Planning Commission, and City Council ten days before public hearing

4. Public Hearing Process

- Planning Commission holds noticed public hearing to certify EIR
- If EIR certification is appealed within three business days, City Council holds noticed public hearing to certify EIR
- Before taking action on project, City Council makes findings concerning significant effects, mitigation measures, and alternatives to the project analyzed in EIR
- If necessary, City Council adopts Statement of Overriding Considerations to explain why the benefits of the project outweigh its significant unavoidable effects disclosed in EIR