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## CHAPTER 7

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# CEQA and the General Plan

*All statutory references are to the California Government Code unless otherwise noted.*

Adopting or amending a general plan or a general plan element is subject to the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) and often requires preparation and consideration of an environmental impact report (EIR). The primary purpose of an EIR is to inform decision-makers and the public of the potential significant environmental effects of a proposal, less damaging alternatives, and possible ways to reduce or avoid the possible environmental damage. This information enables environmental considerations to influence policy development, thereby ensuring that the plan's policies will address potential environmental impacts and the means to avoid them. This chapter discusses some aspects of the relationship between the general plan and its EIR. Refer to the Bibliography for sources of more detailed information about CEQA and its requirements.

### EIR PREPARATION

The procedure for preparing and using an EIR is described in detail in the state CEQA Guidelines (Title 14, California Code of Regulations, §15000, et seq.), so we will not review the entire process here. The following discussion highlights some of the key points that are particularly important when preparing an EIR for a new general plan, an element, or a comprehensive revision. Since the environmental document for a privately initiated general plan amendment is usually project-specific, we will not discuss it at any length.

A general plan for which an EIR is prepared is considered a project of statewide, regional, or areawide significance (CEQA Guidelines §15206). Projects of statewide, regional, or areawide significance have some specific requirements for scoping, review and mitigation monitoring, as discussed later in this chapter.

To the extent feasible, the planning process and the environmental analysis should proceed concurrently, sharing the same information. The plan EIR, to a certain extent, can be seen as describing the relationship between the proposed density and intensity of land use described by the plan and the carrying capacity of the area.

The EIR must describe the existing local and regional physical environment, emphasizing those features that are likely to be affected by the plan and the

environmental constraints and resources that are rare or unique to the area. It should describe existing infrastructure, such as roads, water systems, and sewage treatment facilities, along with their capacities and current levels of use. It should also discuss any inconsistencies between the proposed plan and adopted regional plans as they may relate to environmental issues.

The EIR must describe the significant environmental effects that may result from the plan's policies and proposals. Effects that are found to be insignificant need only a brief discussion in the EIR (CEQA Guidelines §15006(p)). When a new general plan or a revision is being considered, the EIR must evaluate the proposed plan's or revision's effects on both the existing physical conditions of the actual environment and the environment envisioned by the existing general plan (*Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 354).

In addition to the direct impacts of any immediate projects that will occur under the general plan, the EIR must focus on the secondary effects that can be expected to follow from the plan's adoption, including cumulative and growth-inducing effects. The general plan EIR need not be as detailed as an EIR for the specific projects that will follow (CEQA Guidelines §15146). Its level of detail should reflect the level contained in the plan or plan element being considered (*Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351). At the same time, however, the lead agency cannot defer to later tiered EIRs its analysis of any significant effect of the general plan (*Stanislaus Natural Heritage Project, Sierra Club v. County of Stanislaus* (1996) 48 Cal.App.4th 182).

The EIR must identify mitigation measures and alternatives to avoid or minimize potential impacts, to the extent feasible. The general plan EIR is a particularly useful tool for identifying measures to mitigate the cumulative effects of new development. For example, a general plan might anticipate a significant increase in industrial employment in the community. If this proposal would lead to increased automobile commuting, the EIR could identify measures to reduce peak-hour traffic volumes, such as new transit routes or improved bicycle facilities. Where other agencies are responsible for mitigating the effects of the general plan,

they should be identified in the EIR. Pursuant to Public Resources Code §21081.6, the general plan must incorporate the approved mitigation measures identified in the EIR into its policies and plan proposals.

Several alternative draft plans are typically considered en route to adopting a general plan. Similarly, the EIR for the plan must describe a reasonable range of alternatives and analyze each of their effects (CEQA Guidelines §15126). Consistent with CEQA, the alternative plans should share most of the same objectives. Each of the alternatives should avoid or lessen one or more of the significant effects identified as resulting from the proposed plan. A reasonable range of alternatives would typically include different levels of density and compactness, as well as different locations and types of uses for future development. In a situation where the proposal is yet to be selected from among the alternatives, the competing alternatives should not all have the same level of impacts.

The EIR must also evaluate the “no project” alternative. This would describe what physical changes might reasonably be expected to occur in the foreseeable future if the new or revised general plan were not adopted, based on the existing general plan (if any) and available infrastructure and services.

Special studies prepared for the general plan will yield information useful to the EIR. For example, the traffic model developed to analyze the circulation impacts of proposed land use intensities should be used during EIR preparation to evaluate traffic impacts and alternative approaches to minimizing those impacts.

The EIR must analyze the cumulative effects of the plan’s policies and proposals on the environment. For example, a planning policy authorizing rural residential uses in or near wild lands could cumulatively increase the potential severity of fire damage by hindering wildfire suppression efforts. Increased traffic could contribute to cumulative air quality impacts in ozone non-attainment areas.

Growth-inducing impacts must also be analyzed. These may include any policies, proposals, and programs of the general plan likely to stimulate community growth and development. Examples include plans for street and highway improvements in undeveloped areas, a proposal for wastewater treatment plant expansion, and proposals for the expansion of employment in basic industries, any of which is likely to increase pressure for or facilitate residential and other development.

## TIMING

The CEQA process runs concurrently with the de-

velopment, review, and approval of the general plan, element, or general plan revision. These parallel processes should be carefully synchronized so that neither time nor work will be wasted through unnecessary delay or duplication. When developing a draft work program for the general plan, staff should lay out the schedule for preparing the EIR. Pay particular attention to the point at which sufficient information will be available to prepare an informative NOP. The draft EIR must reflect the draft plan and examine the various alternative plans being proposed, so it should not be released for review until the draft plan is nearing completion. Try to anticipate the number and extent of changes that may be made to the draft plan as it moves through planning commission hearings. Time the release of the draft EIR after a preferred plan alternative has been identified. Otherwise, if the major changes in the plan necessitate substantial changes in the draft EIR, the EIR may need to be recirculated. If the planning process works as it should, with all levels of decision-makers well informed, this uncertainty can be avoided.

## PUBLIC REVIEW OF THE EIR

Prior to writing the draft EIR, the city or county must send a Notice of Preparation (NOP) of the EIR describing the draft general plan proposal to a number of parties, including all affected state responsible and trustee agencies, the State Clearinghouse, any large water agency that may provide domestic water in the planning area, and the other agencies listed under §65352, to solicit their input. Their responses are intended to identify important issues and focus the scope and content of the draft EIR. In addition, the city or county must provide for at least one scoping meeting to receive input on the scope and content of the draft EIR (Public Resources Code §21083.9).

The draft EIR (incorporating the comments from the NOP) must be circulated among interested local and regional agencies and the public for review. Copies of the draft EIR should be made available in local libraries. Copies must also be sent to the State Clearinghouse within OPR for distribution to state agencies. The 45-day review period for a general plan’s draft EIR offers a formal opportunity to comment on the potential environmental impacts of the proposed plan and the adequacy of the environmental analysis.

CEQA does not require a public hearing on the draft EIR, but many localities choose to hold one or more EIR hearings in conjunction with their consideration of the draft general plan. If a city or county does hold a separate hearing on the draft EIR, it should clearly advise attendees to direct their comments to the ad-

equacy of that draft EIR (as opposed to their opinions about the draft general plan). Some cities and counties choose to hold a hearing during the draft EIR's review period to provide the opportunity for public comment. After the end of the draft EIR's review period, the jurisdiction must prepare a final EIR containing the comments received during the review period and its written responses to those comments.

## ADOPTION AND CERTIFICATION

Before adopting the general plan, element, or revision for which the EIR was prepared, the city council or county board of supervisors must consider the final EIR, certify its adequacy, and make explicit findings explaining how the significant environmental effects identified in the EIR have been or should be mitigated or explain why mitigation measures and identified alternatives are not feasible (CEQA Guidelines §15091). The city or county cannot approve the general plan unless the approved plan will not result in a significant effect on the environment or, more commonly, the city or county has eliminated or substantially lessened all significant effects where feasible and made a written statement of overriding considerations explaining the reasons why any remaining unavoidable significant effects are acceptable (CEQA Guidelines §15093). The jurisdiction must also adopt a mitigation monitoring or reporting program to ensure that the mitigation incorporated into the plan in accordance with the EIR will be implemented.

## PROGRAM AND MASTER EIRS

In order to minimize the need to reanalyze a series of projects related to the general plan, CEQA and the state CEQA Guidelines encourage using a general plan EIR to address subsequent discretionary projects, such as adopting zoning ordinances and approving specific capital improvement or development projects that are consistent with the general plan. This streamlined approach to environmental review is commonly called "tiering" (CEQA Guidelines §15152). By using a tiered approach, the environmental review for a subsequent project can be limited to those project-specific significant effects that either were not examined or not examined fully in the general plan EIR.

Later environmental analysis for more specific actions can be tiered from the general plan EIR in several ways. The following paragraphs present a brief discussion of program EIRs, master EIRs, tiering under Public Resources Code §21083.3, and the use of certain

statutory exemptions.

## Program EIRs

The program EIR prepared for a general plan examines broad policy alternatives, considers the cumulative effects and alternatives to later individual activities where known, and contains plan-level mitigation measures. Later activities that have been described adequately under the program EIR will not require additional environmental documents. When necessary, new environmental documents, such as a subsequent or supplemental EIR or a negative declaration, will focus on the project-specific impacts of later activities, filling in the information and analysis missing from the program EIR.

The "project" being examined in the program EIR is the general plan, element, or revision. The CEQA Guidelines recommend that program EIRs deal with the potential effects of a general plan, element, or revision "as specifically and comprehensively as possible." A good rule of thumb is that the program EIR's level of detail should be commensurate with the level of detail contained in the general plan element (*Rio Vista Farm Bureau Center v. County of Solano (1992) 5 Cal.App.4th 351*).

A program EIR should pay particular attention to the following EIR components:

- ◆ The significant environmental effects, including cumulative effects of anticipated later activities under the plan or element.
- ◆ Mitigation measures, including plan-wide measures.
- ◆ Alternatives to the basic policy considerations set forth by the plan or element.

When evaluating a later activity to determine whether it is eligible for consideration under a program EIR, OPR suggests the following sequential approach.

First, the lead agency must determine whether the activity meets both of the following criteria and, if so, adopt findings to that effect:

1. It is consistent with the plan or element for which the program EIR was certified. A general plan amendment obviously would not qualify (*Sierra Club v. County of Sonoma (1992) 6 Cal.App.4th 1307*).
2. It incorporates the feasible mitigation measures and alternatives developed in the program EIR. (Additional mitigation measures and alternatives may also be applied when a subsequent or supplemental EIR is prepared.)

Second, the lead agency must evaluate the later ac-

tivity and its location to determine whether the environmental effects of that activity were adequately examined in the program EIR. If there are any new significant effects from the later activity, the lead agency must prepare an initial study to determine the significance of those effects. No subsequent EIR is necessary for a project that is essentially part of the “project” described by the general plan’s program EIR unless:

1. The later project would propose substantial changes in the plan that were not described in the program EIR, requiring revisions to the program EIR due to the involvement of a new significant effect or a substantial increase in the severity of a previously identified effect.
2. Substantial changes have occurred in the circumstances under which the general plan was undertaken, requiring revisions to the program EIR due to the involvement of a new significant effect or a substantial increase in the severity of a previously identified effect.
3. New information of substantial importance that was not known and could not have been known at the time the program EIR was certified indicates that significant effects were not adequately analyzed or that mitigation measures or alternatives should be revisited (CEQA Guidelines §15162).

If no subsequent EIR is required, the project is deemed to be within the scope of the program EIR and the program EIR can be certified for that project. No additional environmental document would be required.

A subsequent EIR is subject to the standard EIR content requirements (i.e., project description, environmental setting, significant effects, mitigation measures, etc.). However, the subsequent EIR need not duplicate information and analysis that is already included in the program EIR. This may include such areas as environmental setting, project alternatives, and cumulative impacts. Pertinent discussions from the program EIR, to the extent that it examines regional influences, secondary effects, cumulative effects, broad alternatives, and other factors that apply to the later project, should be incorporated by reference into the subsequent EIR.

### Master EIRs

Another option is to prepare and certify a master EIR (MEIR, Public Resources Code §21157, et seq. and CEQA Guidelines §15175, et seq.). The MEIR is intended to be the foundation for analyzing the envi-

ronmental effects of subsequent projects. Those projects that have been described in some detail in the MEIR may avoid the need for a later EIR or negative declaration. Other projects will need to be analyzed in a focused EIR that examines project-specific impacts while referencing the MEIR’s analysis of cumulative and growth-inducing impacts.

Section 15178 of the CEQA Guidelines specifically allows later projects that are consistent with the land use designations and the permissible densities and intensities of use described in the general plan to proceed under the MEIR. This avoids the need for another EIR or negative declaration. The OPR publication *Focusing on Master EIRs* offers detailed technical information about using MEIRs.

In practice, an MEIR is similar to a program EIR. However, there are at least three differences worth noting. First, the requirements for preparing and applying an MEIR and its associated focused EIRs are described in detail in both statute and the CEQA Guidelines. The program EIR is less specifically described in the CEQA Guidelines. Second, once a subsequent project is determined to be within the scope of the MEIR, a focused EIR must be prepared whenever it can be fairly argued on the basis of substantial evidence in the record that the project may have a significant effect, even if evidence exists to the contrary. In contrast, when a program EIR has been certified, a subsequent EIR is required only when the evidence of a significant effect is incontrovertible. Third, MEIRs must be re-examined and, if necessary, supplemented at least once every five years. This ensures that the analysis contained in an MEIR remains topical. Although there is no “freshness date” on program EIRs, agencies that are using a program EIR must be just as careful not to rely on outdated analysis.

### Tiering

A more generic approach to tiering is found in Public Resources Code §21083.3. When an EIR has been certified for a general plan, the CEQA analysis of later projects can be limited to those significant effects that “are peculiar to the project” and that either were not addressed as significant effects in the plan’s EIR or that new information shows will be more significant than when the plan’s EIR was certified. The requirements of this option are detailed in CEQA Guidelines §15183.

The CEQA Guidelines specify that any EIR or negative declaration using the tiering principle must refer to the prior EIR, state where a copy of that document may be examined, and state that tiering is being used.

Tiering cannot be employed when the project is inconsistent with the general plan or zoning (CEQA Guidelines §15152(c)). Overall, tiering can result in significant cost savings to local governments and applicants because it reduces the processing time for subsequent projects and simplifies the environmental review process.

## **COMBINING THE GENERAL PLAN AND ITS EIR**

Because a general plan and its EIR overlap in content and are prepared as part of a single planning process, a few local governments have combined them into a single document or set of documents as authorized under CEQA Guidelines §15166.

A local government may prepare a combined general plan and EIR as a set of three documents. The first document would contain information on the physical and environmental setting, including inventories of soils, geology, hydrology, air quality, vegetation, wildlife, energy, cultural heritage, ambient noise, existing land use, transportation, population, public services, and water quality. It might also describe federal and state laws and regional plans concerning these issues. This document would provide the data and analysis out of which general plan policies would evolve and would constitute the “environmental setting” section of the EIR. The second document would consist of the policies, plan proposals, standards, and implementation program of the draft general plan. In essence, it would constitute the “project description” for purposes of CEQA. The third document would consist of the environmental assessment—that is, the discussion of effects, mitigation measures, and alternatives needed to satisfy the requirements of an EIR.

Revisions to the three documents would occur throughout the planning process. The first would change as new data became available. The second would change to reflect the public’s comments, as well as decisions by the planning commission and elected officials. It would also be revised to reflect the analysis of effects in the third document, the environmental assessment. The environmental assessment would be modified in response to input from the public and other agencies and to ongoing revisions in the proposal itself.

The three documents would be circulated together for review as the draft EIR and ultimately certified as the EIR. The city council or board of supervisors would adopt the policy document and perhaps the data and analysis by resolution to become the general plan.

A cautionary note on using this approach: combining the general plan and its EIR is often impractical. The draft combined plan/EIR can be unwieldy for reviewers to analyze and expensive to revise and reproduce. Additionally, unless the final plan is carefully purged of those mitigation measures and alternatives identified in the EIR that were rejected upon plan approval, it will contain extraneous policies and plan proposals that were not intended to be carried out. In addition, where an inconsistency exists between the plan and its EIR section (essentially this would be an internal inconsistency in the general plan), the statute of limitations would not be the usual 30 to 180 days under CEQA but could be extended to such time as a land use decision is made based on the general plan.

## **FINDINGS**

Upon certifying a general plan EIR, the city or county must make findings pursuant to CEQA Guidelines §15091 for each of the significant effects identified in the EIR. These findings require the jurisdiction to state which mitigation measures or alternatives are to be imposed on the plan, which are the responsibility of other agencies to carry out, and which are infeasible. These findings must be supported by substantial evidence in the record.

In addition, CEQA Guidelines §15093 requires the city or county to make a statement of overriding considerations for any significant effects that cannot be mitigated. This statement must describe the specific economic, legal, social, technological, or other benefits of the project that outweigh the unavoidable significant effects identified in the EIR. This statement of reasons must be based on the information that is in the EIR or is part of the record. The record includes all of the information that was available to decision-makers during the course of considering the general plan.

## **MITIGATION MONITORING AND IMPLEMENTATION**

When a general plan is enacted or amended based upon an EIR or a mitigated negative declaration, the city council or board of supervisors must also adopt a reporting or monitoring program for ensuring compliance with the adopted mitigation measures (Public Resources Code §21081.6). The city or county should coordinate general plan policies and environmental mitigation measures during the planning process so that the mitigation measures will be reflected in the plan policies and those policies realistically can be implemented.

The city or county must adopt a specific program that will enable it to track compliance with the mitigation measures. One approach is to use the yearly “state of the plan” report prepared for the city council or board of supervisors pursuant to §65400(b) as the reporting program for a new general plan. See OPR’s publication *Tracking Mitigation Measures Under AB 3180* for more information about designing a mitigation monitoring program. Transportation information resulting from the mitigation monitoring program must be submitted to the local transportation planning agency and to Caltrans (CEQA Guidelines §15206).

A general plan can be measured by how well its objectives, policies, and programs are implemented. The same is true for the mitigation measures identified in the plan’s EIR. When drafting mitigation measures, consider how they can be reflected in plan objectives, policies, and programs and how they will be implemented. The mitigation measures should be an integral part of the plan, not an afterthought.

### **MASTER ENVIRONMENTAL ASSESSMENT**

A local government may prepare a master environmental assessment (MEA) inventorying the physical and biological characteristics of an area and discussing air and water quality and supply, the capacities and levels of use of existing services and facilities, and the effects of different development projects by type, scale, and location (CEQA Guidelines §15169). The MEA is essentially a collection of environmental data—a re-

source that simplifies the data gathering for future negative declarations or EIRs. Unlike a master EIR, it does not analyze environmental effects.

An MEA may be put together from the information gathered during the process of preparing the general plan and its EIR. In this case, it will be available for later project-specific environmental analyses.

The bulk and cost of project-level environmental documents can be reduced by referencing the applicable data from the MEA in a project-specific EIR or negative declaration. This approach necessitates regularly updating the MEA with new information as it becomes available.

### **EXEMPTIONS**

A general plan EIR can facilitate the use of certain CEQA statutory exemptions for later projects. A project that is described by a statutory exemption is exempt from the requirements of CEQA. In 2002, several statutory exemptions for housing projects were changed. Certain low-income housing, farmworker housing, and infill housing projects may qualify for an exemption under CEQA if they meet certain criteria (Public Resources Code §21159.21). Among these criteria are consistency with the general plan (thus eliminating projects requiring a general plan amendment) and the completion of a “community-level environmental review.” An EIR prepared for a general plan adoption or revision qualifies as a community-level environmental review.