

1 Introduction

This document is an Environmental Impact Report (EIR) that evaluates the potential environmental effects associated with implementation of the Bay Fair Transit Oriented Development (TOD) Specific Plan (“proposed Specific Plan” or “proposed project”).

This section discusses (1) an overview of the proposed Specific Plan; (2) the legal basis for preparing a Program EIR pursuant to the California Environmental Quality Act (CEQA) Guidelines; (3) the scope and content of the EIR; (4) the lead, responsible, and trustee agencies; (5) the intended uses of the EIR; and (6) the environmental review process required under CEQA. The proposed project is described in detail in Section 2, *Project Description*.

1.1 Specific Plan Background

The Bay Fair TOD Specific Plan Area (“Specific Plan Area”) is at the southeastern edge of the City of San Leandro, adjacent to unincorporated Alameda County. It includes the Bay Fair BART Station, Bayfair Center, and the East 14th Street and Hesperian Boulevard corridors. The proposed Specific Plan includes policies and development standards to guide future development in the Specific Plan Area.

The San Leandro 2035 General Plan (adopted September 2016) designates the Specific Plan Area as “Bay Fair Transit Oriented Development.” According to the 2035 General Plan Land Use Element, the intent of this designation is to “create a new vision for this area, including retail, office, higher density housing, open space, and public land uses. A more urban development form is envisioned, with pedestrian-scaled streets and an orientation toward BART access and transit use.”

Under Government Code Section 65450 et seq., a specific plan implements, and must be consistent with, the governing general plan. However, a specific plan is a separate document from the general plan and contains a greater degree of detail, including functions of zoning, land use regulations, design standards, and capital improvement plans. The proposed Specific Plan would implement the vision for the Specific Plan Area outlined in the San Leandro 2035 General Plan.

Development of the proposed Specific Plan that is the subject of this EIR entailed a process involving the San Leandro City Council, key community stakeholders, City and consultant staff, and the public at large. The public involvement process used to develop the Specific Plan included:

- Establishment of a Citizens Advisory Committee (CAC) consisting of 21 community members appointed by the City Council to guide the preparation of the Specific Plan and provide a broad diversity of perspectives;
- Establishment of a Technical Advisory Committee (TAC) consisting of professionals from local, regional, and State agencies and technical partners to provide technical and feasibility review;
- A series of stakeholder interviews with local stakeholders and stakeholder groups such as homeowners associations, youth, and seniors;
- Two community workshops with City and consultant staff, members of the public, and key stakeholders to discuss a range of issues relevant to the Specific Plan;

- A focus group composed of non-profit and market-rate developers; and,
- Additional outreach activities such as pop-up events, an online survey, and meetings and input from public bodies of the City including the City Council, Planning Commission, Board of Zoning Adjustments, Bicycle Pedestrian Advisory Committee, and the Youth Advisory Commission.

1.2 Purpose and Legal Authority

The proposed project – adoption of the Bay Fair TOD Specific Plan – requires the discretionary approval of the San Leandro City Council; therefore, the project is subject to the environmental review requirements of CEQA. In accordance with *CEQA Guidelines* Section 15121 (California Code of Regulations, Title 14), the purpose of this EIR is to serve as an informational document that:

“...will inform public agency decision makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.”

This EIR fulfills the requirements for a Program EIR. Although the legally required contents of a Program EIR are the same as those of a Project EIR, Program EIRs are typically more conceptual and may contain a more general discussion of impacts, alternatives, and mitigation measures than a Project EIR. As provided in *CEQA Guidelines* Section 15168, a Program EIR may be prepared on a series of actions that may be characterized as one large project. Use of a Program EIR provides the City (as Lead Agency) with the opportunity to consider broad policy alternatives and program-wide mitigation measures and provides the City with greater flexibility to address environmental issues and/or cumulative impacts on a comprehensive basis. Agencies generally prepare Program EIRs for programs or a series of related actions that are linked geographically; are logical parts of a chain of contemplated events, rules, regulations, or plans that govern the conduct of a continuing program; or are individual activities carried out under the same authority and having generally similar environmental effects that can be mitigated in similar ways. By its nature, a Program EIR considers the “macro” effects associated with implementing a program (such as a general plan) and does not, and is not intended to, examine the specific environmental effects associated with individual actions that may be undertaken under the guise of the larger program.

Once a Program EIR has been prepared, subsequent activities within the program must be evaluated to determine what, if any, additional CEQA documentation needs to be prepared. If the Program EIR addresses the program’s effects as specifically and comprehensively as possible, many subsequent activities could be found to be within the Program EIR scope and additional environmental documents may not be required (*CEQA Guidelines* Section 15168(c)). When a Program EIR is relied on for a subsequent activity, the Lead Agency must incorporate feasible mitigation measures and alternatives developed in the Program EIR into the subsequent activities (*CEQA Guidelines* Section 15168(c)(3)). If a subsequent activity would have significant effects not addressed in the Program EIR, the Lead Agency must prepare a new Initial Study leading to a Negative Declaration (ND), Mitigated Negative Declaration (MND), or project level EIR. In this case, the Program EIR still serves a valuable purpose as the first-tier environmental analysis. The *CEQA Guidelines* (Section 15168(h)) encourage the use of Program EIRs, citing five advantages:

1. Provision of a more exhaustive consideration of impacts and alternatives than would be practical in an individual EIR
2. Focus on cumulative impacts that might be slighted in a case-by-case analysis

3. Avoidance of continual reconsideration of recurring policy issues
4. Consideration of broad policy alternatives and programmatic mitigation measures at an early stage when the agency has greater flexibility to deal with them
5. Reduction of paperwork by encouraging the reuse of data (through tiering)

As a “macro” level environmental document, for some impacts, this EIR uses macro level thresholds as compared to the project-level thresholds that might be used for an EIR on a specific development project.

1.3 Scope and Content of the EIR

In accordance with the *CEQA Guidelines*, a Notice of Preparation (NOP) of a Draft EIR was circulated to potentially interested parties and agencies on March 3, 2017. The NOP, included as Appendix A, indicated that the following issue areas would be discussed in the EIR:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology/Water Quality
- Land Use and Planning
- Noise
- Population and Housing
- Public Services, Schools, and Recreation
- Transportation and Traffic
- Utilities and Service Systems

The EIR evaluates potential impacts in each of these areas. Other issue areas are discussed in Section 4.15, *Effects Found Not to be Significant*.

The City received eleven written responses to the NOP regarding the scope and content of the EIR. These responses are included in Appendix A. The City also held an EIR scoping meeting as part of the regularly scheduled Planning Commission meeting on March 16, 2017. Approximately 40 people attended the hearing, 16 of whom provided verbal comments on the scope and content of the EIR. Verbal comments from the scoping meeting attendees and written comments received by the City are summarized in Table 2. Verbal and written comments are addressed, as appropriate, in the analysis contained in the various subsections of Section 4, *Environmental Impact Analysis*.

Table 2 NOP Comments and EIR Response

Commenter	Comment/Request	How and Where it was Addressed
Agency Comments		
Alameda County Planning Department	Evaluate both center-line and other Bus Rapid Transit lane configurations in the Specific Plan Area adjacent to unincorporated East 14th Street in Ashland, including any conflicts between the various modal types. Where any internal new roads/connections between the BART and Mall property are proposed, include an evaluation of potential traffic impacts in the adjacent neighborhoods.	Comments are addressed in Section 4.13, <i>Transportation and Traffic</i> .

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Alameda County Transportation Commission	<p>The Congestion Management Program (CMP) Land Use Analysis Project requires a transportation impact analysis for the project since it would generate at least 100 peak hour trips.</p> <p>The Alameda Countywide Travel Demand Model should be used for the CMP Land Use Analysis.</p> <p>The EIR should address potential impacts of the project on the Metropolitan Transportation System (MTS) roadway network, the MTS transit operators, cyclists on the Countywide Bicycle Network, and pedestrians in Pedestrian Specific Plan Areas of Countywide Significance.</p> <p>Mitigation measures should be consistent with Alameda CTC policy and should consider Transportation Demand Management (TDM) measures in conjunction with roadway and transit improvements.</p>	Comments are addressed in Section 4.13, <i>Transportation and Traffic</i> .
East Bay Municipal Utilities District (EBMUD)	<p>A Water Supply Assessment (WSA) is required if the project would demand an amount of water equivalent or greater than the amount of water required by a 500-dwelling-unit project.</p> <p>Project sponsors should be aware of development requirements for any construction that might affect water infrastructure.</p> <p>Recommends that the City and project sponsors coordinate with EBMUD regarding the feasibility of providing recycled water for non-potable uses.</p> <p>Requests the City require project sponsors to comply with water conservation measures.</p>	A WSA was prepared by EBMUD and the results are summarized in Section 4.14, <i>Utilities and Service Systems</i> .
California Department of Transportation (Caltrans)	Transportation Demand Management (TDM) elements should be included in the Plan and encroachment permits may be needed for work in Caltrans right-of-way.	Comments are addressed in Section 4.13, <i>Transportation and Traffic</i> .
Public Written Comments		
Aesthetics	Concerns with high rise buildings.	Comments are addressed in Section 4.1, <i>Aesthetics</i> .
Noise	Concern about noise from trains and ambulances	Comments are addressed in Section 4.10, <i>Noise</i> .
Population and Housing	Concerns about displacement/removal of housing	<p>As discussed in Section 2, <i>Project Description</i>, an objective of the proposed Specific Plan is to “Support housing, both market rate and affordable housing, and seek to protect existing residents from involuntary displacement.”</p> <p>Potential effects related to displacement and removal of housing are addressed in 4.11, <i>Population and Housing</i>.</p>
Recreation	Consider more parks and greenery	As stated in Section 2, <i>Project Description</i> , an objective of the proposed Specific Plan is to increase the amount of parks, green space,

Commenter	Comment/Request	How and Where it was Addressed
		<p>plazas, and other public space that encourages recreation and access to nature.</p> <p>Potential effects related to parks and recreation are addressed in Section 4.12, <i>Public Services, Schools, and Recreation</i>.</p>
Traffic	<p>Potential parking impacts and overflow parking from BART station</p> <p>Traffic congestion</p> <p>Effects to public transportation</p>	Comments are addressed in Section 4.13, <i>Transportation and Traffic</i> .
Water Quality	<p>Recommends that the project include protections for Estudillo Canal, which runs through the Specific Plan Area, and assess potential creek restoration to a more natural channel.</p> <p>Enhance public access to the creek's upper-bank areas.</p> <p>Recommends mitigation measures for creek restoration and potential floodplain impacts.</p>	Comments are addressed in Section 4.8, <i>Hydrology and Water Quality</i> .
Verbal Comments at Scoping Meeting		
Air Quality	Air quality is already poor and will worsen with more traffic	Comments are addressed in Section 4.2, <i>Air Quality</i> .
Cultural Resources	Potential impacts to cultural and historic resources, including Mission-style homes	Comments are addressed in Section, <i>Cultural, Tribal, and Paleontological Resources</i> .
Noise	Noise level from BART already high	Comments are addressed in Section 4.10, <i>Noise</i> .
Population and Housing	Concerns about displacement/removal of housing	<p>As discussed in Section 2, <i>Project Description</i>, an objective of the proposed Specific Plan is to "Support housing, both market rate and affordable housing, and seek to protect existing residents from involuntary displacement."</p> <p>Potential effects related to displacement and removal of housing are addressed in 4.11, <i>Population and Housing</i>.</p>
Public Services	Concern about instability, crime, safety in the area Policing boundaries are unclear in the area (San Leandro Police, County police, BART police)	Comments are addressed in Section 4.12, <i>Public Services, Schools, and Recreation</i> .
Traffic	<p>Current poor traffic conditions worsening</p> <p>BART users parking in neighborhood instead of BART parking lots</p> <p>Concerns about parking and lax parking enforcement</p> <p>Question about shared parking benefits</p> <p>Lack of street cleaning</p> <p>Questions about potential street improvements and concern that fewer lanes would cause more traffic</p> <p>Need a better BART connection</p>	Comments are addressed in Section 4.13, <i>Transportation and Traffic</i> .

Commenter	Comment/Request	How and Where it was Addressed
	BART pick-up/drop-off causing congestion in neighborhood Effects of autonomous cars on the road Traffic study off feeder streets including Fairmont Drive and Hesperian Boulevard.	

In preparing the EIR, use was made of pertinent City policies and guidelines, certified EIRs and other adopted CEQA documents, and other background documents. A full reference list is contained in Section 7, *References and Preparers*.

The alternatives section of the EIR (Section 6.0) was prepared in accordance with *CEQA Guidelines* Section 15126.6 and focuses on alternatives that are capable of eliminating or reducing significant adverse effects associated with the project while feasibly attaining most of the basic project objectives. In addition, the alternatives section identifies the "environmentally superior" alternative among the alternatives assessed. The alternatives evaluated include the CEQA-required "No Project" alternative and two alternative development scenarios for the Specific Plan Area.

The level of detail contained throughout this EIR is consistent with the requirements of CEQA and applicable court decisions. *CEQA Guidelines* Section 15151 provides the standard of adequacy on which this document is based. The *Guidelines* state:

An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure.

1.4 Lead, Responsible, and Trustee Agencies

The *CEQA Guidelines* define lead, responsible and trustee agencies. The City of San Leandro is the lead agency for this EIR because it holds principal responsibility for approving the proposed Specific Plan.

"Responsible Agencies," are other agencies that are responsible for carrying out/implementing a specific component of the proposed Specific Plan or for approving a project (such as an annexation) that implements the goals and policies of the proposed Specific Plan. Section 15381 of the *State CEQA Guidelines* defines a "responsible agency" as:

A public agency which proposes to carry out or approve a project, for which a lead agency is preparing or has prepared an EIR or Negative Declaration. For purposes of CEQA, responsible agencies include all public agencies other than the lead agency that have discretionary approval authority over the project.

There are no responsible agencies for the proposed Specific Plan. However, State, regional and/or local government permits may be required for development under the proposed Specific Plan, whether or not they are explicitly listed below. State and regional agencies that may have jurisdiction over some aspects include (but are not limited to):

- California Department of Fish and Wildlife
- San Francisco Bay Regional Water Quality Control Board
- California Department of Transportation (Caltrans)

Trustee agencies have jurisdiction over certain resources held in trust for the people of California but do not have a legal authority over approving or carrying out the project. *CEQA Guidelines* Section 15386 designates four agencies as trustee agencies: the California Department of Fish and Game with regards to fish and wildlife, native plants designated as rare or endangered, game refuges, and ecological reserves; the State Lands Commission, with regard to state-owned “sovereign” lands, such as the beds of navigable waters and state school lands; the California Department of Parks and Recreation, with regard to units of the state park system; and, the University of California, with regard to sites within the Natural Land and Water Reserves System.

There are no trustee agencies for the proposed Specific Plan.

1.5 Intended Uses of the EIR

This EIR is as an informational document for use in the City’s review and consideration of the Bay Fair TOD Specific Plan. It is to be used to facilitate creation of Specific Plan that incorporates environmental considerations and planning principles into a cohesive policy document. The Specific Plan will guide subsequent actions taken by the City in its review of new development projects within the Specific Plan Area and its establishment of new and/or revised programs for the Specific Plan Area. This EIR discloses the possible environmental consequences associated with the proposed Specific Plan. The information and analysis in this EIR will be used by the San Leandro City Council and the general public.

1.6 Environmental Review Process

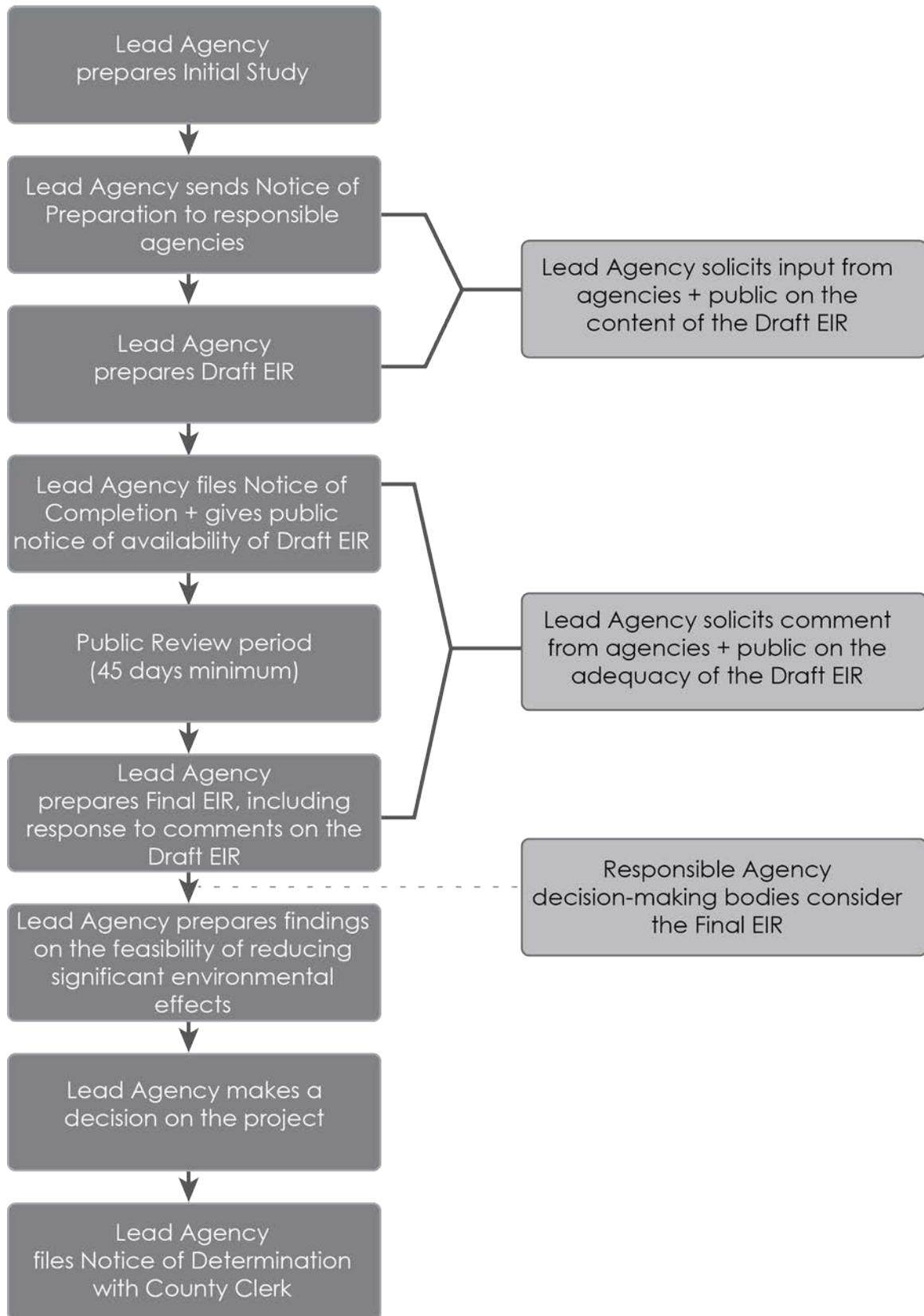
This Draft EIR will be circulated for public review and comment for a minimum of 45 days. A copy of the Draft EIR can be reviewed at the City of San Leandro’s Permit Center during regular business hours, located at 835 East 14th Street, San Leandro, CA 94577 and on the City’s website at: <https://www.sanleandro.org/depts/cd/projects/bftod/default.asp>. Comments may be provided in writing to Tom Liao, Deputy Community Development Director, 835 East 14th Street, San Leandro, CA 94577, or send via email to tliao@sanleandro.org with “Bay Fair TOD Specific Plan Draft EIR” as the subject.

The environmental impact review process, as required under CEQA, is summarized below and illustrated in Figure 1. The steps are presented in sequential order.

1. **Notice of Preparation (NOP) and Initial Study.** After deciding that an EIR is required, the lead agency (City of San Leandro) must file a NOP soliciting input on the EIR scope to the State Clearinghouse, other concerned agencies, and parties previously requesting notice in writing (*CEQA Guidelines* Section 15082; Public Resources Code Section 21092.2). The NOP must be posted in the County Clerk’s office for 30 days. The NOP may be accompanied by an Initial Study that identifies the issue areas for which the project could create significant environmental impacts.
2. **Draft EIR Prepared.** The Draft EIR must contain: a) table of contents or index; b) summary; c) project description; d) environmental setting; e) discussion of significant impacts (direct,

- indirect, cumulative, growth-inducing and unavoidable impacts); f) a discussion of alternatives; g) mitigation measures; and h) discussion of irreversible changes.
3. **Notice of Completion (NOC).** The lead agency must file a NOC with the State Clearinghouse when it completes a Draft EIR and prepare a Public Notice of Availability of a Draft EIR. The lead agency must place the NOC in the County Clerk's office for at least 30 days (Public Resources Code Section 21092) and send a copy of the NOC to anyone requesting it (*CEQA Guidelines* Section 15087). Additionally, public notice of the Draft EIR availability must be given through at least one of the following procedures: a) publication in a newspaper of general circulation; b) posting on and off the project site; and c) direct mailing to owners and occupants of contiguous properties. The lead agency must solicit input from other agencies and the public, and respond in writing to all comments received (Public Resources Code Sections 21104 and 21253). The minimum public review period for a Draft EIR is 30 days. When a Draft EIR is sent to the State Clearinghouse for review, the public review period must be 45 days unless the State Clearinghouse approves a shorter period (Public Resources Code 21091).
 4. **Final EIR.** A Final EIR must include: a) the Draft EIR; b) copies of comments received during public review; c) list of persons and entities commenting; and d) responses to comments.
 5. **Certification of Final EIR.** Prior to making a decision on a proposed project, the lead agency must certify that: a) the Final EIR has been completed in compliance with CEQA; b) the Final EIR was presented to the decision-making body of the lead agency; and c) the decision making body reviewed and considered the information in the Final EIR prior to approving a project (*CEQA Guidelines* Section 15090).
 6. **Lead Agency Project Decision.** The lead agency may a) disapprove the project because of its significant environmental effects; b) require changes to the project to reduce or avoid significant environmental effects; or c) approve the project despite its significant environmental effects, if the proper findings and statement of overriding considerations are adopted (*CEQA Guidelines* Sections 15042 and 15043).
 7. **Findings/Statement of Overriding Considerations.** For each significant impact of the project identified in the EIR, the lead agency must find, based on substantial evidence, that either: a) the project has been changed to avoid or substantially reduce the magnitude of the impact; b) changes to the project are within another agency's jurisdiction and such changes have or should be adopted; or c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible (*CEQA Guidelines* Section 15091). If an agency approves a project with unavoidable significant environmental effects, it must prepare a written Statement of Overriding Considerations that sets forth the specific social, economic, or other reasons supporting the agency's decision.
 8. **Mitigation Monitoring Reporting Program.** When the lead agency makes findings on significant effects identified in the EIR, it must adopt a reporting or monitoring program for mitigation measures that were adopted or made conditions of project approval to mitigate significant effects.
 9. **Notice of Determination (NOD).** The lead agency must file a NOD after deciding to approve a project for which an EIR is prepared (*CEQA Guidelines* Section 15094). A local agency must file the NOD with the County Clerk. The NOD must be posted for 30 days and sent to anyone previously requesting notice. Posting of the NOD starts a 30 day statute of limitations on CEQA legal challenges (Public Resources Code Section 21167[c]).
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Figure 1 Environmental Review Process



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