

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

REVIEW OF ENVIRONMENTAL IMPACT REPORTS BY
COUNTY COUNSEL IN COORDINATION WITH THE COUNTY
ENVIRONMENTAL COORDINATOR

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PURPOSE

The purpose of this Board Policy is to provide for County Counsel's timely and appropriate legal review of Environmental Impact Reports (EIRs) prepared by County departments or private consultants, in coordination with the County Environmental Coordinator (CEC), prior to their submittal to a County decision maker for appropriate action.

BACKGROUND

The Department of Planning and Land Use (DPLU) generally acts as the clearinghouse for environmental documents on most private and on many County development projects within the County of San Diego, which are sent to County decision making bodies for certification. Other departments may be responsible for preparation of environmental documents on projects within their purview. In order to minimize the likelihood of successful legal challenges to projects under the California Environmental Quality Act (CEQA) and to bring more stability to the land use decision-making process, the Office of County Counsel must review EIRs in the most expedient manner for most sensitive private projects and for all County projects.

DEFINITIONS

1. The term "project applicant" as used in this policy includes applicants for private projects, as well as County departments acting as project applicants on County projects.
2. The term "sensitive private projects" as used in this policy means projects with a strong potential for involving significant legal, environmental, or community issues which may present legitimate challenges to the particular projects. The determination of whether a private project is a "sensitive" project within the meaning of this policy shall be made jointly by the CEC, the responsible County department, and County Counsel.

POLICY

It is the policy of the Board of Supervisors that:

1. This policy shall apply to review of EIRs for all private projects unless DPLU determines that such review is unnecessary and all County projects.
2. County Counsel in coordination with the CEC shall review EIRs for all projects covered by this policy.
3. DPLU shall appoint at least one of its staff members to serve as CEC on environmental matters, including the preparation and review of EIRs.
4. All County departments that are required to prepare EIRs for projects covered under this policy shall coordinate the preparation and review of the EIRs with the CEC for quality control prior to

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initiating public review and submittal of the EIRs by the CEC to County Counsel for review. The quality control review exercised by the CEC shall consist of ensuring that:

- a. Draft EIRs contain all mandatory sections required by CEQA;
 - b. EIR issues that are consistently found to be problems are addressed in general conformance with County Counsel direction;
 - c. Draft EIRs are reasonably readable and formatted;
 - d. Any specific legal concerns of project level staff are communicated to County Counsel;
 - e. Any previous County Counsel comments have been addressed, or give the reasoning why they have not been addressed; and
 - f. Upon completion of the CEC's quality control review, the draft EIR shall be sent out for public review and comment.
5. Upon receiving public comments on the draft EIR, the responsible County department together with the project applicant shall prepare responses to the public comments. The CEC shall review proposed responses to public comments and submit the draft Final EIR, the public comments and a draft of the proposed responses to County Counsel for review.
6. County Counsel shall conduct a legal assessment of the draft Final EIR and responses to comments for compliance with CEQA and shall comment only upon legal matters that do not comply with CEQA and that may subject the EIR to a successful legal challenge. The timelines set forth in this policy for County Counsel EIR review and comment may be extended when a change in law comes to the attention of County Counsel during the review process. County Counsel will send a notice of the change in law to the CEC and advise the CEC of the extension in time.
7. The initial review and comments by County Counsel of the draft Final EIR and the proposed responses to public comments shall be completed within 40 days. Comments on the draft Final EIR and proposed responses to public comments shall be sent to the CEC and to the appropriate Department serving as the project applicant on County projects.
8. County Counsel may conduct up to two reviews of the draft Final EIR and responses to comments. In particular cases, upon consultation with the County Counsel, the Deputy Chief Administrative Officer, Land Use and Environment Group, may authorize additional reviews if deemed warranted. Each additional review by County Counsel shall be completed within 30 days. The second (or subsequent) review, if necessary, shall be limited to the contents of the previous draft Final EIR which were the subject of County Counsel's previous review comments and to any new material added to the draft Final EIR and shall be completed within 30 days. Comments shall be sent to the CEC and to the appropriate Department serving as the project applicant on County projects.

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9. After County Counsel's final review of the draft Final EIR and responses to comments, County Counsel shall advise the Deputy Chief Administrative Officer, Land Use and Environment Group, by confidential communication, of any significant unresolved legal issues associated with the draft Final EIR.
10. The CEC and the responsible County department shall consider the comments of County Counsel, together with any direction from the Deputy Chief Administrative Officer under paragraph 4d, and shall make any necessary and appropriate revisions to the draft Final EIR. The CEC shall review the revised draft Final EIR and shall concur with it prior to its consideration by any decision maker.
11. The CEC, County Counsel and the project applicant shall work together to prepare any additional CEQA documents, such as CEQA findings, mitigation monitoring programs, or statements of overriding considerations for docketing or filing with the appropriate County decision maker for action.

SUNSET DATE

This policy will be reviewed for continuance by 12/31/09.

BOARD ACTION

- 1-9-96 (15)
- 5-21-97 (5)
- 6-15-04 (25)
- 2-28-06 (27)

County Counsel
Department of Planning and Land Use
Department of Public Works
Department of Parks and Recreation
Department of General Services