

# 1. Introduction

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Pursuant to the California Environmental Quality Act (CEQA) Guidelines, Chapter 14 California Code of Regulations, Section 15378[a], the proposed Hayward Downtown Specific Plan and associated Zoning Code Update is considered a “project” subject to environmental review as its implementation is “an action [undertaken by a public agency] which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.” This Draft Environmental Impact Report (Draft EIR) provides an assessment of the potential environmental consequences of adoption and implementation of the project, herein referred to as “proposed project” or “proposed Specific Plan.” Additionally, this Draft EIR identifies mitigation measures and alternatives to the proposed project that would avoid or reduce significant impacts. This Draft EIR compares the development potential of the proposed project with the existing baseline condition, described in detail in Chapter 4.0, Environmental Evaluation, and each subchapter (Chapters 4.1 through 4.14). The City of Hayward (City) is the lead agency for the proposed project. This assessment is intended to inform the City’s decision-makers and the public-at-large of the nature of the proposed project and its effect on the environment.

## 1.1 PROPOSED ACTION

Upon adoption by the City of Hayward City Council (City Council), the proposed project would update the land use designations and zoning for the parcels covering 320 acres in northern Hayward that make up the Hayward Downtown Specific Plan Area, also referred to as the project site. The Downtown Specific Plan includes a Land Use Plan, Mobility Plan, Policy framework, and associated Development Code updates intended to guide development in the Specific Plan Area through the 2040 buildout horizon of the *Looking Forward Hayward 2040 General Plan* (General Plan). The Land Use Plan describes the type and scale of potential development, the Mobility Plan addresses transportation improvements that may occur over the next 22 years in the Specific Plan Area, the Policy framework includes goals, policies, and programs tailored to implement the community’s vision, and the Development Code includes the zoning standards and procedures to implement the Specific Plan.

## 1.2 ENVIRONMENTAL REVIEW PROCESS

### 1.2.1 DRAFT EIR

Pursuant to CEQA section 21080(d)<sup>1</sup> and CEQA Guidelines section 15063,<sup>2</sup> the City determined that the proposed project could result in potentially significant environmental impacts and that an EIR would be

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<sup>1</sup> The CEQA Statute is found at California Public Resources Code, Division 13, Sections 21000 to 21177.

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required. In compliance with CEQA section 21080.4, the City circulated the Notice of Preparation (NOP) of the EIR for the proposed project to the Office of Planning and Research State Clearinghouse and interested agencies and persons on Friday, February 23, 2018 for a 30-day-review period. A public Scoping Meeting was held on Monday, March 12, 2018 from 7:00 to 9:00 p.m. at the Hayward City Hall in Conference Room 2A. The NOP and scoping process solicited comments from responsible and trustee agencies, as well as interested parties regarding the scope of the Draft EIR. Appendix A of this Draft EIR contains the NOP, as well as the comments received by the City in response to the NOP.

The scope of this EIR was established by the City of Hayward through the EIR scoping process and includes an analysis of the impacts from the proposed project and cumulative impacts in the following issue areas:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural and Tribal Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Population and Housing
- Public Services and Recreation
- Transportation and Circulation
- Utilities and Service Systems
- CEQA-Mandated Assessment Conclusions:
  - Impacts Found Not To Be Significant
  - Significant Unavoidable Impacts
  - Growth-Inducing Impacts
- Significant Irreversible Changes

As explained in Chapter 4, Environmental Evaluation, of this Draft EIR, adoption and implementation of the proposed project would have no impacts related to Agricultural, Forestry, and Mineral Resources; therefore, no detailed analysis discussion is warranted in this Draft EIR.

This Draft EIR will be available for review by the public and interested parties, agencies, and organizations for a 45-day comment period starting on Monday, January 7, 2019 and ending on Wednesday, February 20, 2019. During the comment period, all interested parties are invited to provide written comments via mail or e-mail on the Draft EIR to the City of Hayward Development Services Department, Planning Division. Written comments should be submitted to:

Damon Golubics, Senior Planner  
City of Hayward  
Development Services Department, Planning Division  
777 B Street  
Hayward, CA 94541  
Phone: (510) 583-4210  
Email: [Damon.Golubics@hayward-ca.gov](mailto:Damon.Golubics@hayward-ca.gov)

### 1.2.2 FINAL EIR

Upon completion of the 45-day comment period for the Draft EIR, the City will review all written comments received and verbal comments provided at the public meeting, and prepare written responses

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<sup>2</sup> The CEQA Guidelines are found at California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000 to 15387.

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to each comment on the adequacy of the Draft EIR. A Final EIR will then be prepared, which contains all of the comments received, responses to comments raising environmental issues, and any changes to the Draft EIR. The Final EIR will then be presented to the City Council for certification as the environmental document for the proposed project. All persons who commented on the Draft EIR will be notified of the availability of the Final EIR and the date of the public hearing before the City.

All responses to comments submitted on the Draft EIR by agencies will be provided to those agencies at least 10 days prior to certification of the EIR. The City Council will make findings regarding the extent and nature of the impacts as presented in the EIR. The EIR will need to be certified as having been prepared in compliance with CEQA by the City Council prior to making a decision to approve or deny the proposed project. Public input is encouraged at all public hearings before the City Council or Planning Commission.

After the City Council certifies the EIR, it may then consider action on the proposed project. If approved, the City Council will adopt and incorporate into the project all feasible mitigation measures identified in the EIR.

In some cases, the City Council may find that certain mitigation measures are outside the jurisdiction of the City to implement, or that no feasible mitigation measures have been identified for a given significant impact. In that case, the City Council would have to adopt a statement of overriding considerations that determines that economic, legal, social, technological, or other benefits of the proposed project outweigh the unavoidable, significant effects on the environment.

### 1.2.3 MITIGATION MONITORING

CEQA section 21081.6 requires that the lead agency adopt a Mitigation Monitoring and Reporting Program for any project for which it has made findings pursuant to CEQA section 21081 or adopted a Negative Declaration pursuant to CEQA section 21080(c). Such a program is intended to ensure the implementation of all mitigation measures adopted through the preparation of an EIR or Negative Declaration. The Mitigation Monitoring and Reporting Program for the proposed project will be completed as part of the environmental review process.

## 1.3 PROGRAM-LEVEL EIR

This Draft EIR is a program-level EIR that analyzes the adoption and implementation of the proposed project. CEQA and CEQA Guidelines allow lead agencies to prepare several different types of EIRs. Different types of EIRs are used for varying situations and intended uses. As described in CEQA Guidelines section 15161, the most common type of EIR is a *project* EIR, which examines the environmental impacts of a specific development project (i.e., a construction-level project). As described in the CEQA Guidelines section 15168, *program* EIRs are appropriate when a project consists of a series of actions related to the issuance of rules, regulations, and other planning criteria.

In this case, the proposed project that is the subject of this EIR consists of long-term plans that will guide future development within the Specific Plan Area over a 20-year buildout horizon (e.g., to 2040) consistent with the 2040 General Plan. No specific development projects are proposed as part of the

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project. Therefore, this EIR is a program-level EIR that analyzes the potential significant environmental effects from the reasonably foreseeable indirect physical changes in the environment as a result of the adoption and implementation of the proposed project.

Where the program EIR addresses the program's effects as specifically and comprehensively as is reasonably possible, and future development projects are within the scope of the effects examined in the program EIR, then additional environmental review may not be required for those future projects. When a program EIR is relied on for a subsequent future development projects, 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]).

However, as stated above, this program EIR is not project-specific, and does not evaluate the impacts of individual construction-level projects that may be proposed in the future. All future development projects within the Specific Plan Area that qualify as a "project" under CEQA are subject to compliance with CEQA, which may require additional project-specific environmental analysis. Under a program-level EIR approach, in order to identify whether additional analysis would be necessary when a future development project is proposed, the City, acting as the lead agency, will need to determine the following:

- whether the planned characteristics of the project are substantially different from those defined in the programmatic EIR;
- whether the project would require additional mitigation measures; or
- whether specific impacts were not evaluated in sufficient detail in the programmatic EIR.

If any of these conditions apply and the subsequent activity would have effects that are not within the scope of the program EIR, the lead agency must prepare a new Initial Study leading to a Negative Declaration, a Mitigated Negative Declaration, or an EIR unless the activity qualifies for an exemption from the CEQA process.

For all subsequent environmental review documents, within or outside of the scope of the Specific Plan, this program EIR will serve as the first-tier environmental analysis, which may serve to streamline future environmental review of subsequent projects.

## 1.4 STREAMLINED ENVIRONMENTAL REVIEW

### 1.4.1 TIERING PROCESS

The CEQA concept of "tiering" refers to the evaluation of general environmental matters in a broad program-level EIR, with subsequent focused environmental documents for individual projects. CEQA and the CEQA Guidelines encourage the use of tiered environmental documents to reduce delays and excessive paperwork in the environmental review process. This is accomplished in tiered documents by eliminating repetitive analyses of issues that were adequately addressed in the program EIR and by incorporating those analyses by reference.

CEQA Guidelines section 15168(d) provides guidance for simplifying the preparation of environmental documents by incorporating by reference all analyses and discussions. Where an EIR has been prepared or certified for a program or plan, the environmental review for a later activity consistent with the program or plan should be limited to effects that were not analyzed as significant in the prior EIR or that are susceptible to substantial reduction or avoidance (CEQA Guidelines section 15152[d]).

By tiering from this program-level EIR, the environmental analysis for a future project would rely on the EIR for the following:

- a discussion of general background and setting information for environmental topic areas;
- overall growth-related issues;
- issues that were evaluated in sufficient detail in this EIR for which there is no significant new information or change in circumstances that would require further analysis;
- assessment of cumulative impacts; and
- mitigation measures adopted and incorporated as part of the proposed project.

As previously stated, an Initial Study could be prepared for future projects to evaluate the potential environmental impacts of the future projects with respect to this EIR to determine what level of additional environmental review, if any, is appropriate.

## 1.4.2 CEQA EXEMPTIONS

As part of *Plan Bay Area*, the Bay Area's Regional Transportation Plan/Sustainable Community Strategy the Specific Plan Area is located in a designated Priority Development Area (PDA) and a Transit Priority Area (TPA).<sup>3</sup> PDAs are transit-oriented, infill development opportunity areas within existing communities and TPAs are areas within one-half mile of a major transit stop (15 minute or less service level frequency).<sup>4</sup> Due to the location of the Specific Plan Area, upon certification of this EIR and adoption of the proposed Specific Plan, future development projects in the Specific Plan Area could qualify for streamlined environmental review under CEQA. Projects eligible for streamlined CEQA review are often inside a PDA, TPA, and are consistent with *Plan Bay Area*, as well as consistent with local zoning. The following describes some of the CEQA exemptions that future development projects in the Specific Plan Area could qualify for if the project meets the listed criteria.<sup>5</sup>

### 1.4.2.1 SMALL INFILL EXEMPTION

CEQA Guidelines section 15332 describes the Class 32 Categorical Exemption for small in-fill projects. The following are the basic criteria needed to qualify for this CEQA exemption:

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<sup>3</sup> To read more about *Plan Bay Area* 2040, go to [www.planbayarea.org](http://www.planbayarea.org).

<sup>4</sup> For a more detailed description of Priority Development Area (PDA) and a Transit Priority Area (TPA), see Chapter 3, Project Description, of this Draft EIR.

<sup>5</sup> *Plan Bay Area*, CEQA Streamlining Exemptions, <https://www.planbayarea.org/resources/ceqa-streamlining-opportunities/ceqa-streamlining-exemptions>, accessed May 4, 2018.

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- 5 acres or less
- Within city limits
- Consistent with local General Plan land uses and policies
- Consistent with local Zoning Code
- Served by utilities and public services
- Not in area with value as habitat for endangered, rare or threatened species
- Will not result in significant environmental effects relating to traffic, noise, air quality, or water quality

### 1.4.2.2 AFFORDABLE HOUSING EXEMPTION

CEQA Guidelines section 15194 describes the exemption for affordable housing projects on 5 acres or less. The following are basic criteria needed to qualify for this CEQA exemption:

- 5 acres or less
- 100 or fewer housing units—either new construction or conversion
- All units affordable to low-income households for at least 30 years
- Not located on developed open space
- Consistent with local General Plan land use and policies, and with any other applicable local plan
- Consistent with local Zoning Code
- Provides mitigation measures included in adopted local plans
- Served by utilities and public services or will pay all in-lieu or development fees
- Contains no wetlands, value as wildlife habitat, endangered species, plants protected by Native Plant Protection Act, or species protected by local ordinance
- Not on the Cortese list (hazardous waste)
- Not within earthquake or seismic hazard zone, unless General Plan or Zoning contains provisions to mitigate the risk
- Not within landslide hazard, floodplain, or floodway zone, unless General Plan or Zoning contains provisions to mitigate the risk
- Endangerment assessment has been completed
- No significant effect on historical resources
- Does not have unusually high risk of fire/explosion due to materials used/stored on nearby properties
- Does not present a risk of a public health exposure higher than state standard
- Not within state conservancy
- Has not been divided into smaller projects to qualify for a statutory exemption

### 1.4.2.3 RESIDENTIAL PROJECT CONSISTENT WITH SPECIFIC PLAN EXEMPTION

California Government Code section 65457 (Specific Plans) describes the exemption for residential projects that are consistent with a Specific Plan. The following basic criteria to qualify for this CEQA exemption:

- Residential project
- Within area with adopted Specific Plan and Certified EIR
- Specific Plan EIR prepared in 1980 or later

#### **1.4.2.4 SPECIFIC PLAN EXEMPTION**

CEQA section 21155 describes the procedures for the implementation of the sustainable communities' strategy. CEQA section 21155.4 describes the exemption for projects in an adopted Specific Plan area with a certified EIR. The following basic criteria to qualify for this CEQA exemption:

- Within area with adopted Specific Plan and Certified EIR
- Project consistent with Specific Plan and EIR, including any mitigations
- Can be mixed-use, residential, or employment center/office
- If office project, Floor Area Ratio (FAR) is 0.75 or greater

#### **1.4.2.5 TRANSIT PRIORITY PROJECT EXEMPTION**

CEQA section 21155 describes the procedures for the implementation of the sustainable communities' strategy. CEQA section 21155.1 describes the exemption for infill projects that are within the area identified in a certified EIR. The following are basic criteria needed to qualify for this CEQA exemption:

- Project site less than 8 acres
- Less than 200 units
- Net density at least 20 units/acre
- At least 50 percent residential
- If mixed-use, Floor Area Ratio of at least 0.75
- Satisfies list of environmental, affordability, and resource conservation criteria

#### **1.4.2.6 INFILL PROJECT EXEMPTION**

CEQA Guidelines section 15183.3 describes the exemption for infill projects that are within the area identified in a certified EIR. The following are basic criteria needed to qualify for this CEQA exemption:

- Site in area analyzed in certified EIR
- If residential and within 500 feet of a high volume roadway or other significant source of air pollution, includes mitigation measures
- If non-residential, includes renewable energy feature
- If commercial: 1) floorplate is below 50,000 square feet; and 2) within 0.05 miles of 1,800 dwelling units or located in a low vehicle travel area
- If office: 1) located in a low vehicle travel area
- Project would not have any significant effects on the environment that either have not already been analyzed in a prior EIR or that are more significant than previously analyzed, or that uniformly applicable development policies would not substantially mitigate.

If all the items listed above are met, use Appendix M (Performance Standards for Infill Projects Eligible for Streamlined Review) of the CEQA Guidelines to document project and utilize exemption; exemption is only partial if some or all previously identified environmental effects are not mitigated.

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### 1.4.2.7 SENATE BILL 743 EXEMPTIONS

On September 27, 2013, Senate Bill (SB) 743 was signed into law and became effective on January 1, 2014. Among other provisions, SB 743 amends CEQA by adding CEQA section 21099 regarding analysis of aesthetics, parking, and traffic impacts for urban infill projects. Specifically, CEQA section 21099(d)(1), states, “Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a TPA shall not be considered as causing significant impacts on the environment.” Accordingly, future development projects in the Specific Plan Area would be exempt from evaluating aesthetics and parking impacts if they meet the following three criteria:

- a) The project is in a transit priority area,
- b) The project is on an infill site, and
- c) The project is residential, mixed-use residential, or an employment center.

These criteria are defined as follows:

- **Transit Priority Area (TPA):** A transit priority area is defined as “an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations. A “major transit stop” is defined as the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
- **Employment Center:** An employment center is defined as “a project located on property zoned for commercial uses with a floor area ratio (FAR) of no less than 0.75 and that is located within a transit priority area.”
- **Infill Site:** An infill site is defined as “a lot located within an urban area that has been previously developed or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.”