

Connect the Coastside CEQA Considerations

October 2021

The San Mateo County (“County”) Planning and Building Department has prepared this memorandum to clarify the County’s obligations to conduct California Environmental Quality Act (“CEQA”) review related to Connect the Coastside, the San Mateo County Midcoast Comprehensive Transportation Management Plan (“Plan” or “Connect the Coastside”).¹

Background

San Mateo County’s Local Coastal Program (LCP) Policy 2.53 describes the required content of a comprehensive transportation management plan to address the cumulative traffic impacts of residential development on the San Mateo County Midcoast. The County has prepared Connect the Coastside to address the mobility needs of Midcoast residents and visitors, to protect coastal resources and public access, and to improve the livability for Midcoast residents. Connect the Coastside seeks to:

- Improve existing traffic conditions and public safety;
- Expand transportation choices for residents and visitors;
- Encourage environmentally-friendly transportation options that reduce car trips, such as walking, biking and public transit;
- Respect the character of Midcoast communities and protect coastal resources; and
- Maintain and improve access to coastal resources for both residents and visitors.

Chapter 6 of the Plan describes existing transportation conditions and transportation system performance. Chapter 7 recommends a suite of projects, policies, and programs to address current and future transportation conditions and meet the Plan’s vision, goals, and objectives. The Plan’s infrastructure recommendations range from simple signing and striping improvements to more complex intersection controls, trails, and paths through undisturbed land. The Plan’s programmatic

¹ This memorandum is informed and borrows from a memorandum from MIG regarding the Unincorporated San Mateo County Active Transportation Plan CEQA Considerations. Christina Lau to Julia Malmo-Laycock, December 22, 2020, Subject Correspondence Unincorporated San Mateo County Active Transportation Plan CEQA Considerations. Available as Attachment C from County of San Mateo Board of Supervisors February 9, 2021 Agenda, File #21-111, Attachment #4 at: <https://sanmateocounty.legistar.com/LegislationDetail.aspx?ID=4790911&GUID=6DF22547-8E6B-4E8F-A826-25C7B711A98A&Options=&Search=> (Accessed July 13, 2021).

recommendations range from additional detailed transportation planning studies to new land use policies and transportation performance standards. Chapter 8 of the Plan describes next steps required to implement Connect the Coastside’s recommendations and describes the general process and partnerships that will be required, including developing detailed project design, conducting additional community engagement, and assessing individual projects under CEQA (and the National Environmental Policy Act if applicable). As noted in the Plan, Connect the Coastside’s proposed projects, programs, and policy recommendations are preliminary and at the planning-level; the Plan does not include final designs or project-level details.

CEQA Applicability to Connect the Coastside

The San Mateo County Planning and Building Department has determined that Connect the Coastside is not a project under CEQA and therefore not subject to CEQA review.

CEQA applies when a public agency proposes to “approve” a project, where “approval” means the decision by a public agency which commits the agency to a definite course of action.² The adoption of Connect the Coastside does not commit the County to a definitive course of action regarding the Plan’s recommended facilities or improvements as it does not preclude the study of alternatives or consideration of mitigation measures. Environmental review documents (e.g., Environmental Impact Report, Initial Study/Negative Declaration) should be prepared as early as feasible in the planning process to enable environmental considerations to influence project and program design, yet late enough to provide information for environmental assessment; agencies must not take any action which forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review for that project.³ Several of Connect the Coastside’s recommendations are not definitive and provide potential alternatives (e.g., project B2. Airport Street Bikeway and Princeton Connections). Further, Plan recommendations

² 14 California Code of Regulations §15352(a)

³ 14 California Code of Regulations §15004(b)(2)(B)

WHAT IS A “PROJECT” UNDER CEQA?

14 CCR § 15378

(a) “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

(1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.

(2) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.

(3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

that are more definitive remain only recommendations at the stage of Plan adoption; implementation of any Plan recommendation will require further detailed planning efforts, funding, and other critical steps.

The CEQA Guidelines define a project under CEQA as “the whole of the action” that may result directly or indirectly in physical changes to the environment.⁴ Segmenting a project into two or more pieces to then assess impacts is prohibited as evaluating projects separately may have a less than significant impact than taken as a whole. In contrast, conducting environmental review on a single component of a larger plan is appropriate when each component retains its own independent utility and provides benefit and use regardless of completion of the other components. Projects in Connect the Coastside are presented and intended to be implemented and operated independently, as indicated in Chapter 7 in the segmentation of recommendations and in Chapter 8 in #4 of the “Moving a Project Toward Implementation” section and Table 33. Project Implementation Timeline.

Process for Future CEQA Review

As described in Chapter 8, Connect the Coastside’s recommendations would undergo subsequent review to determine whether a recommendation is a “project”⁵ subject to CEQA and if it is, to conduct CEQA review prior to approving and implementing the project. The project sponsor (lead agency) would conduct an initial review to determine project status and what type of CEQA document would need to be prepared as described below.

Not a Project

Per 14 California Code of Regulations §15378(a), several of Connect the Coastside’s recommendations are not considered projects under CEQA. For example, program recommendations such as educational campaigns and Safe Routes to School campaigns, and policy recommendations that do not require amendments to the Local Coastal Program or General Plan.

Statutory Exemption

Statutory exemptions from CEQA are those granted by the California Legislature; some exemptions are complete exemptions from CEQA while others apply to only part of CEQA requirements.⁶ Some of these statutory exemptions may apply to Connect the Coastside’s recommendations. For example, pedestrian and bicycle facilities projects, including but not limited to bicycle parking (B5) and some bikeways⁷ are exempt if the project and agency meets the conditions outlined in California Public Resources Code §21080.25. This specific section remains in effect until January 1, 2023.

Categorical Exemption

Categorically exempt projects are certain classes of projects that have been determined not to have a significant effect on the environment and are therefore exempt from CEQA review.⁸ Several classes of categorical exemptions could apply to Connect the Coastside’s recommendations, including but not limited to:

⁴ 14 California Code of Regulations §15378(a)

⁵ 14 California Code of Regulations §15378(a)

⁶ 14 California Code of Regulations §15260 to 15285

⁷ California Streets and Highways Code §890.4

⁸ 14 California Code of Regulations §15300

- §15301 Existing Facilities – Class 1: (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety), and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes); and
- §15304 Minor Alterations to Land – Class 4: (h) The creation of bicycle lanes on existing rights-of-way.

Recommendations such as the addition of bicycle parking in the right-of-way, sections of the California Coastal Trail, and Capistrano Road Bikeway would likely qualify for a categorical exemption. §15300.2 identifies exceptions to categorical exemptions. For example, if a project that would ordinarily be considered insignificant in its impact on the environment but will be located in a sensitive environment where its impact could be significant, it no longer qualifies for a categorical exemption. If any of the exceptions in §15300.2 apply to the project, a categorical exemption cannot be used and an Initial Study/Negative (or Mitigated Negative) Declaration or Environmental Impact Report would need to be prepared. In determining whether a project qualifies for a categorical exemption, the project sponsor would need to prepare site-specific reports addressing potential exceptions.

Common Sense Exemption

In addition to statutory exemptions and categorical exemptions, CEQA also provides for a “common sense exemption.” The common sense exemption follows the rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.⁹

Initial Study, Negative Declaration or Mitigated Negative Declaration

Recommendations that are subject to CEQA and which do not qualify for an exemption would be reviewed and the lead agency would conduct an initial study to determine if the project may have a significant effect on the environment.¹⁰ The study serves as the basis for deciding what type of environmental document to prepare and enable the project sponsor/lead agency to modify the project to mitigate for adverse impacts and qualify for a Negative Declaration or Mitigated Negative Declaration.¹¹ The County Planning and Building Department has a standard Initial Study Environmental Evaluation Checklist available on its website.¹² A lead agency would prepare a Negative Declaration or Mitigated Negative Declaration when the Initial Study shows that there is no substantial evidence that the project will have a significant effect on the environment or that potentially significant effects could be avoided with mitigations to a point where clearly no significant effects would occur.¹³ Projects that could require an Initial Study include but are not limited to those that require work outside of the public right-of-way, require work in an environmentally sensitive area or with known archaeological or tribal

⁹ 14 California Code of Regulations §15061(b)(3).

¹⁰ 14 California Code of Regulations §15603

¹¹ 14 California Code of Regulations §15603(c)

¹² County of San Mateo Planning and Building. Planning Regulations, California Environmental Quality Act (CEQA). Available at: <https://planning.smcgov.org/planning-regulations> (Accessed July 13, 2021)

¹³ 14 California Code of Regulations §15070

resources, or involve controversy. Recommendations such as the Airport Street Bikeway would likely require an initial study.

Environmental Impact Report

The decision to prepare an Environmental Impact Report (EIR) happens during preliminary project review or at the conclusion of an initial study.¹⁴ Projects that are likely to require an EIR level of review typically require construction within a previously undisturbed area (e.g., Environmentally Sensitive Habitat), are unable to avoid impacts to known cultural, historic, or tribal cultural resources, or those that are highly controversial. CEQA Guidelines Section 15082 defines the notice of preparation and determination of scope for an EIR.

National Environmental Policy Act Compliance

Any project seeking federal funding would require compliance with the National Environmental Policy Act (NEPA) and require the preparation of a Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement. The role of a federal agency in the NEPA process depends on its relationship to the proposed action; the federal agency (or agencies) carrying out the action is responsible for complying with NEPA requirements.¹⁵ The lead agency would likely seek NEPA compliance for projects that are high in cost or could benefit federally-controlled lands, such as the proposed Highway 1 Intersection Controls, to make the projects eligible for federal funds.

¹⁴ 14 California Code of Regulations §15081

¹⁵ United States Environmental Protection Agency. What is the National Environmental Policy Act? Available at: <https://www.epa.gov/nepa/what-national-environmental-policy-act> (Accessed July 13, 2021)