

# **City of Pismo Beach**

## CEQA Guidelines

Guidelines for the Implementation of  
The California Environmental Quality Act

Adopted by the City Council  
August 21, 2001

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## Table of Contents

<b>1. PURPOSE</b>	<b>1</b>
<b>2. DETERMINATION OF EXEMPTION</b>	<b>1</b>
<b>3. INITIAL STUDY PREPARATION AND REVIEW</b>	<b>2</b>
A. <i>Initial Review</i>	2
B. <i>Completing the Initial Study Environmental Checklist</i>	2
C. <i>Special Studies</i>	3
D. <i>Writing the Initial Study Discussion</i>	3
E. <i>Mitigation measures</i>	4
F. <i>Monitoring</i>	4
G. <i>Review of Draft Initial Study</i>	5
H. <i>Preparation And Distribution Of Draft Negative Declaration</i>	5
I. <i>Comments And Final Negative Declaration Action</i>	6
<b>4. EIR CONSULTANT SELECTION AND CONTRACT</b>	<b>7</b>
A. <i>Choosing a consultant</i>	7
B. <i>Development and approval of contract</i>	7
C. <i>Consultant - Project Proponent Communication</i>	8
<b>5. ENVIRONMENTAL IMPACT REPORT (EIR) REVIEW</b>	<b>8</b>
A. <i>Administrative Draft</i>	8
B. <i>EIR Format</i>	9
C. <i>Draft Circulation</i>	9
D. <i>Final EIR Preparation</i>	9
<b>6. REVIEW OF ENVIRONMENTAL DOCUMENTS FROM OTHER AGENCIES</b>	<b>10</b>
<b>DEFINITIONS</b>	<b>11</b>
<b>APPENDIX</b>	<b>12</b>

# CEQA GUIDELINES

## 1. PURPOSE

This document is a guide to environmental review procedures used by the City of Pismo Beach (the “City”). The goal of these procedures is to assure the quality and objectivity of the resulting environmental documents. The procedures will be updated periodically to reflect changes in State law and experience working with these procedures.

The guidelines provide definitions, procedures, criteria and objectives for the implementation of the California Environmental Quality Act (Public Resources Code Section 21000 et. seq., CEQA). The City shall comply with all mandatory provisions of the State CEQA Guidelines applicable to local government agencies.

## 2. DETERMINATION OF EXEMPTION

The Planning Department shall review any project undertaken or to be approved by the City, which may be subject to the California Environmental Quality Act, to determine if:

- (a) It is a “project” as defined by CEQA; if not, it is exempt from CEQA. *Environmental review is not required.*
- (b) It is a project statutorily or categorically exempt from CEQA; statutory exemptions are defined in Article 18 of the State CEQA Guidelines. Categorical exemptions are those listed in Article 19 of the State CEQA Guidelines. *If so, indicate such exemption as described below.*
- (c) It is a project with no potential to have a significant effect on the environment (“General rule” exemption). General Rule Exemptions are defined in Section 15061(b)(3) of the State CEQA Guidelines. *If so, indicate such exemption as described below.*

*For City-sponsored projects:* If the Planning Division determines that a City project is exempt, the Planning Division shall prepare a [Notice of Exemption](#) (see appendix). The Planning Division shall send a copy of the notice to the originating department and shall also file this notice with the County Clerk. CEQA does not require Notices of Exemption to be filed but filing them begins the statute of limitation period and thus reduces the City’s exposure to lawsuits.

*For private projects:* If the Planning Division determines that a private project is exempt, it shall note this exemption in file records and in related staff reports and resolutions. A [notice of exemption](#) may be filed with the County Clerk, if requested by the applicant, who will also be required to pay the recording fee.

### **3. INITIAL STUDY PREPARATION AND REVIEW**

If the project is not exempt, the applicant shall supply data and information sufficient to conduct an Initial Study consistent with the State CEQA Guidelines. The initial study will be completed by the Planning staff or by a consultant, at the City's option.

#### **A. Initial Review**

Review the entire file. Ask questions of the project applicant if necessary. Visit the site after reviewing the file, the initial study form, and City environmental resource maps to determine if there are any potential problems to look for during the site visit. Note neighboring land uses and check for any aspects of the project or of the surrounding land uses that might cause or be subject to an adverse environmental impact.

Consult with other departments and agencies as appropriate to answer questions about potential impacts. Determine if [additional studies](#) are needed. When you have determined that the project is complete begin the initial study.

#### **B. Completing the Initial Study Environmental Checklist**

Use the City of Pismo Beach checklist form. An [electronic version](#) can be found on the City network.

##### ***1. Review Checklist***

Discussion areas in the initial study form are arranged alphabetically, ranging from *Aesthetic* to *Utilities and Services*. Within each discussion area are questions designed to elicit discussion of the types of effects relevant to this process. At the end of the standard checklist is a special group of four questions, under the heading, "Mandatory Findings of Significance". The state CEQA guidelines place special emphasis on these four effects. If any effects in these four areas *may* be significant, an EIR must be prepared.

Go through the checklist, making notes or checking boxes as you can, based on the knowledge you have of the project and the location. Check the general sources listed at the end of the form, to eliminate those environmental factors that are clearly not affected by the project. If the general sources indicate there might be an environmental impact, refer to the more specific sources listed on the form or on the City's resource list, as well as experts within City staff, other government agencies or elsewhere.

##### ***2. Review Primary Sources***

***Resource list:*** The Planning Division maintains a current list of resources available to planners conducting environmental studies. These resources include *maps*, *environmental impact reports*, *specialized studies*, and *names of experts* in various fields.

*Affected agencies:* If it appears that the project will have a significant impact on a resource for which a state or federal agency is the trustee, contact the appropriate agency. For example, if a creek with a viable riparian habitat or fishery resource may be affected by the project, contact the local Fish and Game office. If there may be a significant impact on a wetland, the Corps of Engineers should be contacted.

If you have questions about a specific topic, call appropriate public agency experts. Make a note to the file of the name of each contact, date contacted, and pertinent comments. The person should be cited at the end of the initial study in the list of sources.

Check the [planning library](#) for environmental documents that may have been prepared for projects in the vicinity of the project site. These previous studies can suggest the types of impacts a certain type of project may have or possible development constraints in a particular area of the city.

### **C. Special Studies**

While preparing the Initial Study you may find that one or more special studies is required. For example, the project traffic may pass through one or more congested intersections or the project site may be on or near a known archaeological site. If only one or two special studies are needed and any potential environmental impact is likely to be easily mitigated, the applicant should provide the necessary information. To maintain objectivity in report conclusions, sometimes it is better to contract with a consultant directly, and require the applicant to pay the cost. In this case, obtain an estimate from the consultant and obtain a deposit from the applicant in a manner similar to contracting for an EIR (see EIR section, below).

If there appear to be a number of potential significant impacts associated with the project or if the project could have a major impact on its surrounding area, it may be appropriate to require an EIR. Meet with the Planning Manager, Director, or all of planning staff to discuss options.

### **D. Writing the Initial Study Discussion**

Discuss all potential impacts, even if insignificant, and discuss any “no impact” conclusions that are potentially controversial or require clarification. For each subject discussed, describe any potential impacts, draw a conclusion, and discuss possible mitigation of impacts that may be significant.

The *conclusion* should be supported by substantial evidence cited in the discussion (e.g., Will there be a significant impact on traffic, and can it be mitigated to a less than significant level?). Conclusions must be drawn *in light of the whole record and be based on facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts*. Be sure to consider impacts which may be individually less than significant, but which cumulatively may have a significant effect. Sources used during the initial study must be cited. Such sources may be listed in full at the end of the report and referred to by abbreviation or number within the report

**E. Mitigation measures**

Mitigation should be recommended only for effects that may be significant. Clearly define the impact and the goal of mitigation. Mitigation measures should be specific, measurable if possible, and feasible. They should not include code requirements that must be met by the project anyway.

If, without further study, you are unable to develop mitigation for some potential adverse effects, identify the specific impact that must be evaluated and conclude that further study is required. These sections will be used to develop a scope of work for an EIR.

*Applicant concurrence.* The Planning Manager and project planner shall review the Draft Initial Study to determine if the project could be revised to mitigate any significant impacts. Such changes shall be suggested to the applicant. The applicant may

1. Incorporate changes into the design of the project directly, and thereby avoid the imposition of mitigation measures, or
2. Sign a letter agreeing to the specific mitigation proposed.

If the applicant does not agree to specific mitigation measures, and staff can see no reasonable alternative, an EIR must be required. The applicant may appeal this staff decision.

If the applicant does not agree to specific mitigation measures, and staff finds there could be disagreement by reasonable persons on either the level of impact or the effectiveness of the proposed mitigation, then the applicant must submit his or her disagreement in writing, and staff must include discussion of the disagreement at the public hearing(s). The decision-making body must then make the final decision on which effects are significant and how they are to be mitigated.

**F. Monitoring**

For every mitigation measure, there must be a monitoring program that spells out how the City will determine if the measure has been met. The monitoring program for each measure should follow that measure in the list of mitigation measures at the front or end of the report (see initial study checklist for suggested format).

Monitoring should consist of clear and specific actions that the Planning Division can undertake, like checking building permit plans for compliance, or that can be undertaken by others and reported to the Planning Division. Avoid writing measures that require long-range monitoring for compliance, especially if the results are not easily measurable or viewed. Spell out the steps involved in the monitoring process. If other agencies are required to monitor, the monitoring program should spell out the authority to make this requirement. Some measures may require the hiring of a consultant.

**G. Review of Draft Initial Study**

Based on the Initial Study, the project planner shall take one of the following actions:

- (a) If there is no substantial evidence that a project may have a significant effect on the environment, or if revisions in a project have been made by or agreed to by the applicant so that clearly no significant effects on the environment would occur and there is no substantial evidence that the project as revised may have a significant effect on the environment, issue a Draft Negative Declaration, with or without mitigation.
- (b) If there is substantial evidence that a project may have a significant effect on the environment, and mitigation is either not possible or unknown, an EIR must be prepared. Inform the applicant as soon as feasible of this determination. When possible, the EIR should incorporate work already completed on the Initial Study.

**H. Preparation And Distribution Of Draft Negative Declaration**

*Prepare* a Negative Declaration form, summarizing the results of the initial study.

*Review* the environmental review mailing list. Check the names of agencies and individuals who may have an interest in the site or project. Include the County Clerk <sup>1</sup>in the list. Determine if the Negative Declaration must be sent to the state clearinghouse: If a state agency has legal jurisdiction over some aspect of the project (see CEQA section 15205), the Negative Declaration must be sent to the clearinghouse. Check with the clearinghouse for the number and type of copies required.

*Complete* the transmittal letter. If the Negative Declaration is required to be sent to the state clearinghouse, allow for a review period of at least 30 days. If not, allow at least 20 days<sup>2</sup>.

*Prepare* a public notice mailer, poster, or legal advertisement informing the public that the initial study and proposed negative declaration are available for review and comment<sup>3</sup>. Include the tentative public hearing date(s) in the notice. Only one of these methods of providing public notification is required but normally two methods should be used, to assure adequate circulation.

*Give* the Negative Declaration, mailing list, transmittal letter, and initial study to the department secretary to mail out to public agencies. Give the public notice to the secretary for transmittal to the local newspaper, posting, or mailing to adjacent properties.

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<sup>1</sup> CEQA Section 21092.3

<sup>2</sup> CEQA Guidelines Section 15205

<sup>3</sup> CEQA Section 21092

## I. Comments And Final Negative Declaration Action

Any person may submit comments, either orally or in writing, in a response to a Draft Negative Declaration. The project planner shall prepare written responses to all written comments provided that:

- (a) The comments raise environmental issues, and
- (b) There is sufficient time available to prepare adequate responses and include them in the project staff report(s) prior to the scheduled public hearing or date of approval of the permit or project.

Prior to making a recommendation to the City Council on a project for which a Negative Declaration has been prepared, the Planning Commission shall consider the proposed Negative Declaration, together with any comments received during the public comment period.

Prior to making a decision to carry out or approve a project for which a Draft Negative Declaration has been prepared, the decision makers shall consider the proposed Negative Declaration together with any comments received during the public review process. The Planning Commission or City Council shall approve the Negative Declaration if it finds, on the basis of the Initial Study and all comments received during the public comment period and during the public hearing, that there is no substantial evidence that the project will have a significant effect on the environment

*Notice of Determination and Department of Fish and Game fee:* After the Planning Commission or City Council adopts a Negative Declaration, you must file a [Notice of Determination](#)<sup>4</sup>(NOD) with the County Clerk. If the project also requires approval by a state agency (for example, the Department of Fish and Game), the NOD must also be sent to the State Office of Planning and Research (OPR). To shorten the statute of limitations, this notice must be sent within five days of the action.

1. Complete the [NOD](#) (see appendix).
2. Collect the required Department of Fish and Game (DFG) fee<sup>5</sup> or complete a [“de minimus exemption”](#) form.
3. Give the forms to the department secretary, who will collect the necessary recording fee and file the notices with the County Clerk.

*Inform other departments.* Send copies of the conditions, mitigation measures, and monitoring program to departments who will be responsible for overseeing completion of the project.

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<sup>4</sup> CEQA Guidelines Sections 15075 and 15094

<sup>5</sup> DFG code paragraph 711.4

#### 4. EIR CONSULTANT SELECTION AND CONTRACT

If an EIR is required, the City must choose the consultant who will prepare the document. The applicant must pay for the contract cost, plus an administrative fee for City review and editing.

##### A. Choosing a consultant

1. *Prepare and send out a Request for Proposals (RFP)* to several (preferably local) environmental consulting firms. The RFP should include a detailed project description, a copy of the initial study (if prepared), project plans or maps, and a list of the environmental issues the EIR would be expected to address. Provide a tentative budget if there is one, timeline for completion of the EIR, and a deadline for submittal of proposals. Request submittal of draft work programs, time schedules, and cost estimates.

2. *Review proposals and hold interviews.*

- Narrow down the selections to the top three or four candidates, if possible.
- Prepare a list of questions that will be asked of each. It may be helpful to create a “score sheet” for evaluation of each consultant, which you would give to each member of the review panel. Evaluate competency, timeliness, cost, special expertise, and other relevant factors.
- Set a date for interviews.
- Invite two or three persons from other agencies or departments (preferably at least one from another agency that oversees EIR preparation) to sit on the review panel.
- Invite the top consultants to the interview.
- Hold the interviews in a conference room where you will not be interrupted.

3. *Select a consultant.* Confer with the other review panel members to compile scores or to obtain recommendations. Select the consultant then or at a later date. Inform the consultant of the selection, and thank the others for applying.

##### B. Development and approval of contract

Contracts in excess of \$15,000 require City Council approval, even when the applicant pays the cost.

1. *Obtain estimate* from consultant, negotiate any necessary changes to the proposed work program, use modified estimate as basis for contract.

2. *Have the applicant submit a deposit*, using the planning application – “special consultant services” – for the estimated amount plus 25% administrative overhead.

3. *Create a contract*, using the [standard contract form](#) (appendix). Modify the consultant’s draft work program as needed, develop a payment schedule, and include these as attachments. The contract should stipulate submittal of periodic progress reports from the consultant and work products as they are completed. Payment will be based on completion of the tasks included in the work program.

4. *Schedule as a business item* on a City Council agenda, recommending that the Council approve the contract with the consultant.
5. *Obtain signatures* on the contract, first from the consultant, then from the City Manager. Tell the consultant that work can begin.

### **C. Consultant - Project Proponent Communication**

Communication between the proponent and the consultant is allowed under the following conditions:

- The communication involves (a) verification of material received by the consultant or (b) inquiry by the consultant concerning details of the project proposal or (c) subjects that are minor or incidental in nature.
- City staff (a) is present during or (b) provides prior approval for any discussion which go beyond the above.
- Consultant maintains a record of proponent contacts to inform City staff or the subject of any discussion. These should be included in the consultant's status report.

## **5. ENVIRONMENTAL IMPACT REPORT (EIR) REVIEW**

### **A. Administrative Draft**

#### **1. Project Description**

The consultant shall prepare a project description based on the submittal by the applicant. The description shall be verified by the applicant to determine accuracy, and reviewed by the project planner for completeness.

#### **2. Additional Studies**

During the course of preparing the EIR, additional studies may be required to determine the existence and extent of a particular environmental impact. The Administrative Draft EIR (ADEIR) shall not be submitted to the City until the studies are complete and the conclusions and recommendations are integrated into the ADEIR.

#### **3. Administrative Draft Review**

Staff shall review the Consultant's Administrative Draft (ADEIR) for adequacy and advise the consultant of needed changes. A minimum of five copies of the Administrative Draft will be required (certain projects may require more). The Draft EIR will not be accepted until an adequate ADEIR is obtained.

#### **4. *Project Changes***

Staff and the consultant shall review the Administrative Draft to determine whether any changes in the proposed project could be made which would mitigate the significant impacts of the project. Such changes shall be proposed to the applicant.

The applicant may decline to make changes, and the Draft will be written according to the original description of the project. However, those project changes may be incorporated into alternatives or mitigation “not proposed by the project proponent”.

#### **B. *EIR Format***

The overall organization of the document shall be in accordance with CEQA Guidelines.

#### **C. *Draft Circulation***

When the Draft EIR is complete, it shall be [circulated](#) with a request for comments. During the comment period, the City shall hold a public hearing on the Draft EIR, usually at the Planning Commission level.

The consultant will provide the number of copies specified in the contract. The City shall distribute copies to agencies and organizations selected from the EIR distribution list online. The notification provided with the DEIR shall specify the review period and in what format comments may be submitted (facsimile, letter, electronic mail). All comments must be submitted in writing. The public hearing should be scheduled during the review period.

#### **D. *Final EIR Preparation***

##### **1. *Comments and Responses***

All comments, including minutes of the public hearing, shall be forwarded to the consultant, who will prepare responses. Comments may be summarized. In particular, when recommendations and objections raised in comments differ from conclusions of the Draft EIR, the consultant shall address in detail those comments and shall (a) indicate where the EIR has been changed to reflect these comments or (b) give reasons why specific comments and suggestions were not accepted.

Because a comment is outside the purview of CEQA does not mean it should be dismissed out of hand. Comments that are clearly deeply thought out, even if they do not require a response under CEQA, should be acknowledged in a respectful manner. Forums can be noted where they can be meaningfully communicated, such as the public hearing on the project approval.

When there are a significant number of comments, the consultant may summarize certain common issues in the form of generic comments and responses. Copies of all correspondence must be included in the Final EIR, however.

**2. *Text Changes***

The consultant shall indicate text changes with deletions struck through and additions underlined or otherwise clearly documented.

**3. *Final Action on EIR***

The final EIR shall be presented to the City Council at a public hearing. Prior to granting final approval of the project, the City Council shall certify that the final EIR has been completed in compliance with CEQA and the state CEQA Guidelines and that the City Council has reviewed and considered the information contained in the final EIR prior to approval of the project.

**4. *Notice Of Determination***

After the decision to certify a final EIR has been made, the City Planning Division shall file a [notice of determination](#) with the County Clerk that shall contain the information required in State CEQA Guidelines.

**6. REVIEW OF ENVIRONMENTAL DOCUMENTS FROM OTHER AGENCIES**

The city is adjacent to other cities and to the county of San Luis Obispo. Sometimes a project is proposed in one of these jurisdictions that is close to the city limits or is within the city's adopted Sphere of Influence. In this case, the other agency is required to route EIRs or Negative Declarations for such projects to the City of Pismo Beach for review.

The Community Development Director (CDD) or Planning Manager will determine, by reviewing the project definition, if the City has an interest in the project. If so, the CDD or Planning Manager will either review the environmental document or assign the review to one of the planners for review and comment.

**DEFINITIONS**

The following words and phrases, where not defined in the State CEQA Guidelines, shall have the meaning ascribed to them in these definitions. These definitions are intended to clarify the City process by supplementing definitions used in the State CEQA Guidelines:

“**Act**” or “**CEQA**” shall mean the California Environmental Quality Act, found in Public Resources Code Sections 2100 et seq.

“**Applicant**” shall mean the person, entity, public agency, or City department that proposes a project.

“**Decision-maker(s)**” shall mean any board, commission, hearing body, or individual responsible for taking action to approve, deny, or modify a project.

“**Environmental Impact Report**” or “**EIR**” shall mean an Environment Impact Report as defined in Article 20 of the State CEQA guidelines, and unless otherwise specified, shall also mean an Addendum to an EIR, Supplement to an EIR, a Program EIR, Subsequent EIR, or Master EIR.

“**Originating Department**” shall mean the City department which proposes to carry out the project, the agency or City department with the authority to process or grant permits for the project, or the City department with the greatest responsibility for supervising the project as a whole.

“**State CEQA Guidelines**” shall mean California Code Regulations, Title 14 Natural Resources, Section 15000 et seq.

## **APPENDIX**

### **Contents**

1. City Council Resolution approving guidelines
2. [Time limits chart](#)
3. [Categorical Exemptions](#)
4. [Initial study process chart](#)
5. [Initial Study Form](#)
3. [Negative Declaration Form](#)
4. [Transmittal letter template](#)
5. [Notice of Determination Form](#)
6. [Notice of Exemption](#)
7. [“De Minimus” DFG Fee Exemption template](#)
8. [Standard contract form](#)
9. [Notice of Completion \(OPR\)](#)