



24 January 2022

Delivered via Email

To: Tara Ash-Reynolds

Assistant Planner, City of San Diego Planning Department

9485 Aero Drive, MS 413, San Diego, CA 92123

RE: DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR CITYWIDE SINGLE-USE PLASTIC REDUCTION ORDINANCE

The Surfrider Foundation is a non-profit, environmental organization dedicated to the protection and enjoyment of the world's ocean, waves and beaches for all people, through a powerful activist network. The Surfrider Foundation boasts over 50,000 members nationwide, approximately 2,500 of whom reside in San Diego County and are affiliated with the San Diego County Chapter. The majority of our local chapter membership resides in the City of San Diego.

San Diego Coastkeeper is a non-profit organization whose mission is to protect and restore swimmable, fishable, and drinkable water in San Diego County. Coastkeeper believes a strategic combination of science, advocacy, education, and community engagement is the most effective way to address existing and emerging water-related issues.

On behalf of The Surfrider Foundation, San Diego Coastkeeper, our respective San Diego County supporters, and the entire coalition of organizations and businesses who joined us to champion the Single Use Plastic (SUP) Reduction ordinance, we submit the following comments regarding the Draft EIR and in support of full implementation of the ordinance as soon as possible.

A stakeholder since day one

Expanded polystyrene (EPS) foam has consistently ranked as a top item that Surfrider and Coastkeeper volunteers find at San Diego County beach cleanups since 2012, the year our respective organizations began tracking volunteer beach cleanup data. In [2018](#)¹ and [2019](#)², EPS foam ranked second only to cigarette butts as the most common item found at San Diego beaches. Our volunteers removed a total of 53,327 pieces of EPS foam debris in 2018 and 2019. As shocking as that number is, it represents only a tiny fraction of the total amount of foam debris that ends up on our beaches and in our ocean each year in San Diego.

¹ San Diego County Beach Cleanup Data Report 2018, Surfrider San Diego and San Diego Coastkeeper, Jan 2019

² San Diego County Beach Cleanup Report 2019, Surfrider San Diego and San Diego Coastkeeper, Jan 2020



Surfrider San Diego has been a stakeholder in the City's SUP Reduction Ordinance since early 2018, when our chapter activists worked closely with the office of former City Councilmember Chris Ward (D3) - with additional support from former City Councilmember Barbara Bry (D1) - on its initial concept and drafting in the Environment Committee. We assembled support from a large coalition of local environmental organizations and business groups to advocate for the ordinance's passage, and counted it as an important environmental victory when the City Council gave final approval to the ordinance on January 8, 2019.

The CRA is grasping at straws

When the California Restaurant Association (CRA) threatened the City with a lawsuit for failing to conduct an EIR per CEQA guidelines, our chapter had little power to influence the matter despite the CRA's obvious intent to delay implementation of the ordinance through any means at their disposal. The CRA's delay tactics are made apparent by the fact that since [1988](#)³, approximately 113 similar ordinances prohibiting the use of EPS foam in restaurants and/or retail have been implemented in California cities without any legal action by the CRA. If the CRA (or any other individual or organization) had pursued legal action of this type in any of the previous ordinances, the City Attorney's office could have used those records as precedent and avoided this entire process, which has effectively resulted in a 2 year delay in the implementation of an outstanding SUP reduction ordinance.

Surfrider, Coastkeeper, and our coalition partners cannot tell you why the CRA finally decided in 2019 - after 30 years of successful, local EPS foam ban precedent in California - that San Diego's ordinance should be the first to require an EIR per CEQA guidelines. However, at the time of this ordinance's approval, San Diego was the largest city in California to ban EPS foam takeout containers from restaurants. More California cities would likely follow suit (and did), ultimately prompting the California state legislature to follow its cities' example and draft statewide legislation addressing foam takeout (they [did](#)⁴, but it failed to pass in 2020). We only need to point to SB270, i.e. the California bag ban, to recognize a similar pattern of state legislation taking its cues from 100+ locally adopted bag bans.

The benefits outweigh any potential negative impacts

We were confident then, as we are now after reading the Draft EIR, that the environmental benefits of the SUP Reduction Ordinance far outweigh any negative environmental impacts associated with it.

³ LIST OF CALIFORNIA JURISDICTIONS WITH POLYSTYRENE ORDINANCES, Californians Against Waste, 2021

⁴ Final votes, SB-54 Solid waste: packaging and products.(2019-2020),<https://leginfo.legislature.ca.gov/>



The Draft EIR concluded that the proposed project would result in significant environmental impacts in only one of 21 areas measured: Greenhouse Gas Emissions (GHGs). As all other impacts analyzed were found to be less than significant, we will only address the question of increased GHG emissions and begin with a direct citation from Section 7 of the EIR itself:

*As analyzed in this EIR, while there is a net increase in emissions associated with mobile sources, mobile source emissions are anticipated to be reduced over time and the benefit of implementation of the proposed ordinance would outweigh the increase in emissions due to the overall consistency with statewide and local plans for waste reduction.*⁵

It is important to note that the city lacks an approved GHG emission threshold for policy-level projects. Because of this, **the EIR authors chose an extremely stringent net zero threshold⁶ to evaluate the SUP ordinance's effect on GHG emissions.** This net zero threshold is the only reason why the EIR concluded that the project's GHG emissions would be "significant and unavoidable" despite estimating an annual net increase of only 105 MT CO₂e (metric tons carbon dioxide equivalent) as a result of swapping out polystyrene containers with containers made from more sustainable alternatives (which are slightly heavier).

Surfrider and Coastkeeper support the City looking at GHG impacts and appreciate that they've chosen a very conservative threshold. However, the net zero threshold used goes far beyond the GHG thresholds which are routinely used for development project EIRs. When viewed in the context of how the City determines the GHG Emission Significance Determination Threshold for development project proposals as opposed to policy project proposals like the SUP Reduction Ordinance, an annual net increase of 102 MT CO₂e is not a "significant and unavoidable" environmental impact.

To illustrate this point, the City references and follows guidance from the 2008 California Air Pollution Control Officers Association (CAPCOA) "CEQA and Climate Change Report" in its [Final EIR for Project No. 615398⁷](#), (Otay Mesa) CBX OTN Parking Lot). Based on CAPCOA's guidance, the City concludes that this particular project would not require any additional GHG analysis and mitigation, nor would it result in a significant impact to climate change.

⁵ Draft EIR, City of San Diego Single Use Plastic Ordinance, Section 7-2, Significant Environmental Impacts, Dec 10, 2021

⁶ Draft EIR, City of San Diego Single Use Plastic Ordinance, Section 9-2, Greenhouse Gas Emissions, Dec 10, 2021

⁷ Final Environmental Impact Report, City of San Diego Project No. 30330/304032, Nov 24, 2021

Below is the table referenced by the City in the CAPCOA report in Section 5.18.2 of the Final Project EIR, re: Significance Determination Thresholds:

The CAPCOA report references a 900-metric-ton guideline as a conservative threshold for requiring further analysis and mitigation. The City, thus, chose a 900-metric-ton screening criterion for determining when a GHG analysis would be required (Table 5.18-3). Projects that meet the following criteria are not required by the City to prepare a GHG technical analysis report, and are not considered to be significant.

**TABLE 5.18-3
PROJECT TYPES THAT DO NOT REQUIRE A GHG ANALYSIS AND MITIGATION**

Project Type	Project Size that Generates Approximately 900 Metric Tons of GHGs per Year
Single-Family Residential	50 units
Apartments/Condominiums	70 units
General Commercial Office Space	35,000 square feet
Retail Space	11,000 square feet
Supermarket/Grocery Space	6,300 square feet

8

Based on the table above, the 900 metric ton guideline is a conservative threshold for whether a project’s GHG emissions would require additional analysis and mitigation. The referenced project did not exceed the 900 metric ton threshold, and was therefore “not considered to be significant.”

This should put to rest any potential misread of the SUP Reduction Ordinance’s “significant and unavoidable” environmental impacts from increased GHG emissions, which are estimated to *temporarily* produce an annual increase of 102 MT CO₂e. For the record, 102 MT CO₂e accounts for only 11% of the 900 metric ton guideline referenced above, a figure which the City routinely refers to as an insignificant amount of GHG emissions when it considers and approves development projects.

While Surfider and its coalition partners would never purport to support any actual significant increase in GHG emissions in San Diego or anywhere else, the “significant and unavoidable” increase estimates in this EIR are, in the words of Shakespeare, “much ado about nothing.”

⁸ Final Environmental Impact Report, City of San Diego Project No. 30330/304032 -Section 5.18.2 Significance Determination Thresholds (page 785), Nov 24, 2021



Statewide and local GHG emission reduction efforts will further reduce associated GHG emissions

On September 23, 2020, Governor Newsom issued an [executive order](#) “requiring sales of all new passenger vehicles to be zero-emission by 2035 and additional measures to eliminate harmful emissions from the transportation sector⁹.” Six months earlier, on June 25, 2020, the California Air Resources Board (part of CalEPA) adopted a [first of its kind rule](#)¹⁰ that will require truck manufacturers to transition to electric zero-emission trucks beginning in 2024. Since then, Governor Newsom has already signed an MOU with 14 states to accelerate the market for electric medium and heavy duty vehicles.

The two examples above illustrate the EIR’s conclusion that “*while implementation of the proposed ordinance would result in a net increase in GHG emissions associated with the transport and disposal of the polystyrene replacement products, these mobile source emissions would continue to decrease with implementation of laws and regulations at the statewide level.*”¹¹”

In addition, [SANDAG’S board-approved 2021 Regional Plan](#)¹² aims to reduce regional GHG emissions from transportation to 20% below 2005 levels by 2035. This goal is in line with the state-mandated targets voted into law by [AB 398](#)¹³. This is just one additional example of how both statewide and regional GHG emission reduction efforts render meaningless any of the potential short-term, *temporary*, and very minor GHG emission increases associated with banning EPS foam containers in the City of San Diego.

It’s time to implement the ordinance

We’d be remiss not to mention our support for both of the EIR’s two proposed *environmentally superior alternatives*. We especially applaud Alternative 3, which recommends a \$0.25 fee requirement for all single-use cups. A pass-thru fee of this type, which is similar to what the [City of Berkeley implemented in 2020](#)¹⁴, would reduce consumer demand for single-use products by encouraging individuals to bring their own reusable, refillable cups instead (a practice which, we should add, is

⁹ Governor Newsom Announces California Will Phase Out Gasoline-Powered Cars & Drastically Reduce Demand for Fossil Fuel in California’s Fight Against Climate Change, CA.gov, Sep 23, 2020

¹⁰ California takes bold step to reduce truck pollution, California Air Resources Board, June 25, 2020

¹¹ Draft EIR, City of San Diego Single Use Plastic Ordinance, Section 9-2, Greenhouse Gas Emissions, Dec 10, 2021

¹² SANDAG 2021 Regional Plan pamphlet, Dec 2021

¹³ California plans to reduce greenhouse gas emissions 40% by 2030, US Energy Information Administration, Feb 2, 2018

¹⁴ ORDINANCE NO. 7,639-N.S., Section 11.64.050, compostable disposable foodware, City of Berkeley, Feb 19, 2019



legal under [CA Retail Food Code, Section 114075](#)¹⁵, despite the confusion and uncertainty created at the onset of the coronavirus pandemic).

In addition to encouraging the widespread adoption of reusables, which is in line with Surfrider's ultimate goal of single-use plastic source reduction and is by far the best way to reduce plastic pollution, Alternative 3 would also reduce the number of trucks that transport trash to landfill. This reduction, according to the EIR, would offset any potential increase in GHG emissions from the adoption of heavier alternatives to EPS foam¹⁶.

However, because the SUP Reduction Ordinance has already been delayed for 2 years, our overarching recommendation is to implement it as soon as possible. Once implemented, Surfrider will absolutely encourage and support any efforts by the City Council or staff to introduce additional language to further reduce our reliance on single-use plastics, like that suggested by the EIR in Alternative 3.

In conclusion, we urge immediate and full adoption of the City of San Diego's SUP Reduction Ordinance. We've waited patiently for two years, and now have an EIR which states in no uncertain terms that the proposed ordinance should move forward. Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitch Silverstein".

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A handwritten signature in black ink, appearing to read "Lucero Sanchez".

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¹⁵ California Retail Food Code, Section 114075, page 56, Jan 1 2020

¹⁶ Draft EIR, City of San Diego Single Use Plastic Ordinance, Section 5-3, Environmentally Superior Alternative, Dec 10, 2021