



**San Diego County**  
**Local Agency Formation Commission**  
 Regional Service Planning | Subdivision of the State of California

**7a**

**AGENDA REPORT**  
 Business | Action

June 3, 2024

**TO:** Commissioners

**FROM:** Priscilla Mumpower, Assistant Executive Officer  
 Bill Fulton, LAFCO Consultant  
 Chris Cate, LAFCO Consultant

**SUBJECT: White Paper on Regional Growth Management |  
 “The Contours of Regional Growth: How Different Agencies Shape  
 Development and Transportation Patterns in the San Diego Region”**

**SUMMARY**

The San Diego County Local Agency Formation Commission (LAFCO) will receive a white paper evaluating the San Diego region's growth management policies and practices consistent with the adopted workplan. The William Fulton Group has prepared the white paper. It explores the historical and emerging roles among the principal regional growth management agencies in San Diego County – LAFCO, the County of San Diego, and the San Diego Association of Governments (SANDAG). The white paper is in tentative form and includes several recommendations to improve connectivity between LAFCO, County, and SANDAG in carrying out their respective growth management duties in the region. Staff recommends the Commission formally accept and file the white paper with any related requests for additional information. Staff will proceed afterward to publish the white paper in final form.

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## **BACKGROUND**

### **Adopted Workplan & White Paper on Regional Growth Management**

San Diego LAFCO's current fiscal year workplan includes 30 special projects divided into two distinct categories – statutory and administrative – along with priority assignments set by the Commission. One of these priority projects draws from an earlier recommendation included in the municipal service review on the Escondido region to prepare an informational report evaluating regional growth management responsibilities and current guiding policies.

## **DISCUSSION**

This item is for San Diego LAFCO to receive a white paper prepared by the William Fulton Group evaluating regional growth management agencies and their guiding policies. Consultant Bill Fulton will present the white paper and be available for questions.

## **ANALYSIS**

The white paper focuses on three regional entities in San Diego County and their interconnectivity in managing regional growth: LAFCO, the County, and SANDAG. The report provides an overview of current statutory and policy issues underlying regional growth management decision-making in San Diego; the differing roles and responsibilities of the three regional agencies; and opportunities to improve connectivity going forward.

A copy of the white paper is provided in Attachment One.

## **RECOMMENDATION**

It is recommended San Diego LAFCO formally accept and file the white paper to complete the adopted workplan project. This recommendation is provided as Alternative One in the proceeding section.

## **ALTERNATIVES FOR ACTION**

The following alternatives are available to San Diego LAFCO:

Alternative One (recommended):

Accept and file the item.

Alternative Two:

Continue consideration of the item and provide direction to staff as needed.

## PROCEDURES FOR CONSIDERATION

This item has been placed on the Commission’s agenda for discussion as part of the business calendar. The following procedures are recommended in the consideration of this item:

- 1) Receive verbal presentation from staff unless waived.
- 2) Invite comments from interested audience members, if any.
- 3) Discuss the item and consideration recommendation.

Respectfully,



Priscilla Mumpower  
Assistant Executive Officer

Attachment:

1. White Paper on Regional Growth Management:  
“The Contours of Regional Growth: How Different Agencies Shape Development and Transportation Patterns in the San Diego Region”

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## **The Contours of Regional Growth:**

How Different Agencies Shape Development and  
Transportation Patterns in the San Diego Region

*Prepared by the William Fulton Group  
for San Diego County Local Agency Formation Commission*



**White Paper on Regional Growth Management**

June 2024 - Pending Commission Formal Action to Accept

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## Executive Summary

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### Introduction

For more than 60 years, state, regional, and local governments in California have struggled with how best to manage growth and development at a regional level. In the post-World War II era, when California's population was growing rapidly, the state's policy efforts focused on managing growth in an orderly way and protecting agricultural land. However, since the state began to focus on climate change as a policy goal in the early 2000s, the landscape of power and responsibilities in dealing with regional growth management has shifted significantly to focus on the location of growth and the reduction of greenhouse gas emissions.

The purpose of this report, which was prepared in response to a request from the San Diego Local Agency Formation Commission in the process of approving the Escondido municipal services review, is to sort out roles and responsibilities. This report will also seek to provide a roadmap for the various agencies in the San Diego region to work together more successfully in managing the region's growth - and, indeed, to provide a template that LAFCOs, MPOs, and local governments statewide could use to better coordinate their efforts.

This report focuses primarily on three regional entities:

**San Diego LAFCO**, which oversees sphere of influence changes and annexations and conducts municipal service views.

**San Diego Association of Governments**, the Council of Governments and Metropolitan Planning Organization for the San Diego region, which, among other things, is responsible for the federally mandated Regional Transportation Plan and the state-mandated Sustainable Communities Strategy and Regional Housing Needs Allocation.

**County of San Diego**, which governs land use in the county's unincorporated area.

San Diego is the largest one-county region in the state and the most populous area where the LAFCO, MPO, COG, and county government all have the same boundaries.

## Current Issues

LAFCO is the granddaddy of growth management entities, dating back to the 1960s. Since climate change became a major driver of California growth policy in the 2000s, however, SANDAG, cities, and counties have seen their roles expanded and strengthened, while LAFCO's role has remained more or less the same.

SB 375, adopted in 2008, requires SANDAG (and other MPOs) to include a "Sustainable Communities Strategy" as part of the federally required regional transportation plan. The SANDAG SCS must show how the region will reduce vehicle miles traveled (that is, overall driving). Although SANDAG has no authority over land use, the state's policy approach encourages SANDAG to incentivize the County and the cities to alter their land use plans to reduce VMT as called for in the SCS.

SB 743, adopted in 2013 and fully implemented in 2020, changed the method of traffic analysis under the California Environmental Quality Act from "level of service" to vehicle miles traveled - in other words, from congestion to the overall amount of driving. Any development projects in "VMT inefficient" areas where driving levels are higher are subject to additional analysis and mitigation under the California Environmental Quality Act (CEQA). Although different jurisdictions have adopted different standards regarding the VMT thresholds, the County of San Diego adopted a very strict standard that has discouraged housing development in unincorporated areas where housing is called for in the County's General Plan, leading developers to seek sphere changes and annexations for the first time in many years.

In addition to tightening the GHG/VMT reduction requirements, in the last few years the state has also increased requirements for the County and the cities to plan and zone for more housing, a process known as the Regional Housing Needs Assessment, which is administered by SANDAG.

In short, over the past 20 years, as the San Diego LAFCO has continued to try to manage local boundaries in a way that promotes orderly growth, with a focus on matching municipal services with community needs though mostly qualitative considerations, SANDAG, County of San Diego, and the county's 18 cities have been required by evolving state law to plan for communities that include more housing and less driving through mostly quantitative considerations. Because they are the result of different laws adopted at different times for different purposes, these efforts are not well coordinated at the regional level.

## Recommendations

### **Better Data Sharing**

The LAFCO should use SANDAG data in the process of independently verifying population growth projections and housing need. Such coordination would also help align efforts regarding the proposed recommendations below.

### **Regional VMT Mitigation System**

SANDAG and the County of San Diego are engaged in a study of a regional VMT mitigation effort. The LAFCO should support - and ideally participate in - this study, because a regional program would likely discourage one-off sphere requests.

### **RHNA Transfer System and Property Tax Exchanges**

The LAFCO, SANDAG, and the County should work together identify VMT efficient areas (or areas that show promise to become lower-VMT areas) across jurisdictional boundaries as possible housing sites. Housing proposals in these areas might be accommodated with sphere expansions and RHNA transfers between jurisdictions. This approach probably requires state legislation.

### **Comprehensive Sphere Review**

In collaboration with the County (and ideally SANDAG as well), the LAFCO should conduct a comprehensive countywide sphere review that takes into account other regional growth management strategies, such as VMT mitigation and mobility hubs, in order to create a coordinated regional growth management strategy and minimize the need for one-off sphere expansion.

## Introduction

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For more than 60 years, state, regional, and local governments in California have struggled with how best to manage growth and development at a regional level. In the post-World War II era, when California's population was growing rapidly, the state's policy efforts focused on managing growth in an orderly way and protecting agricultural land. However, since the state began to focus on climate change as a policy goal in the early 2000s, the landscape of power and responsibilities in dealing with regional growth management has shifted significantly to focus on the location of growth and the reduction of greenhouse gas emissions.

Cities and counties have primary responsibility for land use planning and approval of individual private real estate development projects. Metropolitan planning organizations, or MPOs, such as the San Diego Association of Governments have been given new powers and responsibilities in encouraging compact development patterns and reducing driving (vehicle miles traveled).<sup>1</sup> Meanwhile, Local Agency Formation Commissions continue to play an important role in encouraging regional growth and development by making decisions about city spheres of influence and annexations and conducting municipal service reviews not only for cities and counties but also for special districts.

These roles have evolved over time, often as the result legislation that has been adopted separately with little coordination. The result is a patchwork of growth management efforts and requirements at the regional level. The purpose of this report, which was prepared in response to a request from the San Diego Local Agency Formation Commission in the process of approving the Escondido municipal services review, is to sort out roles and responsibilities. This report will also seek to provide a roadmap for the various agencies in the San Diego region to work together more successfully in managing the region's growth - and, indeed, to provide a template that LAFCOs, MPOs, and local governments statewide could use to better coordinate their efforts.

### **Report's Aim...**

The purpose of this report is to sort out the roles and responsibilities - including recent changes - between regional growth management agencies in San Diego County with specific focus on LAFCO, SANDAG, and County of San Diego.

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<sup>1</sup> As will be explained below, SANDAG, like most of its counterparts around the state, is both a Metropolitan Planning Organization and a Council of Governments and has overlapping responsibilities under state law because of these two different designations.

## Overview of Growth Management in the San Diego Region

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The San Diego region is the largest single-county region in California. The region encompasses 4,260 square miles, while the U.S. Census’s designed urbanized area is approximately 675 square miles.<sup>2</sup> The San Diego region is home to approximately 3.3 million people, making it the third-largest metropolitan region in California. Another 2.2 million people live in metropolitan Tijuana, which is adjacent and with which San Diego has important economic, demographics, cultural, and even commuting relationships. San Diego has traditionally experienced rapid population growth, though since the beginning of the COVID pandemic the region’s population has stagnated, as it has in most coastal regions of California.

Like most regions in California, San Diego has several local and regional agencies whose efforts - combined, though not always coordinated - shape the region’s growth pattern. The San Diego Local Agency Formation Commission, the San Diego Association of Governments, and the County of San Diego all play important regional roles.

It is important to note that these government agencies have overlapping, though by no means identical, appointing authorities. Voters elect the County of San Diego Board of Supervisors and mayors and city councilmembers in the 18 cities. Some of these elected officials are then appointed by their peers to both the LAFCO and SANDAG boards. The SANDAG board is made up only of city and county elected officials, while the LAFCO board, under state law, also includes special district representatives and a public member.

### **Regional Growth Decision-Making...**

Most regional growth management decisions - at least at LAFCO and SANDAG - are performed by appointed elected officials drawn from the Board of Supervisors and city councils. LAFCO also includes appointed elected officials from special districts as well as an appointed member from the public.

The LAFCO is the granddaddy of all regional growth management agencies. LAFCOs were established statewide in 1963 in response to significant postwar growth in California. Between 1940 and 1960s, the state’s population grew by 127%, from 6.9 million to 15.7 million people.<sup>3</sup>

With the emergence of the “contract cities” system in the 1950s, dozens of new cities and hundreds of new special districts were created, often with little to no regional coordination. LAFCOs, accordingly, were established for the express purpose of limiting leapfrog growth via new agencies and/or annexations, thus promoting

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<sup>2</sup> According to the U.S. Census, an “urbanized area” is “a continuously built-up area with a population of 50,000 or more” that includes both a central city and less dense suburbs. U.S. Census Bureau, *Geographic Areas Reference Manual*, Chapter 12, “The Urban and Rural Classifications”. <https://www2.census.gov/geo/pdfs/reference/GARM/Ch12GARM.pdf>

<sup>3</sup> San Diego County’s population grew by 257%, from 289,000 to over 1 million people.

“orderly” growth and protecting agricultural and natural lands. LAFCO decision-making is mostly qualitative with significant discretion to individual LAFCOs to determine whether boundary changes and the like are orderly relative to local conditions. Markedly, although the 2000 changes to the law enacted by AB 2838 expanded the LAFCO’s role to include preparing regular municipal service reviews to help other decisions, the LAFCO’s primary responsibility of promoting orderly growth through responsible sphere of influence and annexation decisions has not changed much.

While LAFCOs growth management duties have remained relatively the same, California’s climate policy initiatives over the past 20 years have greatly expanded both the roles and the responsibilities of other regional agencies, especially MPOs such as SANDAG. As explained in more detail in Appendix A, AB 32 (Health and Safety Code §38500), adopted in 2006, was the first of four substantive legislative actions that

**The Big Four: Legislative Changes to Regional Growth Management...**

Beginning in 2006 with AB 32 and followed by SB 375 (2008), SB 743 (2013) and SB 828 (2018), the Legislature began reorienting MPOs - like SANDAG - to carry out quantified smart regional growth objectives by focusing on climate change and housing needs.

have dramatically changed regional growth management in the state. AB 32 requires a significant reduction in greenhouse gas emissions in the state over time. (Subsequent regulations have extended and increased the required GHG reduction.) Because the California Air Resources Board concluded that these targets could not be met without a decrease in vehicle miles traveled (that is, the overall amount of driving), both SANDAG and the local governments (County of San Diego and the 18 cities) now must take steps to reduce VMT, which inevitably involves potential changes in land use patterns.

SB 375, adopted in 2008, takes direct aim at implementing VMT reduction and requires SANDAG (and other MPOs) to include a “Sustainable Communities Strategy” as part of the federally required regional transportation plan. The SANDAG SCS must show how the region will reduce VMT, currently 19 percent per-capita by 2035, which requires a combination of transportation investments that provides alternatives to driving and compact development patterns that reduce the overall need for driving. Although SANDAG has no authority over land use, the state’s policy approach encourages SANDAG to incentivize the County and the cities to alter their land use plans to reduce VMT as called for in the SCS.

In 2013, the state adopted SB 743 (Public Resources Code, § 21099(b)(2)), which changed the method of traffic analysis under the California Environmental Quality Act from “level of service” to vehicle miles traveled - in other words, from congestion to the overall amount of driving. When SB 743 was ultimately implemented in 2020 the Governor’s Office of Planning & Research provided guidance (which is not mandatory)

that a full CEQA analysis<sup>4</sup> should be required for any project results in VMT (again, overall driving) that is *more* than 15% *less* than the “regional” average. Based on subsequent, more informal guidance from OPR, County of San Diego interpreted “regional” as meaning the average for the entire county, including areas inside cities and outside its land use jurisdiction. As further detailed, this Board policy has affected housing potential in the unincorporated area.

In addition to tightening the GHG/VMT reduction requirements, in the last few years the state has also increased requirements for the County and the cities to plan and zone for more housing, a process known as the Regional Housing Needs Assessment, which is administered by SANDAG. SB 828, adopted in 2018, changed the methodology for calculating the amount of housing needed in such a way that overall housing targets increased significantly, and both the Department of Housing & Community Development and the state Attorney General’s Office now have more power and more resources to enforce the housing law.

In short, over the past 20 years, as the San Diego LAFCO has continued to try to manage local boundaries in a way that promotes orderly growth, with a focus on matching municipal services with community needs though mostly qualitative considerations, SANDAG, County of San Diego, and the county’s 18 cities have been required by evolving state law to plan for communities that include more housing and less driving through mostly quantitative considerations. Because they are the result of different laws adopted at different times for different purposes, these efforts are not well coordinated at the regional level.

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<sup>4</sup> Technically, the “significance threshold”. If a project might have an environmental impact that exceeds the significance threshold is subject to additional environmental review and most likely requires “mitigation,” or extra steps to reduce the impact.

# The Roles and Responsibilities of Regional Agencies

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## San Diego Local Agency Formation Commission

Like its counterparts in California's 57 other counties, the San Diego Local Agency Formation Commission is a political subdivision of the State of California responsible for making legally binding decisions about the boundaries and service areas of both cities and special districts. In adopting Government Code §56000 *et seq* (the Cortese-Knox-Hertzberg Act of 2000), the legislature concluded that "the determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services" and "providing housing for persons and families of all incomes is an important factor in promoting orderly development".

### **State Subdivision...**

LAFCO was created by the Legislature in 1963 and delegated regulatory and planning duties to facilitate cities and districts' orderly growth. The last comprehensive update to LAFCO law occurred in 2000 and involved adding the municipal service review directive, streamlining conducting authority (protest) procedures, and changing the local agencies' funding formula. LAFCOs' core duties and powers - however - remained largely unchanged.

For these reasons, all LAFCOs, including the San Diego LAFCO, have the power to:

- Determine cities' spheres of influence (the "probable ultimate physical boundary" of a city),
- Decide whether and when to annex property into cities (or detach land) in accordance with those spheres; and
- Manage the boundaries of special districts as well.

The LAFCO also manages the process of proposed city incorporations, including conducting fiscal analyses to ensure both that a proposed new city is fiscally solvent and that the affected jurisdiction is held financially harmless. LAFCOs also oversee the process of disincorporating cities and dissolving special districts, though these actions are not often undertaken.

Because the establishment of local government boundaries is considered a state function, the LAFCO is technically a state agency. However, its governing board is entirely local. The San Diego LAFCO, like most LAFCOs elsewhere in the state, has seven voting board members consisting of two elected county supervisors, two elected city councilmembers, and two elected special district board members, all selected by their peers; and one public member selected by the others. Unlike most other LAFCOs, San Diego also has an eighth voting board member from the City of San Diego Council as a result of special legislation.



In the course of carrying out its duties, the LAFCO is also authorized to prepare what are typically known as “municipal service reviews” – that is, comprehensive studies that assess both the availability and performance of services by the cities and special districts within the LAFCO’s jurisdiction. These reviews are intended to be coordinated with LAFCO’s statutory responsibility to update all local agencies’ spheres of influence ever five years as needed.

The San Diego LAFCO’s municipal service reviews for cities and special districts typically cover not only the adequacy of the services provided but also the likely future growth and development of the local government agency being reviewed, including a projection of future population growth and future housing need. Thus, even though the LAFCO has no direct authority over land use or growth management, its decisions can profoundly affect land use patterns. LAFCO affects land use patterns indirectly by setting spheres of influence and approving or denying boundary changes to cities and special districts. More specifically, LAFCO’s boundary decisions control access to public facilities and services that may be growth-inducing (e.g. sewer services to an undeveloped area), growth-supporting (e.g. boundary changes which affect already developed areas), or unrelated to growth (e.g. services provided by districts for rural areas).

**LAFCOs’ Indirect Influence on Land Uses and Types...**

LAFCO has no general governmental powers, and thus no authority to regulate the uses of land (zoning, etc.), property development, or subdivision design (e.g. roads, sizes of water lines, etc.). LAFCO does, however, engage in indirect land use decisions by setting spheres of influence and approving or denying boundary changes to cities and special districts.

Unsurprisingly given its discretion to implement the Cortese-Knox-Hertzberg Act based on community needs, LAFCOs in different counties have adopted different philosophies about how to use their authority to manage growth. This philosophy has often evolved in tandem with the philosophy of the relevant county Board of Supervisors’ approach to growth.<sup>5</sup> If a County Board of Supervisors wished to protect agricultural or natural land, the LAFCO policies often encouraged development inside cities; if a County Board of Supervisors was open to development in unincorporated areas, the LAFCO policies often led to small spheres of influence.

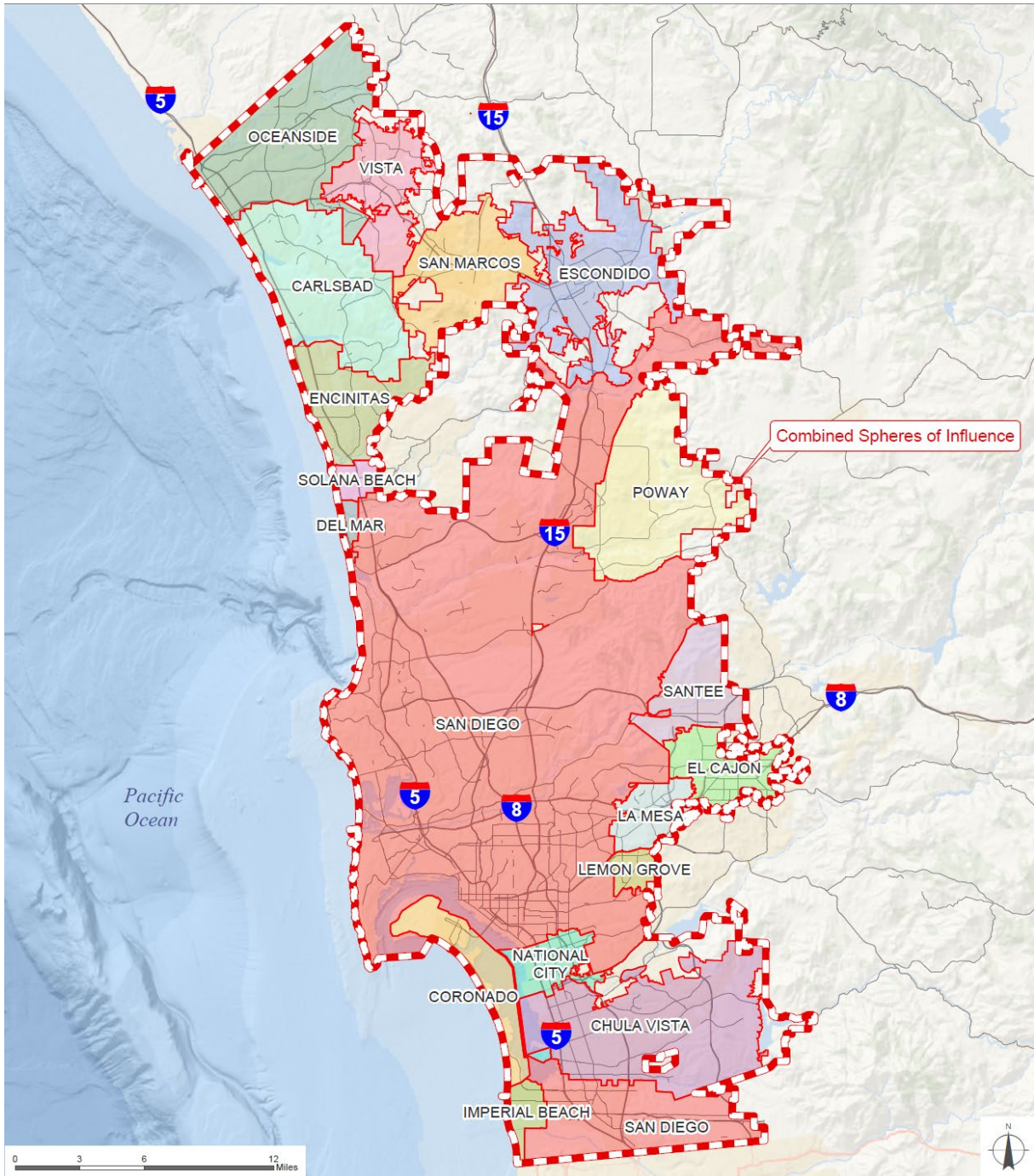
For example, dating from the 1970s, the Ventura County LAFCO has followed a policy known as the Guidelines for Orderly Development (informally known as “GOD”) that limited the number of cities that could be formed in the county, channeled new growth into those counties through aggressive use of spheres of influence, and established an informal agreement with Ventura County to maintaining greenbelts separating the cities from one another. Very little development has occurred outside of the cities over the decades in Ventura County.

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<sup>5</sup> Indeed, until the rewrite of the LAFCO law in 2000, many LAFCOs were embedded inside county governments and many LAFCO staff members were county employees. The 2000 revision did away with this practice.

By contrast, In Los Angeles County, spheres of influence have traditionally been small and new development has occurred mostly outside those spheres under the jurisdiction of Los Angeles County. Some new cities have been formed after this development in unincorporated areas has already taken place, especially in northern and western Los Angeles County. But generally, the LAFCO denied expansive spheres to these cities and new development adjacent to those cities took place under county jurisdiction.

Existing City Spheres in San Diego County



Similarly, in southern Orange County, the county government has managed the development process in recent decades, and, under the LAFCO's supervision, new cities have incorporated only after the development process is complete.

In San Diego County, the 18 cities are well established; no new city has incorporated in San Diego County since Solana Beach and Encinitas, both of which became cities in 1986.<sup>6</sup> Spheres of influence have generally been small and most new development has occurred in unincorporated areas - prominent examples over the last 20 years involving the communities of Bonsal, Harmony Grove, Ramona, and Valley Center. The one major exception to this pattern is the huge, multi-phase Otay Ranch project. The Otay Ranch General Development Plan, originally adopted in 1993 and amended in 2013, called for part of the project to be annexed to the City of Chula Vista and part of it to remain in unincorporated territory.

As stated above, over the past 20 years, as the state's climate change and housing policies have come to play a dominant role in growth management, the role of LAFCOs has changed little. SB 375 from 2008, which requires MPOs like SANDAG to create "Sustainable Communities Strategies" that lay out a region's future growth, contains only one passing reference to LAFCOs, saying that the MPOs must "consider" the spheres of influence created by the LAFCOs. Similarly, even though LAFCOs exist in part, according to state law, because "providing housing for persons and families of all incomes is an important factor in promoting orderly development," none of the state's recent new land use/housing laws have changed or affected the LAFCO's power or role.

## San Diego Association of Governments

In contrast to the LAFCO, which is a state agency established by state law, the San Diego Association of Governments is technically a joint powers authority under California state law. SANDAG's roots date back to the early 1960s, when the voluntary "Comprehensive Planning Organization" was created as part of the County of San Deigo, to deal with federally mandated regional transportation issues. In 1966, the Comprehensive Planning Organization become a separate joint powers authority consistent with State directives for local agencies to partner in community development and growth forecasting. In 1980, CPO changed its name to the San Diego Association of Governments.

### **JPA with Two Distinct Roles...**

SANDAG is a joint-powers authority sponsored by the County of San Diego and 18 cities serving two distinct roles - MPO and COG. With its MPO role, and among other tasks, SANDAG maintains a continuous regional transportation plan. With its COG role, and among other tasks, SANDAG allocates regional housing needs allocations among the 19 land use authorities.

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<sup>6</sup> A new law in the 1990s made incorporating new cities more difficult. Not only must the new city be fiscally solvent, but it must also hold the host county fiscally harmless.

SANDAG is governed by a 21-member board made up of two elected representatives from the County of San Diego, two from the City of San Diego, and one each from the 17 other cities in the region (essentially the same governing authorities that appoint five of the eight LAFCO members). Traditionally, board approval at SANDAG required both approval from a majority of the individual board members and approval from representatives of a majority of the population in a weighted vote. Since the passage of AB 805 in 2017, the largest cities have the power to obtain board approval through a weighted vote, though this power is not frequently exercised.

Under federal transportation law, SANDAG is designated as the Metropolitan Planning Organization, which does transportation planning and programming. Under state law, SANDAG is also designated as the San Diego region's Council of Governments.

SANDAG's role as an MPO under federal law, means it must periodically produce the Regional Transportation Plan; a long-range transportation planning document that integrates with local jurisdictions' land use planning. This is not an unusual role for a council of governments, or COG. However, as the state's climate and housing laws have become dominant policy drivers in recent years, MPOs such as SANDAG have been given more power and more responsibility under state law to influence land use patterns at the regional level. Similarly, SANDAG is an unusual COG because, in addition to the MPO role, it performs a wide range of other duties. Most significantly, it provides design and construction of all regional transportation projects in the San Diego region - everything from highway expansions to trolley lines. For this reason, SANDAG has a large budget, over \$1 billion per year. It is unusual for an MPO to play this role; in Los Angeles and Orange counties, for example, the design and construction role is played by the county transportation commissions, which also oversee transit operations. (Transit operations in the San Diego region are performed by the Metropolitan Transportation System and the North County Transit District.)

SANDAG also plays a wide range of other roles, especially on issues related to transportation. For example, it is the co-lead for air quality planning with the San Diego Air Pollution Control District and it also serves as the region's Congestion Management Agency under state law. It also performs some transportation planning and programming functions in its role as the region's designated Regional Transportation Planning Agency under state law. SANDAG also serves, among other things, as the designated Regional Census Data Center, the Regional Criminal Justice Clearinghouse, and the Regional Toll Authority. SANDAG also administers the region's half-cent sales tax for transportation, commonly known as Transnet. (A complete list of SANDAG's roles and duties is available [here](#).)

SANDAG's dual role as the MPO and COG requires the agency to play a major role in growth management in the San Diego region and headlined by the aforementioned task to regularly prepare a regional transportation plan or RTP. The last RTP was adopted in 2021 and the next RTP is scheduled for adoption in 2025. The RTP lays out



the region's future transportation infrastructure plan, along with certain and potential funding sources for transportation projects ranging from federal funds down to local Transnet funds. Obviously, preparing the RTP requires SANDAG to prepare an assumed future regional growth scenario. Other key tasks include:

- Under SB 375, SANDAG as the MPO must prepare a "Sustainable Communities Strategy," or SCS, as part of the RTP that shows how the region will meet a per-capita reduction in vehicle miles travelled (essentially, overall driving). The current target, created jointly by SANDAG and the California Air Resources Board, is a 19% reduction by 2035. Preparing of the SCS requires SANDAG to create a regional growth scenario that will enable the region to hit the target. However, SB 375 specifically states that the County and the cities will retain land use authority, meaning SANDAG cannot mandate that local governments adopt land use policies that follow the SCS. Under SB 375, SANDAG is required to "consider" the spheres of influence adopted by the LAFCO and any LAFCO policies designed to protect agricultural and natural lands but is not required to consult with the LAFCO.<sup>7</sup>
- Under the Housing Element law (Government Code §65583 *et seq.*), SANDAG as the COG is required to administer the Regional Housing Needs Assessment (RHNA) process. Under this process, SANDAG must take the housing targets given to the region by the state for an eight-year period and allocate those housing targets to the County and the 18 cities. Targets are broken down into very low, low, moderate, and above-moderate income levels of affordability. Although housing is putatively part of the LAFCO's charge to manage growth in an orderly way, the LAFCO plays no role in the RHNA process.

These two requirements are intertwined and have together led SANDAG to become more deeply enmeshed in regional growth management and are further detailed below.

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<sup>7</sup>California Transportation Commission, "2024 Regional Transportation Plan Guidelines for Metropolitan Planning Organizations," <https://dot.ca.gov/-/media/dot-media/programs/transportation-planning/documents/division-transportation-planning/regional-and-community-planning/sustainable-transportation-planning-grants/adopted-2024-rtp-guidelines-for-mpos-2-a11y.pdf>

## *Sustainable Communities Strategy*

The SCS requirement, combined with the provision that local governments retain complete land use authority, places SANDAG in a difficult position. On the one hand, SANDAG must devise a land use scenario and an accompanying transportation system that reduces overall driving significantly, at least on a per-capita basis. On the other hand, local governments need not follow SANDAG's land use scenario and could adopt land use policies in their general plans that conflict with the SCS, making it more difficult for the region to meet the VMT target. And if SANDAG is not aggressive in crafting an SCS likely to meet the targets, the agency may be legally vulnerable; the first SANDAG SCS was challenged in court by the Cleveland National Forest Foundation, a process that lasted six years.

### **SCS + VMT Targets...**

To achieve goals set by AB32, SCSs help California meet its climate and air quality goals, as well as advance community goals for public health, accessibility, equity, conservation and the economy.

Because SB 375 did not include a connection between the SCS and local general plans, state policymakers have always encouraged MPOs such as SANDAG be aggressive in incentivizing compact development in combination with transportation alternatives. Again, quoting the California Transportation Commission's SCS guidelines, "MPOs can encourage well-designed and sustainable local and regional projects that encourage reductions in GHG emissions by considering and implementing land use and transportation strategies." The guidelines specifically mention such strategies as mixed use, infill, and higher density development projects as well as housing and jobs in proximity to public transit.

For this reason, SANDAG has undertaken several incentive-based policies and grant programs. For example, SANDAG has adopted the "Mobility Hub" strategy to concentrate transportation infrastructure and similar amenities in centralized locations, thus setting the stage for possible increases in allowed density in those locations by local cities. SANDAG has also promoted "Transit Priority Areas," which are designated by the state for the purposes of expedited CEQA review. Similarly, SANDAG has used grants to incentivize local governments to adopt land use policies that closely align with the SCS. For example, the Smart Growth Incentive Program - originally adopted shortly after SB 375 passed - has provided \$60 million in Transnet funds for "public infrastructure projects and planning activities that facilitate compact, mixed-use, transit-oriented development and increase housing and transportation choices. Such grants are not unusual, as all major MPOs in California have adopted similar grant programs.

In crafting and implementing the RTP/SCS, SANDAG is subject not only to litigation from both development and environmental interests but also the oversight of the California Air Resources Board, which is the regulatory agency at the state level

charged with implementing the GHG/VMT reduction targets contained in state policy. As part of this oversight, CARB conducts an evaluation of each MPO's SCS.

In its evaluation of SANDAG's 2021 SCS, CARB gave SANDAG high marks for "region-specific funding and planning program actions. In particular, SANDAG has included new programs and commitments to support acceleration and planning for housing near mobility hubs sufficient to house the 6th cycle regional housing needs assessment (RHNA) plan allocation, and land conservation efforts needed to implement the SCS land use and housing strategies." [See below for more discussion of RHNA.]

However, the evaluation also said: "CARB staff is concerned that SANDAG's analysis of future housing growth is not reflected or well-supported by all of its member jurisdictions, with 7 of the region's local jurisdictions in compliance and 12 of the region's local jurisdictions out of compliance with the 6th cycle RHNA housing element requirements." (The RHNA process is described below.) The situation in the SANDAG region has improved since CARB's evaluation, as currently 18 jurisdictions now have compliant elements and the 19th jurisdiction, Coronado, recently reached a legal settlement with the state regarding how to comply.

Among SANDAG's other activities related to VMT reduction are the agency's geographically based VMT interactive mapping tool<sup>8</sup>, which depicts and predicts VMT according to a variety of factors, and a joint effort with San Diego County, funded by Caltrans, to explore the feasibility of a regional VMT mitigation program. These efforts become more important in light the discussion below about San Diego County's approach to SB 743.

### *RHNA, Housing Elements, and Other SANDAG Housing Programs*

SANDAG also has growing responsibilities until state law regarding housing, and as the previous section suggests these responsibilities are intertwined with its GHG/VMT responsibilities. The most important responsibility is to administer the Regional Housing Needs Assessment program in the San Diego region. Under state Housing Element law, each city and county in California must plan and zone for an adequate number of housing units (available to all income levels) for a forthcoming eight-year period. The most recent eight-year period for SANDAG jurisdictions - commonly known as the "6<sup>th</sup> Cycle" - is from 2021 to 2029, coinciding with two RTP/SCS deadlines.

#### **California's Plan for Housing...**

Since 1969, California has required all local jurisdictions to adequately plan to meet the housing needs for everyone in the community.

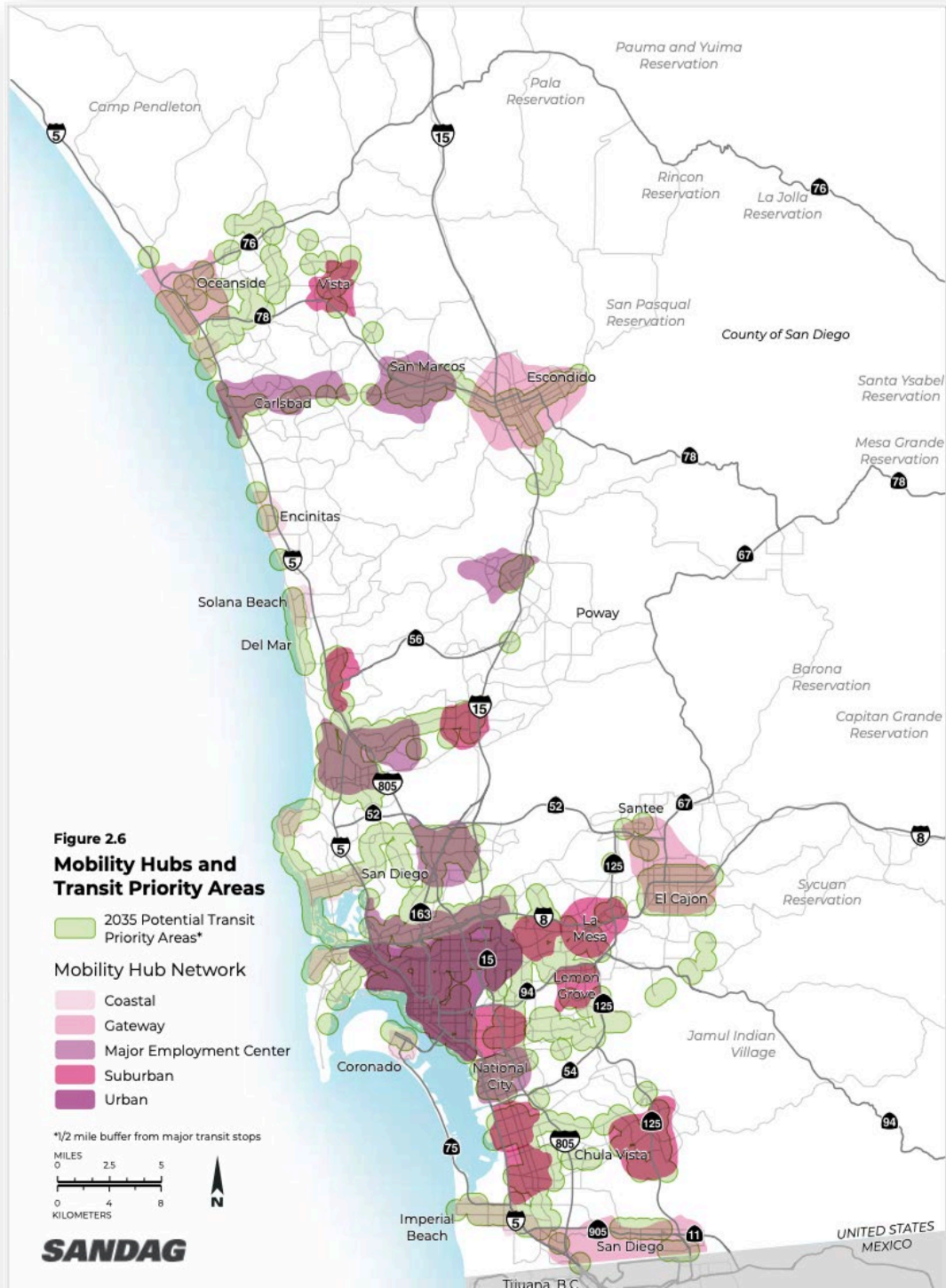
The Department of Housing and Community Development establishes the targets for each region and under state law, the COGs - including SANDAG - must allocate the regional housing targets to each jurisdiction - an often-contentious process.

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<sup>8</sup> <https://www.arcgis.com/apps/webappviewer/index.html?id=bb8f938b625c40cea14c825835519a2b>

Furthermore, under SB 828 (Government Code §65584 et seq.), the HCD methodology changed in a way that significantly increased the housing targets all over the state.

**SANDAG MOBILITY HUBS + TPAS**





In addition, as the COG SANDAG must meet five state goals contained in the RHNA law: promoting infill development and the protection of environmental resources, AFFH, promoting a better jobs/housing balance, fostering economic integration, and allowing the region to meet its GHG reduction goals. As the MPO, SANDAG is not required to meet all these goals in the SCS.

Once the housing targets have been allocated, each individual city and the County is responsible for updating the Housing Element of its General Plan to show how it will change zoning and use its housing resources to meet the target. This process is overseen by state HCD and MPO/COGs such as SANDAG are not involved, though the remarks contained in the CARB evaluation of the SCS show how intertwined these two processes are.

The San Diego region's housing targets rose by only 6%, from 161,000 to 171,000 - far less than in other metropolitan regions around the state.<sup>9</sup> But the allocation process, aligning with an SCS land use scenario that emphasized infill development, resulted in significant increases in some older, mostly built out cities and some decreases elsewhere. For example, Coronado's target increased from 50 to 912, while the County of San Diego 's target for unincorporated areas decreased from 22,412 to 6,700. Several cities whose targets increased, including Coronado, challenged the allocation in court but lost. (Coronado subsequently reached a legal settlement with the state on its implementation plan for the targets.)

But SANDAG's housing responsibilities do not end with the RHNA. Over the past few years, as the state has expanded its efforts to encourage local governments to increase housing production, the state has also provided MPOs such as SANDAG with funds to support that effort. (The state has also adopted a wide variety of laws designed to ease land-use regulation on housing, but these laws do not affect SANDAG's role.)

Perhaps most importantly, SANDAG, like other major MPOs in the state, has received significant funding from the Regional Early Action Grant (REAP) program to incentivize local governments to approve more housing, especially near transit stations. SANDAG received \$6.8 million from the first REAP round (REAP 1.0) and is scheduled to receive \$43 million from the second round (REAP 2.0), though second-round funding may be delayed or reduced because of the state's budget deficit. With these funds, SANDAG has established the Housing Acceleration Program, or HAP, that provides grants and technical assistance to local governments. These grants assist local governments in the San Diego region to facilitate housing production in a wide variety of ways, ranging from funding of rezoning efforts to funding housing-related infrastructure and environmental analysis.

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<sup>9</sup> [https://opendata.sandag.org/dataset/5th-and-6th-Cycle-RHNA-by-Jurisdiction-Long-Format/4srx-jucd/data?no\\_mobile=true](https://opendata.sandag.org/dataset/5th-and-6th-Cycle-RHNA-by-Jurisdiction-Long-Format/4srx-jucd/data?no_mobile=true)

In sum, SANDAG's role in regional growth management has grown dramatically in the last 20 years as the state has given MPOs like SANDAG more responsibility to reduce driving (lower VMT per capita) and increase housing production. Though SANDAG has no land use authority, it has used its planning power, as well as state funds (and Transnet funds) to incentivize local governments to adopt more compact and transit-oriented development patterns. In addition, the result of the most recent RHNA process was to allocate more housing units to largely built-out cities while reducing the housing target in unincorporated areas.

## County of San Diego

While land use authority inside city limits and in spheres of influence rests with the San Diego region's 18 cities, land use authority in unincorporated territory rests with the County of San Diego. Because the county is so large - and by local tradition spheres of influence are quite small - the San Diego County government has historically served as a *de facto* regional growth management entity.

As stated above, most of the remaining privately owned land available for development is located in unincorporated San Diego County. Of the 4,500 square miles located in county territory, more than half is owned either by the federal government or tribes. Of the remaining land, approximately 1,200 square miles are privately owned, while 200 square miles of privately owned land is considered possibly suitable for future development.

Historically, a large portion of new housing and other development in San Diego County occurred in the unincorporated area. Unincorporated communities such as Fallbrook, Bonsall, Alpine, Spring Valley, and Lakeside are significant population centers. More remote communities such as Ramona and Julian serve as more or less free-standing rural villages.

Federal and state environmental policy has played a significant role in shaping land development patterns in unincorporated territory. In particular, the Multiple Species Conservation Programs in place in the county, which date to the late 1990s, require developers in many unincorporated locations to set aside certain lands to protect endangered species as a condition of development. It is important to note, however, that the MSCP program emerged in response to the difficult burden placed on developers by the state and federal endangered species acts to analyze impacts on species on a project-by-project basis. Using both the habitat conservation planning methods contained in both the federal Endangered Species Act and the state Natural Communities Conservation Planning law, the MSCP provided developers with program-level requirements regarding the level of mitigation they would have to provide. While far from costless, this method did smooth the development process by providing certainty.



In order to implement this new law, every city and county in the state had to adopt a “significance threshold” identifying the level of VMT that might have a significant impact on the environment. Significance thresholds are an important demarcation point for CEQA analysis. If an environmental impact is not significant, no mitigation is required. If an environmental impact may be significant, additional CEQA analysis is required, and mitigation is likely also to be required. In the case of housing development projects, mitigations would likely include fees to cover the cost of additional transit service and the like. Many developers argue that steep VMT fees will render their projects financially infeasible.

In 2018, based on research from the California Air Resources Board, the Governor’s Office of Planning & Research issued a technical advisory on SB 743 implementation.<sup>11</sup>

OPR’s guidance, which is advisory but not mandatory, suggested that the significance threshold for CEQA analysis on most development projects should be 15% *below* the *existing* regional VMT average. That is, additional CEQA analysis should be required if a project would generate VMT *above* the 15% *below regional average* threshold. OPR did not define “region” in the technical advisory. The state, SANDAG, and the County all produced maps depicting current VMT levels by transportation analysis zone or Census tract.

Not all jurisdictions followed OPR’s advice on the 15% threshold, but some did. The County of San Diego initially adopted a threshold of 15% below the average VMT in unincorporated areas, which excluded many urbanized areas inside cities with low VMT. According to county staff, the zoned capacity of “VMT efficient” areas was approximately 14,000 units, or about 25% of the overall zoned capacity.

However, in 2021, OPR provided additional informal clarification about the definition of “region,” saying the term meant the entire region encompassed by the MPO, not just unincorporated areas. (This guidance was provided in the form of an edited “FAQ”; the technical advisory was never changed to reflect this view).<sup>12</sup>

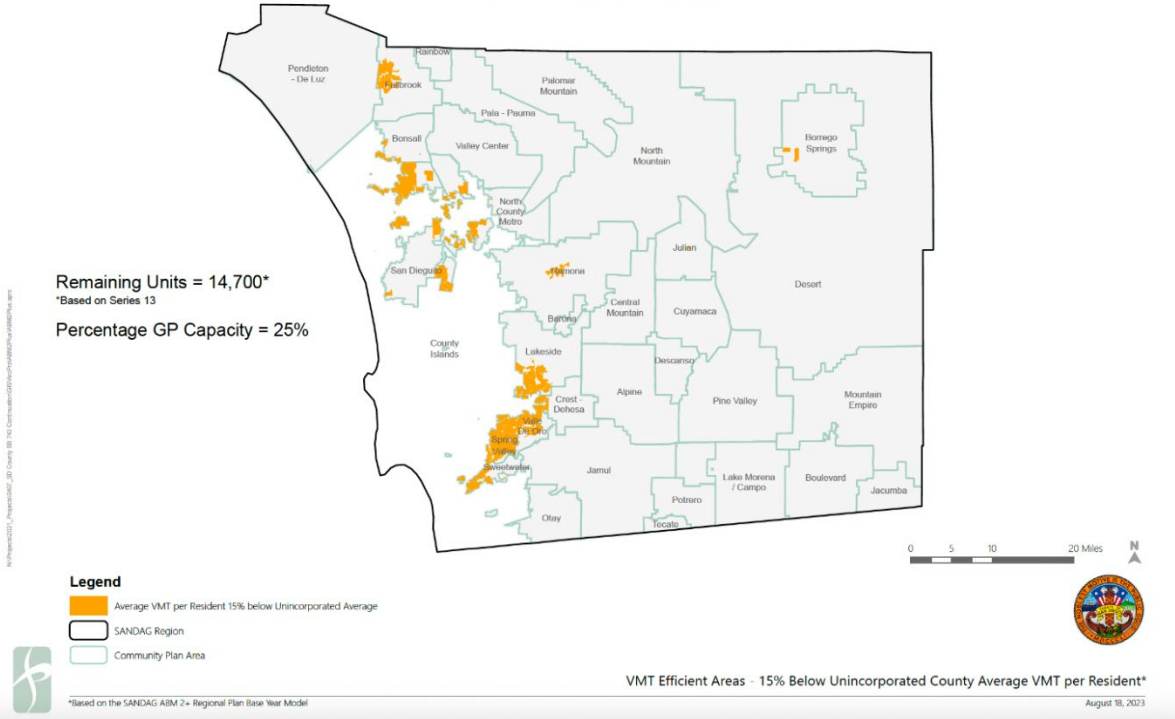
The San Diego County Board of Supervisors subsequently chose to use the region (i.e. all of San Diego County) average VMT as its metric, rather than average VMT in the unincorporated areas.

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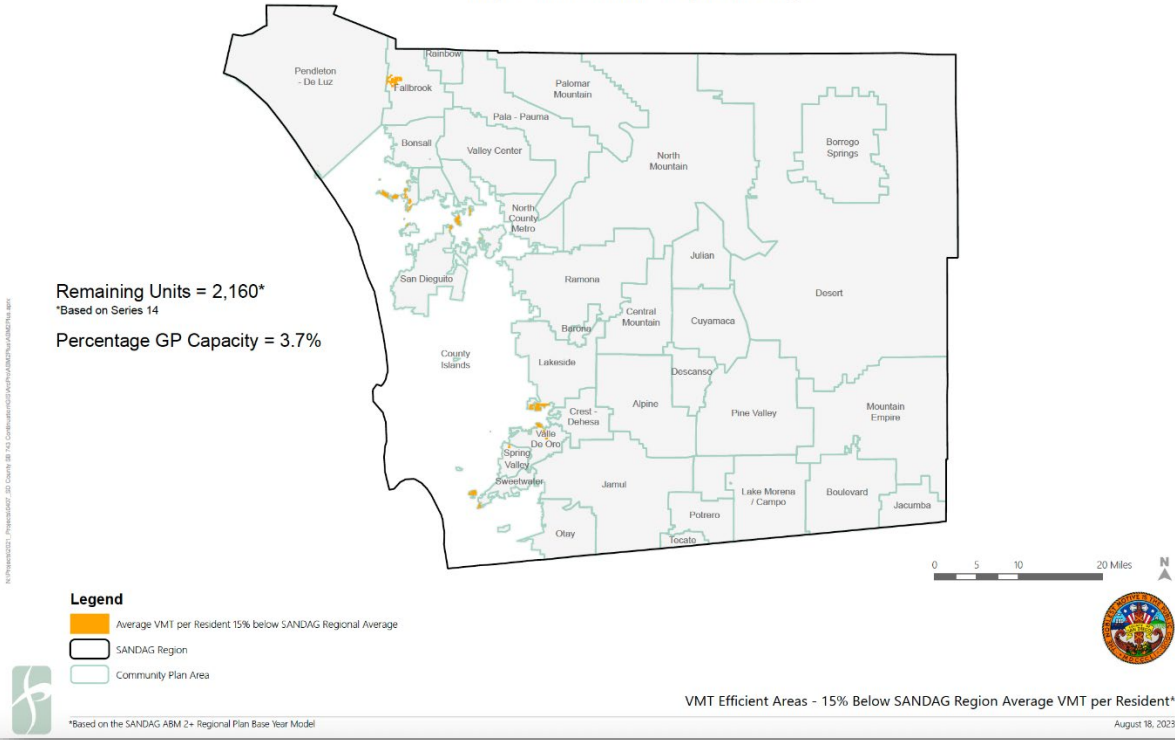
<sup>11</sup> Technical Advisory On Evaluating Transportation Impacts In CEQA,” Governor’s Office of Planning & Research, December 2018. [https://opr.ca.gov/docs/20190122-743\\_Technical\\_Advisory.pdf](https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf)

<sup>12</sup> “SB 743 Frequently Asked Questions,” Governor’s Office of Planning and Research, <https://opr.ca.gov/ceqa/sb-743/faq.html>

Map 1 - VMT Efficient - Unincorporated Average



Map 2 - VMT Efficient - Regional Average



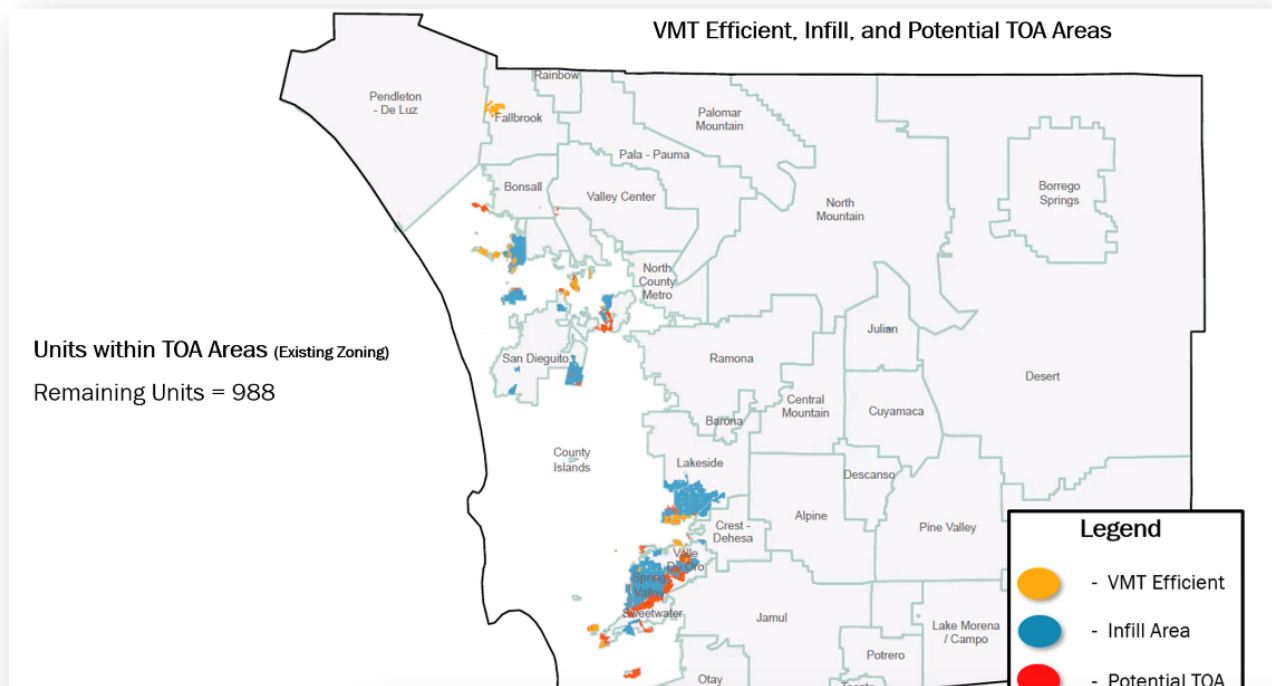


There are some exceptions to this significance threshold, including small projects, affordable housing projects, and projects that contain primarily local-serving retail. However, the board chose not to include the rural villages as exceptions. According to county staff, this reduced the zoned capacity of “VMT efficient” areas to approximately 2,200 units, or approximately 4% of the overall zoned capacity. By contrast, San Diego County’s RHNA target for the unincorporated area is 6,700 units between 2021 and 2029.

More recently, the Board of Supervisors has directed the staff to conduct market analyses for four unincorporated infill areas in VMT-efficient locations to determine whether the county should provide development incentives in those areas. As well, the county is also analyzing whether to exempt certain proposed unincorporated “Transit Opportunity Areas” from the VMT significance threshold, which would expand the locations exempt from CEQA analysis.

In addition, as mentioned above, the County is working with SANDAG under a Caltrans grant to develop a regional VMT mitigation program.

However, this program is likely to take two years to design and implement. In the meantime, as a result of the County’s SB 743 implementation approach, some developers are - for the first time in decades - pursuing major annexations to existing cities rather than seeking to develop housing in unincorporated territory. Most notably, the developers of Otay Ranch Village 13, part of the Otay Ranch development, are seeking to annex their property to the City of Chula Vista instead of continuing



approval processes through the County of San Diego - a departure from the agreement between the Chula Vista and the County contained in the Otay Ranch General Development Plan.

It is likely that other developers will pursue a similar course, seeking to partner with receptive cities in San Diego County to annex their property through the LAFCO process rather than developing their property via the County, as has traditionally been the norm.

## **Conclusions and Recommendations**

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Over time, the regional growth management system in California generally and San Diego in particular has become more fragmented. Legislation from different periods seeking to achieve different objectives through different means and different agencies have led regional agencies to pursue their own goals (and fulfill their own legal obligations) without coordinating with each other.

The VMT is a good example. On the one hand, SANDAG is required to prepare an RTP/SCS that reduces regional VMT but has no land use authority to implement the plan. On the other hand, San Diego County and the 18 cities each must devise their own VMT strategy under SB 743. Although the County and SANDAG are exploring a regional VMT program, it would appear that the current situation is leading to jurisdictional-shopping among developers, which places the LAFCO in a reactive position.

By contrast, the RHNA process forces local governments to work together at the regional level through SANDAG to reach an agreement on how to allocate targets for housing. But this consensus is very difficult to change, both politically and under state law. At the same time, however, if developers begin jurisdictional-shopping on housing projects, the delicate regional agreement reached in the RHNA can be disrupted.

But the three regional agencies (as well as the 18 cities) can take important steps toward achieving regional goals by coordinating their efforts better than they have in the past.

Some of the recommendations below may require state legislation. But as the largest single-county region in the state, San Diego is well suited to serve as a pilot program for the state.

Again, to frame this issue, SANDAG, City, and County roles regarding growth management have changed significantly because of stater climate change/GHG laws, which the LAFCO's role has not changed or been much affected by these laws. LAFCO law does not anticipate the importance of an MPO in driving regional growth by reducing GHG/VMT.

With of this in mind, we make four recommendations:

## **1. Better Data Sharing**

In its municipal service reviews, the LAFCO must independently verify likely future population growth and need for housing and municipal services, though LAFCO has limited staff capacity. At the same time, SANDAG must conduct a wide variety of projections and forecasts in order to prepare the RTP/SCS and to manage the RHNA. It would behoove the region for the LAFCO to use SANDAG data in the process of independently verifying population growth projections and housing need. Such coordination would also help align efforts regarding the proposed recommendations below.

## **2. Regional VMT Mitigation System**

As stated above, different VMT mitigation requirements in different jurisdictions may lead to jurisdictional-shopping by developers, resulting in one-off sphere requests in front of the LAFCO. At the same time, both the County of San Diego and smaller cities may struggle to find enough VMT-efficient locations to accommodate the housing required to meet their RHNA requirements. The LAFCO should support - and ideally participate in - the SANDAG/County study of a regional VMT mitigation effort, because a regional program would likely discourage one-off sphere requests.

## **3. RHNA Transfer System and Property Tax Exchanges**

The ability to readily transfer RHNA allocations in the middle of an eight-year RHNA cycle has been discussed for decades as a possible way to increase housing production and reduce friction in the RHNA process. Fair-housing and social justice advocates have typically opposed efforts to make RHNA transfers easier because this opens up possibility that wealthy anti-growth communities will “buy’ their way out of housing obligations by providing funding to less affluent communities willing to accept housing.

In the context of the analysis proposed in Recommendation #2 above, however, a revision to state law permitting easier RHNA transfers in some circumstances might make sense and could be implemented as part of negotiated property tax exchanges administered by LAFCO whenever considering jurisdictional changes. One possible outcome is that the analysis would identify VMT efficient areas (or areas that show promise to become lower-VMT areas) across jurisdictional boundaries as possible housing sites. Housing proposals in these areas might be accommodated with sphere expansions and RHNA transfers.



#### **4. Comprehensive Sphere Review**

It seems likely that more developers will seek one-off sphere changes. At the same time, Cortese-Knox-Hertzberg Act calls on the LAFCO to conduct sphere reviews every five years along with municipal service reviews. In collaboration with the County (and ideally SANDAG as well), the LAFCO should conduct a comprehensive countywide sphere review that takes into account other regional growth management strategies, such as VMT mitigation and mobility hubs, in order to create a coordinated regional growth management strategy and minimize the need for one-off sphere expansion.

## Appendix A: Evolution of California Growth Management System

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The fragmentation in regional growth management in California today is the result of 60 years of evolving state legislation involving cities and counties, local agency formation commissions, and metropolitan planning organizations. This evolution also involves a wide variety of issues, ranging from agricultural land preservation to greenhouse gas emissions reduction, but the overall goal has remained the same: to encourage orderly growth and prevent unnecessary sprawl.

### Early 1960s: LAFCO Beginnings

California's growth and development was largely unregulated until the passage of the original Local Agency Formation Commission law in 1963. Many new cities and special districts were created in the postwar era, but there was no mechanism for coordination. In particular, many cities annexed willy-nilly onto nearby agricultural and natural lands, often in a "hopscotch" way. As the executive director of the League of California Cities said at the time: "At the present time, no one is charged with the responsibility of determining the effect of each one of hundreds of annexations or formations upon the future development of the entire county. Lack of any coordinated review of such proposals has created many of our urban problems."<sup>13</sup>

Based on the recommendations of the "Commission on Metropolitan Problems" appointed by Gov. Pat Brown, the state created the Local Agency Formation Commission structure, through a series of laws. LAFCOs are technically state agencies but with a local board made up, originally, mostly of local government elected officials. They were charged with "discouraging urban sprawl and encouraging the orderly formation and development of local agencies". The law established the concept of "Spheres of Influence" - the "probable ultimate boundary" of a city, determined by the LAFCO, so that more orderly annexations will occur. (The original LAFCO laws were consolidated into the Cortese-Knox Local Government Reorganization Act in 1985.) At first most LAFCOs were staffed by county governments.

### Late '60s/Early '70s: Regional Planning, Councils of Governments, and Metropolitan Planning Organizations

Even as LAFCOs began seeking to curb sprawl and protect agricultural and natural land by establishing spheres of influence and a more structured annexation process, concern about regional growth and development in California grew. Starting in 1962, the federal government began requiring "urban" (metropolitan or regional)

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<sup>13</sup> <https://sonomalafco.org/about-the-commission/history>

transportation planning. Metropolitan planning organizations, or MPOs, emerged to undertake this function.

In 1965, a change in regulations from the Department of Housing and Urban Development encouraged the creation of voluntary membership organizations called “councils of governments,” made up of elected officials, which could serve as MPOs.<sup>14</sup> Because the State of California seriously considered creating powerful regional planning agencies, most major metropolitan areas in California, including San Diego, created councils of governments to perform the MPO role. These COG/MPO organizations grew in size and power with federal support in the 1970s as they focused on preparing periodic “Regional Transportation Plans”.

### [1971: Revision of General Plan Requirements](#)

In 1971, the Legislature adopted a major revision to the general plan law, which established that all cities and counties must adopt general plans that include seven required “elements” or sections (land use, circulation, conservation, open space, housing, safety, and noise); that the land use and circulation elements must be “correlated”; and the zoning and the general plan must be consistent, at least for general law cities.

### [1970-72: California Environmental Quality Act](#)

In 1970, the California Environmental Quality Act was adopted, requiring environmental review of all “projects” “carried out” by the government. In 1972, the California Supreme Court ruled that CEQA applies not only to plans and programs but also to the permitting of individual real estate development projects. This expansion was later codified by the Legislature.

### [1980s: Expansion of the Regional Housing Needs Assessment Process](#)

California adopted the first housing element/regional housing needs assessment law in 1969 but, at least at first, it was focused more on “fair housing” than on housing production. A major revision to the law in 1980 – and practices developed at the Department of Housing & Community Development over the next few years – laid the foundation for the RHNA process we know today. HCD began to give housing targets to each region, housing element requirements were greatly expanded, and local governments were required to update their housing elements every five years (even though the law contained no specific timeline for general plan updates overall). [[https://www.ppic.org/wp-content/uploads/content/pubs/report/R\\_203PLR.pdf](https://www.ppic.org/wp-content/uploads/content/pubs/report/R_203PLR.pdf)] Still, HCD had neither the legal tools nor the staff to enforce the housing element law aggressively.

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<sup>14</sup> <https://ampo.org/about-us/about-mpos/>

### 1985: Cortese-Knox Act

As stated above, in 1985 several laws governing LAFCO activities were consolidated into the Cortes-Knox Act.

### 1991: The U.S. Intermodal Surface Transportation Efficiency Act (ISTEA)

The federal government typically adopts a new transportation authorization bill every five years. But the 1991 reauthorization bill, commonly known as ISTEA, radically altered the role of metropolitan planning organizations and set the stage for even more powerful MPO changes in the 2000s, when greenhouse gas emissions reduction became a major policy driver in California.

ISTEA'S changes nationally were the result of aggressive efforts on the part of the Metropolitan Transportation Commission, the MPO in the Bay Area, to obtain more control and flexibility over how federal transportation funds were spent in the region. Traditionally, even as MPOs did transportation planning, actual transportation programming (spending) was controlled by state Departments of Transportation and, in California, the California Transportation Commission. In the late '80s, MTC began demanding that it take over transportation programming from the state.

ISTEA cemented this idea in federal law. Specifically, ISTEA "mandated that the MPO in each metropolitan area must take the lead role in preparing both a long-range, comprehensive transportation plan and a shorter-range transportation improvement program (TIP)," essentially taking power from states to do so.<sup>15</sup>

Though strictly focused on transportation, ISTEA set the stage for more aggressive MPO activity on regional land use and transportation planning, which emerged in the early 2000s and is explained below.

### 1992: Revenue Neutrality

In the years after Proposition 13 passed in 1978, incorporation of new cities became more popular, because it no longer involved a property tax increase.<sup>16</sup> Rather, if a city incorporated, property tax revenue was shifted from the county to the new city. This trend obviously harmed counties fiscally, creating greater separation of interest

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<sup>15</sup>Lewis, Paul G., and Mary Sprague, "Federal Transportation Policy and the Role of Metropolitan Planning Organizations in California," Public Policy Institute of California, April 1997  
[https://www.ppic.org/wp-content/uploads/R\\_497PLR.pdf](https://www.ppic.org/wp-content/uploads/R_497PLR.pdf)

<sup>16</sup> Proposition 13, passed in 1978, limited property tax rates to 1% combined for all taxing entities. Thus, creating a new city no longer required increasing taxes; rather, property taxes were transferred from counties to cities upon incorporation.

between counties and LAFCOs. In 1992, the Legislature passed SB 1559, which required revenue neutrality for city incorporations and led to so-called “alimony” agreements in which new cities paid money to counties to hold them harmless financially as a result of incorporation. Because prospective new cities now had to prove their own fiscal solvency *and* hold counties financially harmless, new incorporations slowed to a trickle.

### 2000: The Cortese-Knox-Hertzberg Act

In 1997, in response to a new call for reform in local government, the Legislature formed the Commission on Local Governance for the 21<sup>st</sup> Century. After many months canvassing the state, the Commission prepared a comprehensive report that included recommendations for changes to the laws governing LAFCOs.<sup>17</sup>

The proposed changes included giving LAFCO more staffing and financial independence from Counties (which were increasingly seen as having a financial stake in sphere, annexation, and incorporation decisions because of revenue neutrality concerns), updating spheres every five years, and conducting municipal services reviews. The Commission also proposed a significant overhaul of the local government fiscal system, which was viewed as an incentive to create an imbalance between housing and retail/commercial development (often called “the fiscalization of land use”).<sup>18</sup>

While the structural changes to LAFCOs were adopted by the Legislature in 2000 as part of the Cortese-Knox-Hertzberg, local government fiscal reform was not part of that legislation.

### 2000-2005: First MPO Regional “Blueprints”

At the same time that LAFCOs obtained more power to conduct regular sphere reviews and municipal service reviews, the state’s major MPOs began to move use their new powers beyond mere regional transportation planning to prepare regional growth scenarios commonly known as “blueprints.” Using advanced GIS mapping, these blueprints provided local decisionmakers with a variety of growth scenarios based on different density and distribution of development, thus showing the impact these different growth scenarios would have on the needed transportation system (and its cost). The first such blueprint was adopted by the Sacramento Area Council of Governments in 2005, but the other big MPOs in California soon followed suit.

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<sup>17</sup> <https://sonomalafco.org/about-the-commission/history>

<sup>18</sup> “Growth Within Bounds,” Report of the Commission on Local Governance For The 21<sup>st</sup> Century, State of California, January 2000, <https://www.acgov.org/lafco/documents/GrowthWithinBounds.pdf>

The blueprint trend was important because it was the first time MPOs overtly addressed land use issues. The MPOs, of course, had no power over land use decisions (and still don't). And in many cases, local jurisdictions made land use decisions that differed from what the blueprint called for. Nevertheless, the blueprints highlighted (for elected officials and others) how different land use scenarios would affect both the transportation system and consumption of agricultural and natural land. In this way, regional blueprints foreshadowed the Sustainable Communities Strategies that were later required under SB 375.

### 2005-2006: Emergence Of Climate Change As A Policy Driver

Beginning in 2005, climate change - and, more specifically, a desire to reduce greenhouse gas emissions - emerged as one of the leading drivers of land use and transportation policy in California.

In 2005, Gov. Arnold Schwarzenegger signed Executive Order S-03-05, which called for significant reductions in greenhouse gas emissions in the state by 2020. In 2006, the Legislature codified similar goals in AB 32, the "Global Warming Solutions Act."

### 2008: SB 375 and Sustainable Communities Strategies

The policy goal of reducing greenhouse gas emissions soon led to focus on reduction of vehicle miles traveled - essentially, the amount of driving. Approximately 40% of California's GHGs come from the transportation sector, mostly from the burning of transportation fuel. During the 2000s, it became clear that technological solutions - decarbonizing gasoline, increasing fuel efficiency so that less gas would be used, and even the introduction of electric vehicles - would not result in enough GHG reduction, at least in the short term, for the state to meet its goals. A reduction in the overall amount of driving would also be required.

Thus, in 2008, the Legislature adopted SB 375, the "Sustainable Communities and Climate Protection Act". SB 375 specifically charged Metropolitan Planning Organizations with incorporating a new component into their federally required regional transportation plans, known as the Sustainable Communities Strategy, which would show how the region would achieve the state's GHG emission reduction targets.

SB 375 also empowered the California Air Resources Board, which has traditionally regulated mobile sources of air pollution such as vehicle emissions, with setting the specific emissions reduction targets and allocating them to the regions.<sup>19</sup> Eventually,

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[https://hermosabeach.granicus.com/MetaViewer.php?view\\_id=6&clip\\_id=1105&meta\\_id=61995#:~:text=California's%20Sustainable%20Communities%20and%20Climate%20Protection%20Act%20\(SB%20375\)%20is,\(GHG\)%20by%20curbing%20sprawl.](https://hermosabeach.granicus.com/MetaViewer.php?view_id=6&clip_id=1105&meta_id=61995#:~:text=California's%20Sustainable%20Communities%20and%20Climate%20Protection%20Act%20(SB%20375)%20is,(GHG)%20by%20curbing%20sprawl.)

CARB created per-capital VMT targets for each region, which were used in the Sustainable Communities Strategies eventually created by the MPOs. Significantly, SB 32 also sought to synchronize the timing of the RTP/SCSs and the Regional Housing Needs Assessment process.

Under SB 375, a Sustainable Communities Strategy must identify and consider the following eight items:

- Identify existing land use.
- Identify areas to accommodate long-term housing needs.
- Identify areas to accommodate eight-year housing needs.
- Identify transportation needs and the planned transportation network.
- Consider resource areas and farmland.
- Consider statutory housing goals and objectives.
- Lay out a future growth and development pattern.
- Comply with federal law for developing an RTP.

In essence, SB 375 mandates that MPOs create a growth management plan for each region with the goal of reducing vehicle miles traveled.

While MPOs could seek to implement the SCSs through their own transportation planning and programming, SB 375 did not give MPOs any direct control over land use or housing. In fact, thanks to the lobbying of the League of California Cities, the law specifically stated that there was no mandatory link between the SCS and local general plans. But SB 375 did create the expectation that there would be a stronger link between transportation, land use, and housing, which would be managed and promoted by the MPOs; and it was also clear that hitting the VMT reduction targets was not possible without creating more compact land use patterns. Because general plans were specifically de-linked from the SCSs in SB 375, the state recognized that the MPOs and CARB would have to use “carrots” to promote VMT reduction rather than “sticks”. (One Schwarzenegger official joked that the state would have to use carrots so big they would be “carrot sticks.”<sup>20</sup>)

For this reason, the large MPOs, including SANDAG, all created grant programs to encourage cities to plan for more compact land use patterns and transportation infrastructure strategies, such as SANDAG’s mobility hubs program, that would create favorable conditions around transit stations for denser development.

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<sup>20</sup> “Will Climate Change Save Growth Management in California, William Fulton, in *Planning for States and Nation-States*, edited by Gerrit-Jan Knaap, Zorica Nedovic-Budic, and Armando Carbonell, Lincoln Institute of Land Policy, 2015.

Despite the obvious overlap with LAFCO's responsibilities to curb sprawl, encourage orderly development, and protect farmland and natural resources areas, LAFCOs were barely mentioned in SB 375. In fact, there is only one reference to LAFCOs in SB 375, which is as follows: "In preparing a sustainable communities strategy, the metropolitan planning organization shall consider spheres of influence that have been adopted by the local agency formation commissions within its region." [Government Code 65080 (b)(2)(F)]

There were some early efforts to coordinate LAFCO activity and SCSs, many of which were documented in a 2018 report jointly issued by CALAFCO, the Governor's Office of Planning and Research, and the Strategic Growth Council.<sup>21</sup> By and large, however, LAFCOs have not played an important role in shaping and implementing Sustainable Communities Strategies.

### [2016-2018: Renewed Focus on Housing](#)

Beginning in 2016, the state began to pay more attention to issues of housing supply and affordability - a trend that accelerated after the election of Gov. Gavin Newsom in 2018. Though the state has adopted literally more than 100 new laws related to housing and land use since that time, two actions in particular are relevant to this discussion of regional growth management.

The first was the passage of SB 828 in 2018. This law changed the methodology for calculating housing targets in the RHNA process in such a way that the targets for every city and county in the state increased dramatically. (The allocation increase for the SANDAG region was less than it was in other major metropolitan areas in California, but it still represented a significant increase, especially for some smaller cities.) This change put increased pressure on local governments to upzone property to accommodate more housing and focused more attention on MPOs such as SANDAG, which are responsible for allocating RHNA targets within their region.

The second was the creation of the Regional Early Action Grant program, administered by the Department of Housing & Community Development, which allocated hundreds of millions of dollars of state funds to stimulate housing production, but especially focusing on infill housing and creating linkages between housing and transportation that will reduce VMT.<sup>22</sup> These funds (two rounds so far) were allocated mostly to MPOs for competitive distribution to member local governments, further strengthening the

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<sup>21</sup> California Association of Local Agency Formation Commissions, Governor's Office of Planning and Research, and California Strategic Growth Council, "Creating Sustainable Communities and Landscapes Recommended practices and tools for local collaboration on climate-smart growth," November 2018.

[https://napa.lafco.ca.gov/files/060586174/Creating\\_Sustainable\\_Communities\\_and\\_Landscapes.pdf](https://napa.lafco.ca.gov/files/060586174/Creating_Sustainable_Communities_and_Landscapes.pdf)

<sup>22</sup> <https://www.hcd.ca.gov/grants-and-funding/programs-active/regional-early-action-planning-grants-of-2021>



role of MPOs in promoting the state's policy of more compact land-use patterns that will reduce driving.

### 2020: SB 743 Implementation and VMT Mitigation

In 2013, as part the state's policy emphasis on reduction of vehicle miles traveled as a way to reduce greenhouse gas emissions, the state adopted SB 743, which changed the standard of review for traffic under CEQA from level of service (congestion) to vehicle miles traveled (amount of driving). The change was important because it meant that conditions of approval on development projects designed to alleviate congestion could no longer be enforced as CEQA mitigation measures, while actions designed to reduce VMT could be enforced as CEQA mitigation measures. However, the state did not require full implementation from lead agencies under CEQA until 2020.

In 2018, the Governor's Office of Planning and Research issued a "technical advisory" providing guidance on how to implement SB 743.<sup>23</sup> As the document itself notes, "The purpose of this document is to provide advice and recommendations, which agencies and other entities may use at their discretion. This document does not alter lead agency discretion in preparing environmental documents subject to CEQA."

Obviously, an important question in implementing SB 743 was what VMT level constitutes a "significant impact" under CEQA, thereby triggering a full CEQA analysis, possibly an environmental impact report, and possible mitigation measures. Neither CEQA itself nor the CEQA Guidelines, which are enforceable regulations, specify thresholds of significance for environmental impacts; these are typically determined by the city, the county, or other agency leading the CEQA process. Neither did SB 743 define a significance threshold for VMT.

In the 2018 technical advisory, OPR suggested that local governments and other lead agencies use a 15% reduction in "regional VMT" as the significance threshold - that is, a project that would generate VMT *above* 15% *below* the regional VMT should be regarded as a significant impact. The 15% came from research by the California Air Resources Board which suggested that about a 15% reduction in VMT would be required to meet the state's GHG reduction targets. OPR did not define "regional" in its technical advisory. In 2021, OPR changed its "FAQs"<sup>24</sup> regarding SB 743 implementation to define "regional" as the average for the entire MPO region, but to date has not revised the technical advisory to reflect this clarification.

Both before and after the FAQ clarification, cities and counties around the state adopted SB 743 significance thresholds for VMT. Some local governments followed OPR's guidance, but many did not, instead using their local discretion to choose a

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<sup>23</sup> Governor's Office of Planning and Research, "Technical Advisory: Evaluating The Transportation Impacts In CEQA," November 2017.

<sup>24</sup> <https://opr.ca.gov/ceqa/sb-743/faq.html>

different (and often less stringent) standard. San Diego County chose to use the more stringent standard recommended by OPR in its SB 743 FAQs.