



A Coming Revolution in CEQA and Sustainable Community Planning: What School Districts Need to Know

Dwayne Mears

The Planning Center | DC&E

Orange County Department of Education

June 13, 2012

Initial Observations

- We haven't seen this much CEQA action – legislatively or by the courts in a long time
- Legislative action tends to come during recessions – a call to “streamline” CEQA
- Development and business interests believe CEQA is too cumbersome and hurts the California economy
- Many believe it could be improved
- Previous streamlining efforts have failed, but maybe this time?

We're Going to Cover

- CEQA Streamlining under SB226 (for infill projects)
 - Could be some real benefits for school districts
(save time/money, more than current other streamlining approaches)
- SB375 and coming Sustainable Communities Strategy Plans
 - Additional CEQA streamlining opportunities
 - Growth patterns will change and schools could be impacted in multiple ways

AB 226: CEQA Streamlining for Infill Projects



Draft Guidelines – The Basics

- SB226 adopted in 2011, amended CEQA, & requires development of revised implementing Guidelines for new infill streamlining
- Final Guidelines must be adopted by 1/1/2013
- Also need SCS or APS adopted by MPO for use by LEAs
- Other SB226 sections are now in effect for solar project exemptions

Infill Projects Defined

- Consists of any one or combination of:
 1. Residential
 2. Retail or com'l with no more than ½ area in parking
 3. Transit station
 - 4. School**
 5. Public office building

- And located in an “Urban Area” and site previously developed (substantial portion mechanically altered for zoning allowed use), or if vacant 75% of site’s perimeter adjoins developed urban land uses

“Urban Area” Defined

- “Urban Area”
 - Incorporated city
 - Unincorporated area that meets both:
 - Population of unincorporated area and surrounding incorporated cities of 100k or more, and
 - Population density of unincorporated area equal to or greater than incorporated cities.

Qualifying for Exemption

- Satisfy any of:
 1. Consistent with SCS/APS
 2. Small Walkable Community
(not applicable to schools)
 3. Located in MPO before SCS/APS adopted
(not applicable to schools)

And satisfy all applicable statewide performance standards



Proposed CEQA Guidelines – Performance Standards



- Eligibility Standards for Infill Projects, each must have:
 1. On-site Renewable Energy for non-residential projects (where feasible)
 2. Soil and Water Remediation
 - Sites on Gov. Code Section 65962.5 Cortese list must document how remediated or that PEA recommendations will be implemented as part of project
 3. Residential Units near High-volume Roadways
(doesn't apply to schools)

Proposed CEQA Guidelines – Performance Standards



- Additional Eligibility Standards for Schools

1. Elementary Schools

- Located within 1 mile of 50% of projected student population

2. Middle and High Schools

- Located within 2 miles of 50% of projected student population

OR

3. School is located within ½-mile of existing major transit stop or high quality transit corridor with bus service every 15 minutes

Proposed CEQA Guidelines – Performance Standards



- Additional Eligibility Standards for Schools (con't)
 - Schools must provide parking/storage for bikes/scooters
 - Must comply with Ed. Code Sections 17213, 17213.1 and 17213.2 (nothing new here for state-funded schools)

New Checklist for “Infill Projects”

Original CEQA Checklist				
Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact	

New Infill Environmental Checklist				
Potentially Significant Impact	Less than Significant or Less than Significant with Mitigation Incorporated	No Impact	Within the Scope of Analysis of Plan Level EIR	Substantially Mitigated by Uniformly Applicable Development Policies

New Checklist for “Infill Projects”

- Prior Plan-Level EIR
 - Was school project’s effects addressed in EIR?
 - Are effects more significant than in EIR?
 - **Exempt if answers are 1: yes; 2: no**

- Even where effect not addressed or addressed but more significant:
 - Exemption possible if uniformly applicable development standards/policies would “substantially mitigate” effect

Streamlined “Infill EIR”

- If EIR required for Infill Projects, streamlining still available:
 1. Focus on new issues
 2. EIR need not review alternative locations, densities or building intensities
 2. EIR need not review growth inducing impacts

Some Questions

- How is consistency with SCS determined?
 - If school is allowed use in GP/Zone?
 - Guidelines specify use, density, building intensity, policies
 - But many school buildings exceed height limits
- No minimum size required of renewable energy?
- How is “where feasible” defined in this context?
- Compliance with ECS 17213 (part B for ¼ mile and 500 feet findings even if not preparing a ND or EIR?)
- Compliance with ECS 17213.1&2 (require DTSC even if not state funded?)