

CEQA Advanced

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Presentation Overview

How CEQA Determinations are Made

Project Description

Project Design Features

Analysis of Impacts

Mitigation Measures

Findings

Statements of Overriding Consideration

Testimony at Hearing(s)

Other CEQA Pieces

New Legislative Changes

Questions?

How CEQA Determinations are Made

- Type of project
- Results of technical studies
- Knowledge of the community
- Previous decisions by decision makers
- Results of litigation
- Public controversy



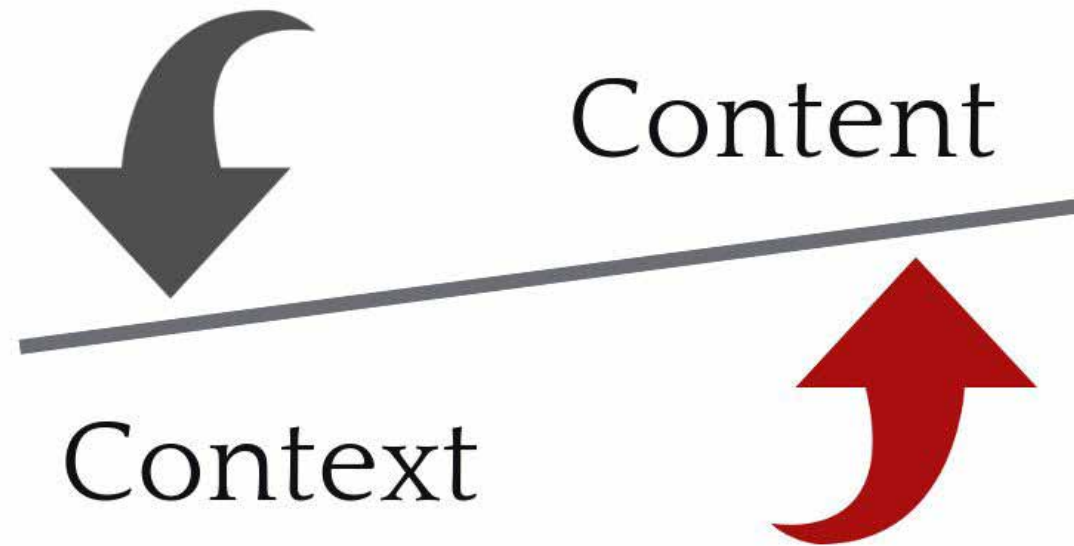
Managing Risk

- Weighing cost with benefit
- Higher 'protection' comes at a cost
- Not all decisions are obvious
- The deciding factor is the difference between fair argument and substantial evidence



Context is Everything

- Every community has different standards
- Comparing agencies is difficult
- Not all large projects have impacts
- Not all small project don't
- How do we know?





Project Description

- The WHOLE of the project:

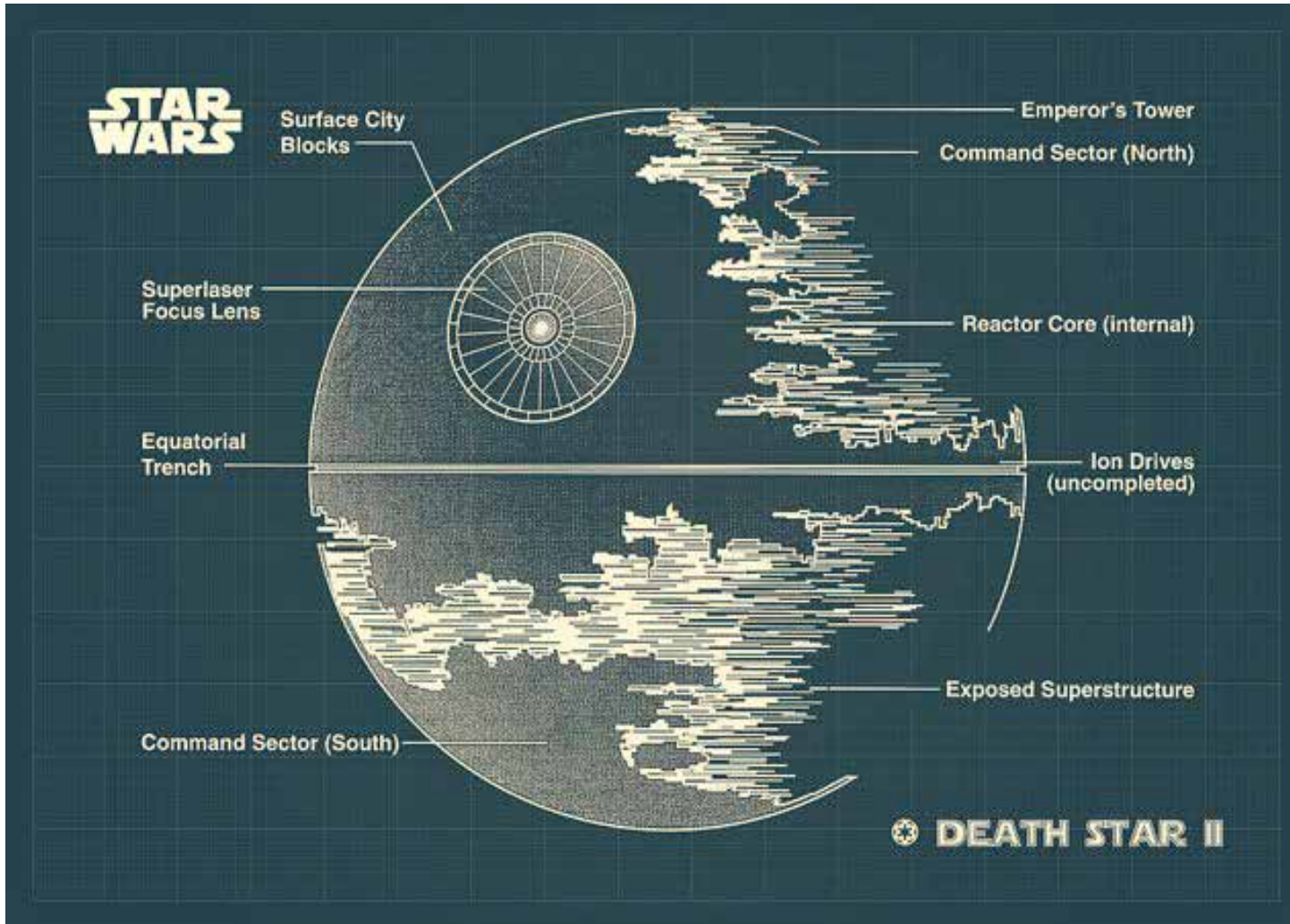
ØBaseline

ØOn-site changes

ØOff-site changes

ØOperational characteristics

ØDesign features



Project Design Features

- Elements of the project designed to reduce environmental impact
- Included in the project description
- Shown on site plans
- Should be reflected in the approvals

CEQA Analysis – Identifying Impacts

The determination of impacts is based on qualitative and quantitative thresholds.

- The analysis is also based on the expert opinions of consultants and city staff.
- People tend to prefer and trust quantifiable thresholds, but they are not necessarily better.

The analysis utilizes data derived from existing sources (like a General Plan) and site-specific technical studies.

- Depending on the resource area, technical studies are based on field reviews, literature reviews, and modeling.

Regardless of the thresholds or the methodology for data collection, substantial evidence is key!

CEQA Analysis – Identifying Impacts

The scope of the analysis must be proportional to the project.

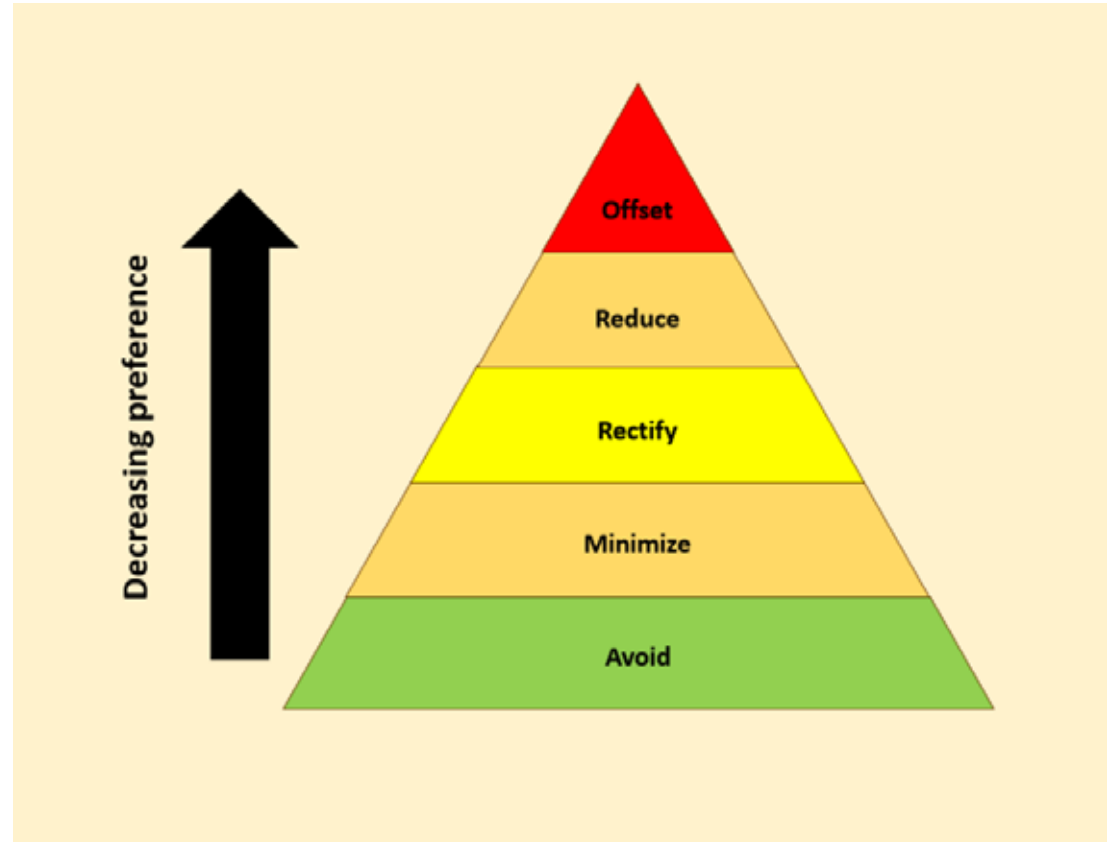
This does not mean, however, that it is limited to agency boundaries.

For modeling, remember that results are based on best assumptions.

Having a clear baseline is critical.

Mitigation Measures

- Project design features
- Measurable changes to a project
- What does feasible mitigation mean?
- What level do we mitigate to?



Mitigation Measures

- Requirement to mitigate does not confer to agencies any new legal authority:
 - “...a public agency may exercise only those express or implied powers provided by law other than this division.” (PRC 21004)
- Measures must be enforceable.
 - Pay particular attention to “fair-share fees”
 - Difficult to enforce future public behavior
- Be linked to an impact – **No nexus, no mitigation**



What are “Mitigation Measures” Supposed to Do?

Changes required of the project to:

- Avoid the impact altogether
- Minimize the degree of magnitude of impact
- Rectify the impact through restoration
- Reduce or eliminate the impact through preservation
- Compensate for the impact





Formulation of Mitigation Measures

- Clearly state the required action or level of performance that is necessary to mitigate.
- Explain how the measure would mitigate, especially if it is not facially obvious.
- Clearly state conclusion of effect after mitigation.
- Substantial evidence must support determination that measure will mitigate.

Adequacy of Mitigation



Adequate

Avoid

Minimize

Rectify

Reduce over time

Compensate



Questionable

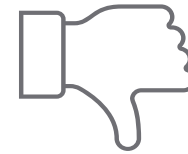
Provide funding

Hire staff

Monitor or report

Comply with existing
regulations or ordinances

Preserve already existing
natural areas



Inadequate

Consult with

Submit for review

Coordinate with

Study further

Inform

Encourage/Discourage

Facilitate

Strive to

If feasible

Impacts that Can't be Mitigated to Less Than Significant

Sometimes even with mitigation an impact remains significant

The analysis must include all feasible mitigation

Substantial evidence is needed to discard a suggested mitigation

Cost should not be the only reason to discard the mitigation

The project can still be considered, however

If you have them you need an EIR

With an EIR you can still approve the project!

Findings

- Showing your work
- Explaining your reasoning
- Information other than the EIR/IS/MND
- Drafted by Staff, Modified and Approved by Council or Commission



Because

Statement of Overriding Considerations

- Reasons why the project should be approved even though it has significant environmental impacts
- Supported by substantial evidence
- We need the \$\$\$ isn't likely to survive challenge
- List as many reasons as make sense, only one is needed to support the determination





People can
be
passionate...



Testimony at Hearings

- Late Hits
- How to balance testimony
- When to Continue the item
- When to decide

Other CEQA Pieces: EIRs

Cumulative Analysis

- Not Necessarily “build out”
- Two methods: project list or regional model
- May have different setting than project
- Not the worse case

Alternatives

- Must avoid or lessen an environmental impact
- Project alternatives may not be CEQA alternatives
- Not discussed at the same level as the project
- Compared against project applicant’s project objectives
- Only the no-project alternative is required.

New Legislative Changes

Assembly Bills:
130, 507, 571, 1139,
and 1455

Senate Bills: 71, 79,
131, 158, 254, 611,
625, 676

New Legislative Changes

Assembly Bill 130

- Introduces a new CEQA exemption for qualifying infill housing developments that meet local zoning and planning standards and are not located on hazardous or environmentally sensitive sites.
- Projects that qualify are not subject to CEQA. The bill includes limitations that preserve protections for historic structures, tribal cultural resources, and hazardous materials assessment.
- Caps the number of public hearings for qualifying housing projects at five.
- Includes a moratorium on the adoption of new or more restrictive residential building standards at both the state and local levels. Effective October 1, 2025 through June 1, 2031

Senate Bill 131

- Key component is the near miss exemption.

Both bills include new limits on public hearings, judicial review timelines, and building standard updates

New Legislative Changes

Senate Bill 79 (effective July 1, 2026)

- Creates a statutory exemption for transit-oriented housing development on any site zoned for residential, mixed, or commercial development within one-half or one-quarter mile of a transit-oriented development stop, if the development complies with applicable requirements.
- Does not include a ministerial review process or amend the CEQA.
- Will apply to Alameda, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara Counties.

ADDITIONAL RESOURCES

- California Office of Planning and Research (OPR)
 - <https://lci.ca.gov/>
- California Environmental Quality Act (CEQA)
 - <https://lci.ca.gov/ceqa/getting-started/>
- California Legislative Information Code Search (laws)
 - <http://leginfo.legislature.ca.gov/faces/codes.xhtml>
- League of California Cities (Cal Cities)
 - <https://www.cacities.org/>
 - Planning and Community Development Department www.cacities.org/Member-Engagement/Professional-Departments/Planning-Community-Development
- Planning Commissioner Handbook
 - <https://www.ilgplanninghandbook.org/>
- CalEnviroScreen
 - <https://oehha.ca.gov/calenvirosc>
- Housing and Community Development (HCD)
 - www.hcd.ca.gov/
- State Department of Finance (DOF)
 - www.dof.ca.gov/Forecasting/Demographics/
- CEQAnet
 - <https://ceqanet.opr.ca.gov/>
- Institute for Local Government
 - <https://www.ca-ilg.org/>

PLANNING COMMISSIONER HANDBOOK

- New digital toolkit for Planning Commissioners
- Updated content on:
 - CEQA
 - Community Engagement
 - Legal Issues
 - Housing Laws
 - Financing
 - & More!



ILGPlanningHandbook.org

Thank You

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Questions?