

# SB 375 CEQA STREAMLINING

**SB 375, the Sustainable Communities and Climate Protection Act of 2008**, provided among other things a new “Sustainable Communities Project Exemption” for Transit Priority Projects (TPPs) that are declared Sustainable Community Projects, as well as streamlined CEQA analysis for TPPs and certain residential or mixed-use projects. The intent of these provisions is to streamline approvals for projects consistent with a Sustainable Communities Strategy (SCS) or Alternative Planning Strategy (APS). The types of CEQA relief for TPPs are dependent upon the project and the criteria that need to be met, and may be achieved through:

- a Sustainable Communities Project CEQA Exemption,
- a Sustainable Communities Environmental Assessment (SCEA),
- a streamlined limited EIR, or
- a reduced level of analysis.

## Please Note:

The SCS (or APS) provides the basis for determining eligibility for streamlining incentives, but full control and discretion in determining a project’s consistency with the SCS and whether to utilize streamlining remains with cities and counties as the lead agencies under CEQA.

## Sustainable Communities Project Exemption (PRC §21155.1)

A Sustainable Communities Project Exemption is for qualifying transit-oriented residential and mixed-use projects that meet the definition of a TPP (PRC §21155), which includes:

1. at least 50% residential use, and if 26-50% are non-residential uses, must have a floor-area ratio (FAR) of not less than 0.75,
2. minimum density of at least 20 du/ac, and
3. site within one-half mile of a major transit stop<sup>1</sup> or high-quality transit corridor<sup>2</sup> contained within a regional transportation plan.<sup>3</sup>

To qualify as a TPP, a project must also meet the following environmental, land use, and community benefit criteria. The SCS or APS must have been accepted by the California Air Resources Board (CARB). After a public hearing where a legislative body finds that a project meets all TPP requirements, that project can be declared a “Sustainable Communities Project” and found exempt from CEQA.

<sup>1</sup> “Major Transit Stop” is a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. (PRC §21064.3)

<sup>2</sup> “High-quality transit corridor” means an existing corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. An “existing stop along a high-quality transit corridor” may include a planned and funded stop that is included in an adopted regional transportation improvement program. (PRC §21155 [b])

<sup>3</sup> The Connect SoCal (2020 Regional Transportation Plan/Sustainable Communities Strategy) shows High Quality Transit Areas on [Exhibit 3.8](#).

## Environmental Criteria

1. Adequately served by existing utilities and all in-lieu/development fees paid/committed;
2. Devoid of wetlands or riparian areas, does not have significant value as a wildlife habitat, and does not harm any special status protected species;
3. Not included on any list of facilities and sites compiled pursuant to §65962.5 of the Government Code (hazardous waste/materials site);
4. Subject to a preliminary endangerment assessment and any release of or exposure to hazardous substances has been properly removed or mitigated;
5. Does not have a significant effect on historical resources;
6. Not subject to wildland fire hazards, risk of fire or explosion, risk of public health exposure, seismic risk, landslide hazards, or flood hazards;
7. Not on developed open space; and
8. Buildings are 15 percent more energy efficient than Title 24 California Code of Regulations and achieves 25 percent less water usage than the average household in the region.

## Land Use Criteria

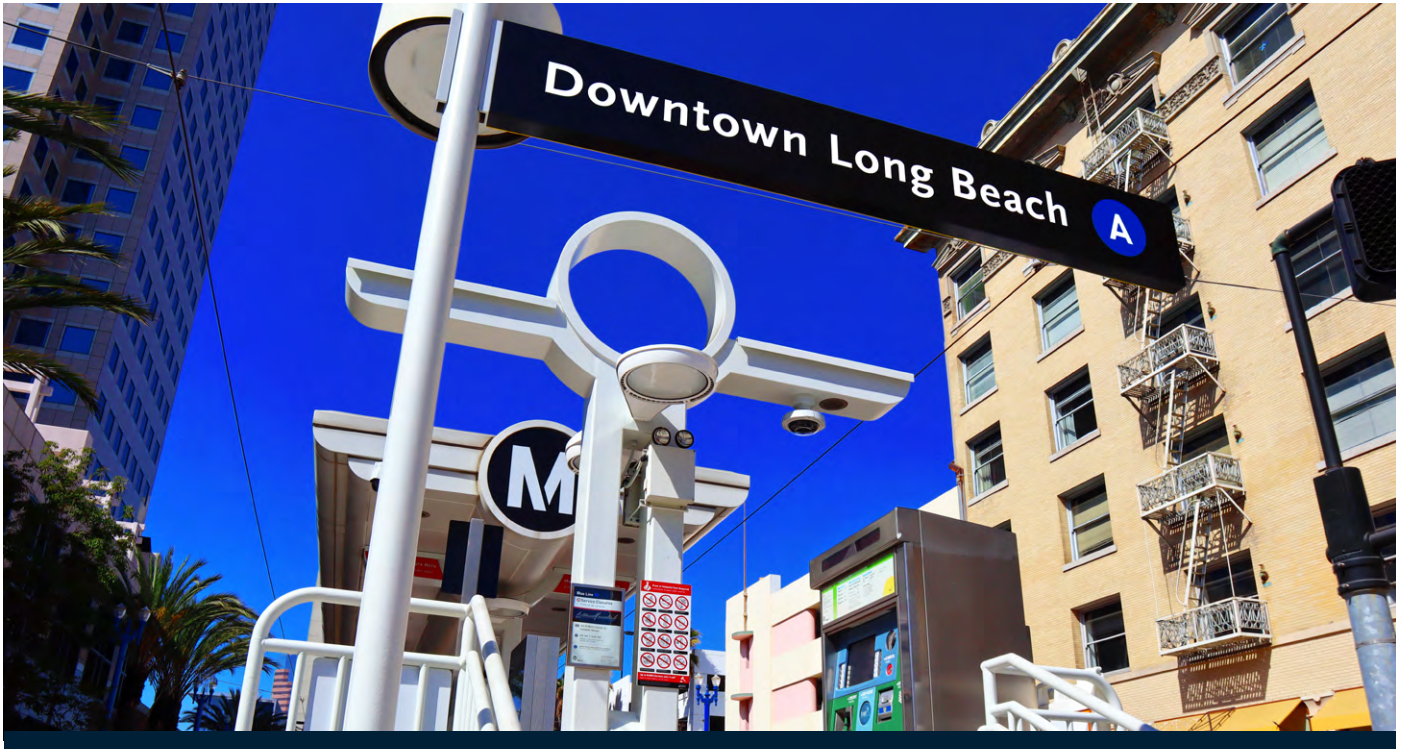
1. Not more than 8 acres;
2. 200 or fewer residential units;
3. No net loss of affordable housing units;
4. No single level building exceeds 75,000 square feet;
5. Any applicable mitigation measures or performance standards or criteria from prior EIRs will be incorporated;
6. Does not conflict with nearby operating industrial uses; and
7. Located within one-half mile of a rail transit station included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.

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## Community Benefit Criteria

Project must meet at least one of the following three criteria.

1. Meets both of the following:
  - a. At least 20 percent will be sold to families of moderate income, or not less than 10 percent will be rented to families of low income, or not less than 5 percent of is rented to families of very low income.
  - b. Project developer provides sufficient legal commitments to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.
2. Project developer has paid or will pay in-lieu fees to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1) above.
3. Project provides public open space equal to or greater than 5 acres per 1,000 residents of the project.



## CHART 1. SB 375 TPP EXEMPTION

Is the project a residential or mixed-use residential consistent with SCS or APS? (PRC §§21155[a] and 21159.28[a])

NO ▶

Project **does not qualify** for SB 375 streamlining. *Use standard CEQA process.*

YES ▼

Is the project a TPP? (PRC §21155[b])

NO ▶

Project **is not exempt** but may qualify for other SB 375 streamlining. *See Chart 2.*

YES ▼

Does the TPP comply with environmental criteria? (PRC §21155.1[a])

NO ▶

Project **is not exempt** but may qualify for other SB 375 streamlining. *See Charts 2 and 3.*

YES ▼

Does the TPP meet the land use criteria? (PRC §21155.1[b])

NO ▶

Project **is not exempt** but may qualify for other SB 375 streamlining. *See Charts 2 and 3.*

YES ▼

Has lead agency conducted a public hearing and declared the TPP to be a sustainable communities project?

NO ▶

Project **is not exempt** but may qualify for other SB 375 streamlining. *See Charts 2 and 3.*

YES ▼

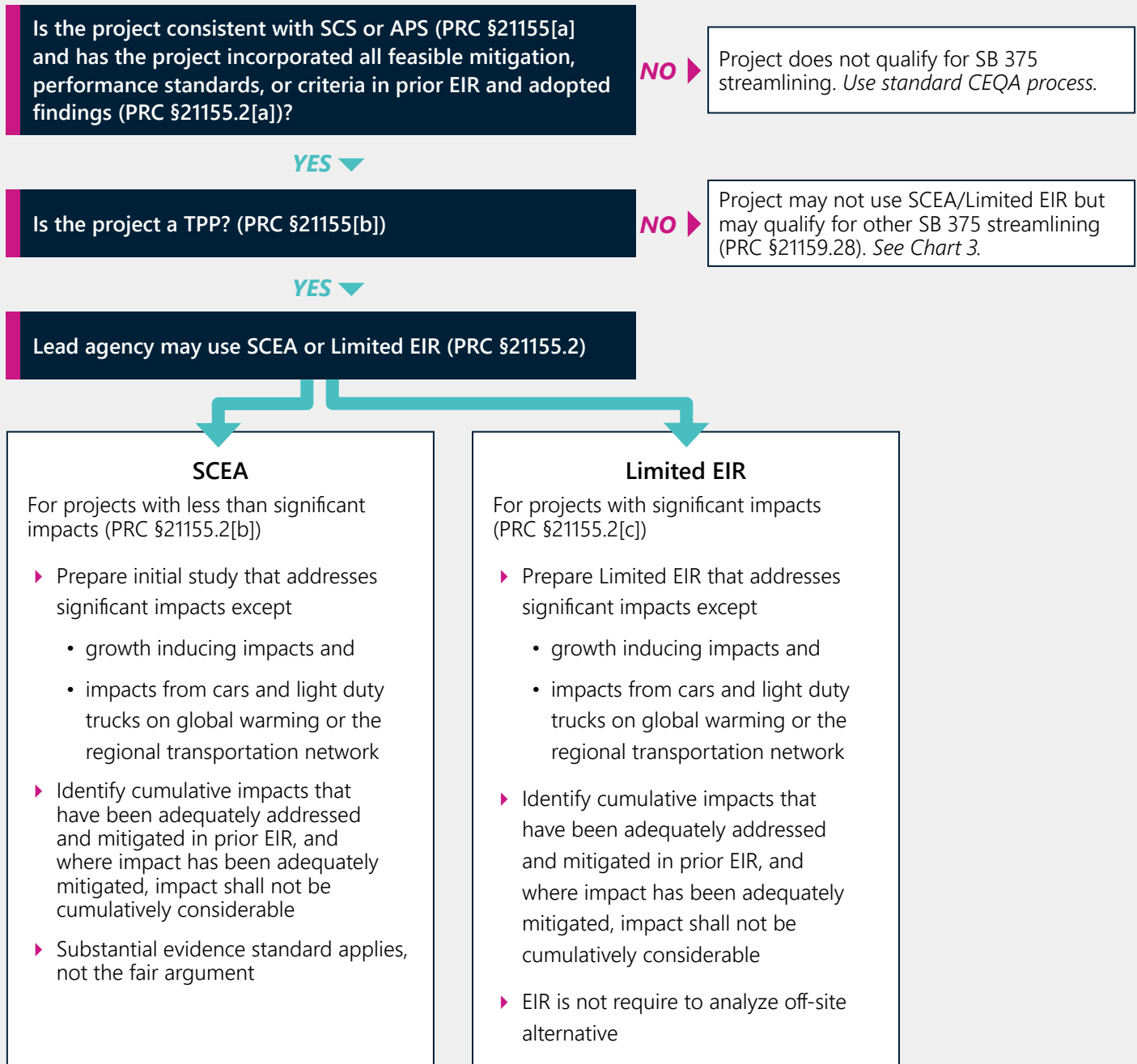
Project **is exempt** – *may file an NOE.*

# SB 375 Streamlined Review Options (PRC §21155)

For TPPs that do not meet the Sustainable Communities Project exemption criteria, SB 375 created new streamlining processes involving use of a SCEA or Limited EIR. Like the exemption, a project must first be consistent with the SCS/APS. The analysis is built upon “prior applicable EIRs” and the project must incorporate feasible mitigation measures, performance standards or

criteria from the prior EIR. However, the statute does not specify which prior EIR may be used – General Plan EIR, Specific Plan EIR, or RTP/SCS EIR. The lead agency has discretion to select a prior EIR that best covers the site and its development. The SCEA and Limited EIR options are shown in the following chart and are each described further below.

## CHART 2. SB 375 SCEA/LIMITED EIR



## **SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT**

(PRC §21155.2)

Where TPPs do not meet the Sustainable Communities Project exemption criteria an agency may prepare a SCEA if the project would result in:

- impacts that are less than significant;
- impacts that are less than significant through incorporation of new mitigation measures; or
- impacts that are less than significant after incorporation of all feasible mitigation measures, performance standards, or other criteria set forth in the prior applicable certified EIR.

An SCEA relies upon the preparation of an Initial Study comparable to a negative declaration since the lead agency must find that all potentially significant impacts of a project have been identified, adequately analyzed, and mitigated to a less than significant level. However, unlike a typical ND or MND, the SCEA may omit:

- consideration of cumulative effects of the project that have been adequately addressed and mitigated in a prior EIR,
- consideration of growth-inducing impacts, and
- project specific or cumulative impacts from cars and light duty truck trips on global warming or the regional transportation network.

The SCEA should be circulated for a 30-day public review period, and comments shall be considered before an agency approves the project during a public hearing.

## **STREAMLINING BENEFIT OF AN SCEA**

One of the main streamlining benefits of the SCEA versus a standard ND or MND is that a lead agency's significance determinations are not subject to the "fair argument" standard of review but are instead reviewed under the more deferential substantial evidence standard.

### **Check This Out:**

Visit the [City of Los Angeles' extensive SCEA library](#) for examples of SCEAs that have been prepared and adopted for TPPs.

## **TRANSIT PRIORITY PROJECT LIMITED ENVIRONMENTAL IMPACT REPORT**

(PRC §21155.2)

For TPPs that do not meet the Sustainable Communities Project exemption criteria and may result in potentially significant impacts, an agency may prepare a Limited EIR. The Limited EIR only needs to address potentially significant impacts and is not required to analyze off-site alternatives to the TPP or discuss a reduced residential density alternative to address the effects of car and light duty truck trips generated by the project. Similar to an SCEA the Limited EIR may omit:

- consideration of cumulative effects of the project that have been adequately addressed and mitigated in a prior EIR,
- consideration of growth-inducing impacts, and
- project specific or cumulative impacts from cars and light duty truck trips on global warming or the regional transportation network.



# Other CEQA Streamlining within SB 375: Limited Analysis for Mixed Use Residential Projects (PRC §21159.28)

For TPPs or eligible mixed-use projects that are consistent with an SCS or APS but not eligible for the exemption, SCEA, or Limited EIR, SB 375 still provides some streamlining relief from the typical EIR. While in these cases the standard CEQA process must be followed for an EIR, the analysis is not required to discuss:

- growth-inducing impacts;
- project specific or cumulative impacts from cars and light duty truck trips on global warming or the regional transportation network; or
- reduced density alternative.

## CHART 3. SB 375 REDUCED REVIEW STREAMLINING

Is the project consistent with SCS or APS (PRC §21159.28[a])?

NO ▶

Project does not qualify for SB 375 streamlining. *Use standard CEQA process.*

YES ▼

Is the project residential or mixed-use residential with at least 75% of the square footage is residential (PRC §21159.28[d]) or is it a TPP?

And

Does the project incorporate mitigation measures required by a prior applicable EIR (PRC §21159.28[a])

NO ▶

Project does not qualify for SB 375 streamlining. *Use standard CEQA process.*

YES ▼

Use standard CEQA process, but CEQA document does not need to reference, describe or discuss the following (PRC §21159.28[a][b]):

- Growth inducing impacts
- Impacts from cars and light duty trucks on global warming or the regional transportation network
- Reduced density alternative (for EIRs)

*The purpose of this material is to provide guidance, which agencies and other entities may use at their discretion. This guidance does not alter lead agency discretion in decision-making, independent judgment and analysis, and preparing environmental documents for project or governmental action subject to CEQA requirements. This material is for general information only and should not be construed as legal advice or legal opinion.*

# WORKSHEETS

## Sustainable Communities Project Exemption Checklist

(PRC §21155.1)

Requirements	Applicability	Yes	No	N/A
<p>If the legislative body finds, after conducting a public hearing, that a transit priority project meets <b>all of the requirements of subdivisions (a) and (b) and one of the requirements of subdivision (c)</b>, the transit priority project is declared to be a sustainable communities project and shall be exempt from this division.</p>				
<p><b>(a)</b> The transit priority project complies with <b>all of the following</b> environmental criteria:</p>				
<p><b>(1)</b> The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities, and the transit priority project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.</p>	<p>Is site served by utilities (i.e., water, wastewater, electricity, natural gas, solid waste, and stormwater drainage)?</p>			
	<p>If there are applicable in-lieu/development fees, has there been a commitment to pay them?</p>			
<p><b>(2)</b></p> <p>(A) The site of the transit priority project does not contain wetlands or riparian areas and does not have significant value as a wildlife habitat, and the transit priority project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.</p>	<p>The site does not contain wetlands/waters/riparian habitat that can support Special Status Species.</p> <p><i>(Tip: Run a CNDDDB database search at <a href="http://www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data">www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data</a>)</i></p>			

Requirements	Applicability	Yes	No	N/A
<p><b>(3)</b> The site of the transit priority project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.</p>	<p>The site is not listed as a hazardous waste site.</p> <p><i>(Tip: Search the Cortese List here: <a href="http://calepa.ca.gov/sitecleanup/corteselist/section-65962-5a">calepa.ca.gov/sitecleanup/corteselist/section-65962-5a</a>)</i></p>			
<p><b>(4)</b> The site of the transit priority project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.</p>	<p>The project site is not subject to a preliminary endangerment assessment, or if one has been prepared it has determined that the site would not expose future occupants to significant health hazards.</p>			
<p><b>(5)</b> The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.</p>	<p>The site does not include historical resources.</p> <p><i>(Tip: Check for listed historical resources here: <a href="http://ohp.parks.ca.gov/ListedResources">ohp.parks.ca.gov/ListedResources</a>)</i></p>			
<p><b>(6)</b> The transit priority project site is not subject to any of the following:</p>				
<p>(A) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.</p>	<p>The site is not in a high fire hazard severity zone.</p> <p><i>(Tip: Check for fire-hazard severity zones here: <a href="http://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps">osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps</a>)</i></p>			
<p>(B) An unusually high risk of fire or explosion from materials stored or used on nearby properties.</p>	<p>The project site is not subject to risk of fire or explosion from materials stored nearby.</p>			
<p>(C) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.</p>	<p>The project site is not subject to public health exposure.</p>			



Requirements	Applicability	Yes	No	N/A
<p>(D) Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.</p>	<p>The project is not within a seismic hazard zone and will comply with current building codes for seismic and other geotechnical considerations.</p> <p><i>(Tip: Check California Earthquake Hazards Zones here: <a href="https://maps.conservation.ca.gov/cgs/EQZApp/app">maps.conservation.ca.gov/cgs/EQZApp/app</a>)</i></p> <p><i>(Note: Compliance with the building code, other regulatory provisions, and geotechnical investigations, addresses site-specific soil conditions and ensures seismic safety.)</i></p>			
<p>(E) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.</p>	<p>The project is not within a landslide hazard or flood hazard zone.</p> <p><i>(Tip: Check the FEMA Flood Maps for flood risk here: <a href="https://msc.fema.gov/portal/search/#searchresultsanchor">msc.fema.gov/portal/search/#searchresultsanchor</a>)</i></p>			
<p><b>(7)</b> The transit priority project site is not located on developed open space.</p> <p>(A) For the purposes of this paragraph, “developed open space” means land that meets all of the following criteria:</p> <ul style="list-style-type: none"> <li>(i) Is publicly owned, or financed in whole or in part by public funds.</li> <li>(ii) Is generally open to, and available for use by, the public.</li> <li>(iii) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.</li> </ul> <p>(B) For the purposes of this paragraph, “developed open space” includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired with public funds dedicated to the acquisition of land for housing purposes.</p>	<p>The project site is not developed open space.</p>			

Requirements	Applicability	Yes	No	N/A
<p><b>(8)</b> The buildings in the transit priority project are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region.</p>	<p>The project will include energy efficient features that are 15% more efficient than Title 24 and water efficient landscaping to achieve 25% reductions than the average in the region.</p>			
<p><b>(b)</b> The transit priority project meets all of the following land use criteria:</p>				
<p><b>(1)</b> The site of the transit priority project is not more than eight acres in total area.</p>	<p>Is the site <math>\leq 8</math> acres?</p>			
<p><b>(2)</b> The transit priority project does not contain more than 200 residential units.</p>	<p>Does the project include <math>\leq 200</math> units?</p>			
<p><b>(3)</b> The transit priority project does not result in any net loss in the number of affordable housing units within the project area.</p>	<p>The project would not displace or result in a net loss of any affordable housing</p>			
<p><b>(4)</b> The transit priority project does not include any single level building that exceeds 75,000 square feet.</p>	<p>All single-level buildings are <math>\leq 75,000</math> sf.</p>			
<p><b>(5)</b> Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impact reports, and adopted in findings, have been or will be incorporated into the transit priority project.</p>	<p>Applicable mitigation measures or performance standards from prior EIRs have been incorporated and/or met.</p>			
<p><b>(6)</b> The transit priority project is determined not to conflict with nearby operating industrial uses.</p>	<p>The project is not within or near industrial uses or the lead agency has determined that there are no potential conflicts.</p>			

Requirements	Applicability	Yes	No	N/A
<p><b>(7)</b> The transit priority project is located within one-half mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.</p>	<p>Is the project located within 0.5 mile from rail station or ferry terminal included in an RTP or within 0.25 mile of a high quality transit corridor included in an RTP?</p> <p><i>(Note: High Quality Transit Areas are shown on Exhibit 3.8 of the SCAG Connect SoCal Plan. <a href="http://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial-03-plan.pdf?1604533568">scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial-03-plan.pdf?1604533568</a>)</i></p>			
<p><b>(c)</b> The transit priority project meets at least one of the following three criteria:</p>				
<p><b>(1)</b> The transit priority project meets both of the following:</p>				
<p>(A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.</p>	<p>Does the developer commit to selling to families for very low, low-, or moderate-income households as follows:</p> <p>At least 20 percent of the housing is sold to families of moderate income, or</p> <p>Not less than 10 percent of the housing is rented to families of low income or</p> <p>Not less than 5 percent of the housing is rented to families of very low income.</p> <p><i>(Note: Very low, low-, or moderate-income households are defined in Section 50079.5 of the Health and Safety Code. Low- and moderate-income households are defined in Section 50079.5 of the Health and Safety Code.)</i></p>			

Requirements	Applicability	Yes	No	N/A
<p>(B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.</p>	<p>Does the developer commit to continued availability and use of housing for lower income households for very low, low, and moderate income for at least 30 years for for-sale units and 55 years for rental units?</p>			
<p><b>(2)</b> The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).</p>	<p>If not providing affordable units per (1) above, does the developer agree to pay in-lieu fees pursuant to local ordinance?</p>			
<p><b>(3)</b> The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.</p>	<p>If not providing affordable units per (1) above, or paying in-lieu fees per (2) above, does the project provide public open space at or above 5 acres/1,000 residents?</p>			