

Environmental Impact Reports - A Brief Summary

The California Environmental Quality Act (CEQA), approved in 1970 by the state legislature, requires the preparation of an Environmental Impact Report (EIR) for projects that may have significant impacts. The role of EIRs in project review and approval is often misunderstood. An EIR is an analytical tool designed to inform interested parties about (1) a project's environmental impacts; (2) potential "mitigation measures" (one of CEQA's many Terms of Art in quotes here) that would lessen or avoid "significant" impacts; and (3) a reasonable range of project "alternatives". The approving agency must first confirm or "certify" the adequacy of an EIR, and then consider the information it provides in reaching a decision. CEQA binds the reviewing agency to this process, but not to a particular outcome.

In other words, CEQA does not regulate land uses, but sets forth a protocol of analysis and public disclosure of the potential environmental impacts of projects. An EIR is all about information – for the public and decision-makers. An EIR does not make recommendations for project approval or denial, nor does it bar an agency from approving a project that has remaining or unmitigated "significant" impacts.

CEQA requires the analysis of a "no project" alternative, as well as other alternatives that might be less impactful. Typically, and logically, the "no project" and reduced-size project alternatives will have fewer impacts, but that does not mean the agency is required to shrink or deny projects if the alternatives would not meet the project's objectives. Similarly, while CEQA generally requires project changes where feasible to lessen the project's identified significant impacts, it provides latitude for project approval based on "specific economic, legal, social, technological, or other considerations" that make mitigation measures and alternatives "infeasible". If decision-makers conclude that a "significant" impact is unavoidable or that other needs or considerations of the community outweigh that impact, they may adopt a "statement of overriding considerations" and approve the project. The statement must be supported by evidence in the record.

Ultimately, it is up to local agency decision-makers to consider all the circumstances of a project, including its environmental impacts, and act accordingly for the benefit of the community as well as the protection of environmental resources.

*Prepared by Town of Tiburon Staff
June 2010*