

Can governments streamline environmental impact analysis to promote transit-oriented development? Evidence from California

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Abstract: California’s seminal Sustainable Communities and Climate Protection Act of 2008—Senate Bill (SB) 375—includes two provisions specifically intended to help streamline transit-oriented development (TOD) projects through environmental review (California SB 375, 2008). One provision exempts qualifying TODs from environmental review entirely. The other provision streamlines environmental review for qualifying projects. This study explores the use and effect of those provisions. We first quantify how much and where the provisions have been used. We then use interviews and email communications with planning and development practitioners to explore why streamlining is used, whether streamlining actually helps reduce the time, cost, and uncertainty of permitting TOD projects, and how streamlining could be improved to better facilitate TOD projects. We find that SB 375 streamlining is a mixed bag. Neither streamlining provision has been used extensively. The full exemption appears to have been avoided because its costs and complications outweigh any streamlining benefit, though the more limited streamlining provision was regarded as having at least some utility. We also found that SB 375-streamlined projects might not be fulfilling SB 375’s more fundamental goals—reducing vehicle kilometers traveled and greenhouse gas emissions. The clearest lesson for policymakers is to reduce the eligibility requirements for environmental review streamlining provisions.

Keywords: SB 375, transit-oriented development, housing, streamlining, environmental review, CEQA

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1 Introduction

Development projects can cause environmental harms, but they can also yield environmental benefits. In order to provide adequate notice and consideration of impacts ranging from noise and air pollution to threats to endangered species, at least five state governments in the United States require environmental impact analysis for development projects approved at the local level, including housing (Ma et al., 2009). The National Environmental Policy Act also mandates environmental impact analysis for many projects involving federal resources or requiring federal permits.

While environmental impact analysis can promote informed consideration regarding the potential impacts of a new project, it can also invite litigation that can delay or derail a project. Although scuttling a proposed project can sometimes have environmental benefits, in some cases the environmental benefits of a scuttled project can outweigh the harms. Concerns about the latter outcome have become increasingly prominent as the federal government and many state governments have promoted projects intended to curb greenhouse gas emissions, like transit-oriented development (TOD). TOD is intended to reduce vehicle travel (as commonly measured in California by vehicle miles traveled, or VMT) by locating housing, commerce, and leisure opportunities near high-frequency transit. By making such projects infeasible, environmental impact analysis could itself have a negative environmental impact.

One frequently cited roadblock to TOD in California is the environmental review process under the California Environmental Quality Act (CEQA)—one of the oldest and strongest environmental impact analysis laws in the United States. To help climate-friendly projects proceed, California has made numerous attempts to exempt or provide a streamlined CEQA review process for TOD projects. However, there is limited empirical research on how frequently or where the provisions have actually been used, let alone how successful they have been at streamlining the entitlement process for TOD projects.

This article analyzes the use and effect of two streamlining provisions intended to expedite housing-focused TOD projects in California, both introduced by the state's landmark Sustainable Communities and Climate Protection Act of 2008—Senate Bill (SB) 375. One provision exempts qualifying TODs—called “transit priority projects” (TPPs) in the statute—from CEQA review entirely (Public Resources Code § 21155.1, n.d.). The other provision streamlines CEQA review for qualifying TPPs (Public Resources Code § 21155.2, n.d.). We first quantify how much and where these two California SB 375 (2008) streamlining provisions have been used by cataloging the projects that have utilized the provisions—a documentary analysis approach that improves upon prior survey-based studies. We then use interviews and email communications with planning and development practitioners to explore our second set of questions—why streamlining is used (or not), whether streamlining actually helps reduce the time, cost, and uncertainty of permitting TOD projects, and how streamlining could be improved to better facilitate TOD projects.

We find that SB 375 streamlining is a mixed bag. Neither streamlining provision has been used extensively—we identified only 19 cities where SB 375 streamlining had been used at all. We also find that SB 375-streamlined projects might not be fulfilling SB 375's more fundamental goals—reducing vehicle kilometers traveled and greenhouse gas emissions. On average, the 71 projects that utilized SB 375 streamlining were located in Census block groups that had slightly (8%) higher home-based VMT per capita than the cities in which they were located.

In the rest of this article, we provide an overview of environmental impact analysis policies, provide a primer on streamlining for TOD projects in California, describe our

mixed-methods approach to answering our research questions, present the findings of our analyses, then tie our results together.

2 Primer on environmental impact analysis policies

Environmental impact analysis is a regulatory technique that was first widely introduced in the late 1960s and early 1970s to encourage administrative agencies to “look before they leap” in adopting, funding, or approving policies, plans, or development projects that have the potential to impact the physical and, in some cases, social environment (United Nations Environmental Program, 2018). The process involves identifying, evaluating, and often mitigating the environmental effects of proposed projects. Environmental impact analyses are used to inform decisionmakers about environmental ramifications prior to making project approval decisions. Many environmental review policies also require public notice and participation opportunities during the impact analysis process.

Project-level environmental impact analysis is required in at least some circumstances in nearly 190 countries worldwide, according to the Netherlands Environmental Assessment Commission (2024). In the US, the National Environmental Policy Act mandates environmental impact analysis for many development projects involving federal resources or requiring federal permits (Ma et al., 2009). However, it is up to each state to require environmental impact analysis for development projects that only require state, regional, or local resources or permitting. Ma et al. (2009) found that only 16 states have environmental review requirements that apply statewide. They also found that just five states—California, Hawaii, Minnesota, New York, and Washington—require environmental review for private (non-governmental) development projects that require local government (city or county) approval. That is important because nearly all land-use development in the US is done by private parties, including TOD. The risk, as reflected in previous studies and discussed further below in the California context, is that the environmental review process can add considerable time, cost, and uncertainty to TOD plans and developments (Barbour et al., 2021; Hernandez, 2018; Volker et al., 2019).

3 Primer on TOD streamlining in California

The term “streamlining” refers to policies intended to reduce regulatory hurdles. In the context of TOD projects, streamlining typically entails some combination of reduced discretion for local officials to deny or condition project permits and/or reduced requirements for environmental impact analysis. Often these two are intertwined, inasmuch as environmental (CEQA) review in California is not required for projects that only require ministerial (i.e., non-discretionary) approvals (California Public Resources Code § 21080(a), n.d.). Our study focuses on CEQA streamlining—specifically the two TOD-specific streamlining provisions introduced by SB 375—but we briefly survey both kinds of streamlining policies to provide a fuller context.

The issue of discretion is important because TOD projects generally include multifamily residential development, and—in California—the approval of multifamily development projects typically involves the exercise of discretion by local decisionmakers (O’Neill et al., 2022). For example, local legislators might amend a zoning ordinance to allow multifamily development on a particular parcel or to increase the allowable density in order to ensure that a project will pencil out for a developer. Or a local planning commission might be required to approve a conditional use permit or variance.

Discretionary review can pose three challenges for TOD. First, the relevant decisionmaker may opt to exercise its discretion in a way that thwarts a TOD project (e.g., by denying a needed zoning ordinance amendment, conditional use permit, or variance). Second, even if the decisionmaker ultimately grants approval, an approvals process of long duration could threaten the financial viability of a project, due to carrying costs like interest payments, insurance premiums, and property taxes (Manville et al., 2023). Third, in California, the introduction of discretion into a local approval process triggers review under CEQA (as discussed in more detail below), which can substantially increase the time, cost, and uncertainty of development (Barbour et al., 2021; Hernandez, 2018; Reid et al., 2017; Volker et al., 2019)

Unlike discretionary determinations, ministerial decisions “involv[e] little or no personal judgment by the public official as to the wisdom or manner of carrying out the project” (CEQA Guidelines § 15369). Instead based on “fixed standards or objective measurements,” a public official “merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision” (California Code of Regulations, n.d., CEQA Guidelines § 15369). In addition, ministerial approvals are not subject to CEQA. As a result, the ministerial approval process is generally shorter and less expensive than the discretionary approval process (Manville et al., 2023).

In the rest of this section, we first explore some of the key streamlining policies that reduce discretion in the local land-use approvals process in California. We then detail the TOD-specific CEQA streamlining policies enacted by the state legislature, including the two SB 375 streamlining provisions we examine in this study, and examine the scant literature on how the provisions have been used.

3.1 State and local laws reducing discretion in the land-use approvals process

In recent years, California’s legislature has adopted several laws intended to reduce local discretion in the land-use approvals process, and at least one local government—the City of Los Angeles—has adopted constraints on discretion as a result of a local ballot measure. At the state level, major revisions to the Housing Accountability Act (HAA), coupled with other enactments, have reduced the scope of local discretion and expedited some approvals. For example, if a proposed project complies with a city’s objective planning and zoning standards, then the HAA significantly constrains the city’s authority to reduce the density of the project or deny the project altogether (Biber et al., 2024). Meanwhile, the Housing Crisis Act of 2019 requires cities to either approve or deny a project after five hearings, limiting the potential for endless review of land-use approvals (California Government Code § 65905.5(a), n.d.).

While laws such as the HAA and the Housing Crisis Act serve to expedite the land-use approvals process generally, including for TOD projects, they have little impact on CEQA. But other state laws, such as SB 35 (2017-2018) and California Assembly Bill (AB) (2011), can affect both the land-use approvals process and CEQA. The state’s general plan Housing Element Law requires cities to plan and zone for housing affordable at different income levels and, if a city has not met its housing targets, then SB 35 requires the use of a ministerial approvals process for certain housing projects. AB 2011 provides a ministerial approvals process for certain multifamily projects in zones “where office, retail, or parking [is] a principally permitted use.” As a result, both SB 35 and AB 2011 can circumvent CEQA review by avoiding discretionary approvals processes. These laws are not specifically related to TOD, inasmuch as a project can be eligible even if it is not close to transit, but both laws could potentially be used for TOD projects.

Perhaps the most significant local streamlining provision related to TOD comes in the form of the Transit-Oriented Communities (TOC) program adopted by the City of Los

Angeles. Housing development projects can qualify for the TOC program based on their proportion of below-market-rate units and their proximity to transit (City of Los Angeles, 2018). Developers of transit-accessible projects have an incentive to provide below-market-rate units, because the TOC program enables them to build significantly more market-rate units than would otherwise be permitted. The revenue from the additional market rate units can more than offset the cost of providing below-market-rate units. Importantly, the TOC program also provides ministerial approval for many projects that would otherwise require discretionary review, thereby allowing some qualifying projects to circumvent CEQA review (Manville et al., 2023).

3.2 CEQA and efforts to reduce the burden of environmental review for TOD projects

The California Environmental Quality Act is California's foundational environmental review law. It imposes a tiered system of environmental review for non-exempt projects that require discretionary approvals (like conditional use permits or zoning changes), which include most larger land development projects. Figure 1 outlines the general process.

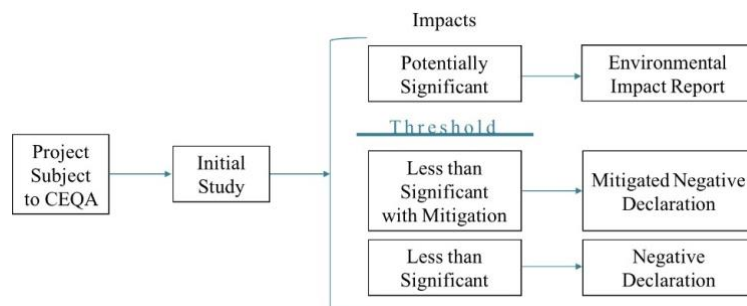


Figure 1. California's environmental review process

Once the lead permitting agency determines that a project is subject to CEQA, it prepares an "initial study" to determine whether the project would have potentially "significant" and unmitigable environmental impacts, including transportation system impacts. If the agency determines that the project would have no significant environmental impacts, it may prepare a "negative declaration." If the agency determines that any potentially significant impact can be mitigated to a less-than-significant level through project alterations, compensatory actions, best practices, or other measures it may prepare a "mitigated negative declaration." The agency must prepare a full environmental impact report (EIR) when there is substantial evidence that the project *may* have a significant and unavoidable impact on the physical environment, i.e., that the impacts would exceed the threshold of significance. And it must mitigate or avoid that impact to the greatest feasible extent (with mitigation costs generally borne by the project proponent, i.e. the developer).

Because CEQA applies so broadly to local government planning and permitting actions, and because it requires mitigating impacts in addition to analyzing them, CEQA has arguably had "as much influence on land-use patterns in California as any planning law" (Fulton & Shigley, 2018, p. 169). For example, the costs and uncertainties of CEQA compliance are frequently cited as impeding development, especially urban and affordable housing (Hernandez, 2018; Hernandez et al., 2015; Reid et al., 2017). Like other researchers, we found no studies that quantify the full cost and development impacts of CEQA compliance (O'Neill et al., 2019; Smith-Heimer et al., 2016; Volker et al., 2019). But the CEQA review process can take several months to several years, and

frequently costs hundreds of thousands if not millions of dollars, which costs are primarily borne by the developer (Barbour & Teitz, 2005; Hernandez, 2018; Landis et al., 1995; O’Neill et al., 2022; Rothman, 2011; Smith-Heimer et al., 2016; Thomas, 1993). Furthermore, impact assessment is only one of many CEQA-related costs. Impact mitigation can increase development costs substantially. And the delays and overall uncertainty associated with the CEQA process—and risk of subsequent litigation—can be an even greater development deterrent (Barbour & Teitz, 2005; Hernandez, 2018; Olshansky, 1996; Reynolds, 2015; Rothman, 2011).

Recognizing both the environmental benefits of TOD projects and the sizable impediment that CEQA can pose to building them, the California Legislature has adopted at least six CEQA streamlining provisions for TOD projects focused on housing. These are summarized in Table 1. For each provision, the table indicates the streamlining provided, the substantive requirements for eligible projects (including requirements related to density, transit proximity, and affordability), and exceptions. The table includes only those state laws that are focused on TODs and, more specifically, TOD projects that include housing. So, it does not include laws such as SB 35 and AB 2011, which can be used for both TOD and non-TOD projects.

Table 1. CEQA streamlining provisions for housing-focused TOD projects

	Public Resources Code § 21159.24 (SB 1925; 2002)	Public Resources Code § 21159.28 (SB 375; 2008)	Public Resources Code § 21155.1 (SB 375; 2008)	Public Resources Code § 21155.2 (SB 375; 2008)	Public Resources Code § 21094.5 (SB 226; 2011)	Public Resources Code § 21155.4 (SB 743; 2013)
Streamlining Provided	Full exemption from CEQA	<ul style="list-style-type: none"> Environmental documents not required to “reference, describe, or discuss growth inducing impacts” or “project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network” EIR, if required, need not “reference, describe, or discuss a reduced residential density alternative to address the effects of car and light-duty truck trips generated by the project” 	Full exemption from CEQA	<ul style="list-style-type: none"> Project may be reviewed through a sustainable communities environmental assessment (SCEA), which identifies all significant impacts except for “(1) growth inducing impacts; or (2) any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network” (Public Resources Code [PRC] § 21159.28(a)) Substantial evidence standard (rather than fair argument standard) applies to review of a lead agency’s determination to approve a project with an SCEA Alternatively, project may be reviewed with an EIR that does not need to address the 	<ul style="list-style-type: none"> If an environmental impact report was certified for a planning level decision of a city or county, CEQA analysis shall be limited to “the effects on the environment that (A) are specific to the project or to the project site and were not addressed as significant effects in the prior environmental impact report or (B) substantial new information shows the effects will be more significant than described in the prior environmental impact report” If EIR is required, it need not consider growth inducing impacts, alternative locations, alternative densities, or alternative building intensities 	Full exemption from CEQA if project is consistent with a specific plan for which an EIR has been certified

				impacts exempted from the SCEA and is not required to analyze off-site alternatives		
Location Requirements	<ul style="list-style-type: none"> • “Urbanized area” as defined by PRC § 21071 • ≤0.8 kilometers (1/2 mile) of major transit stop as defined by PRC § 21064.3 • “Infill site” as defined by PRC § 21061.3 	<ul style="list-style-type: none"> • Consistent with sustainable communities strategy (SCS) or alternative planning strategy (APS) • Transit priority project as defined by PRC § 21155, unless ≥75% of the total building square footage of the project consists of residential use 	<ul style="list-style-type: none"> • Within an MPO • Within 0.8 kilometers (1/2 mile) of a rail transit station or a ferry terminal included in a regional transportation plan (RTP) OR ≤0.4 kilometers (1/4 mile) of a high-quality transit corridor, as defined by PRC § 21155, included in an RTP • Site either has been previously developed OR adjoins existing qualified urban uses on at least 75% of the site’s perimeter 	<ul style="list-style-type: none"> • Consistent with sustainable communities strategy (SCS) or alternative planning strategy (APS) • Transit priority project as defined by PRC § 21155 	Urban area (as defined in PRC § 21094.5) and, previously developed site or 75% adjoins qualified urban uses; satisfies “all applicable statewide performance standards contained in the guidelines adopted pursuant to [PRC §] 21094.5.5” contained in CEQA Guidelines §15183.3	<ul style="list-style-type: none"> • Within an MPO • Within transit priority area (defined by PRC § 21099)
Density Requirements	<ul style="list-style-type: none"> • 20 du/acre or 10 du/acre depending on surrounding area • No building can exceed 100,000 square feet • <100 units in project 	N/A	<ul style="list-style-type: none"> • Based on SCS/APS, but must provide ≥20 du/acre • If the project contains between 26-50% nonresidential uses, a FAR of ≥0.75 • Does not include any single level building >75,000 square feet 	<ul style="list-style-type: none"> • ≥ 20 du/acre • If the project contains between 26-50% nonresidential uses, a FAR of not less than 0.75 	<ul style="list-style-type: none"> • Consistent with SCS/APS OR 20 units/acre or FAR of 0.75 OR Walkable community project as defined in PRC 21094.5(e)(4) • <300 units if not in low VMT area, or ≤½ mile from an existing major transit stop, or ≤½ mile from an existing stop along a high-quality transit corridor, per Appendix M requirements (imposed by CEQA Guidelines § 15183.3) 	<ul style="list-style-type: none"> • Based on SCS/APS • For areas outside of MPO, density of ≥8 units per acre or a FAR of ≥ 0.50
Acreage Limitations	<4	N/A	<8	N/A	N/A	N/A
Plan Consistency Requirements	Local plan and zoning consistency required, see PRC §21159.21(a); must have a community-level environmental review within the last 5 years.	Consistent with SCS or APS	Consistent with SCS or APS	Consistent with SCS or APS	Consistent with SCS or APS AND specific plan with an EIR	Consistent with SCS or APS
Affordability Requirements	Inclusionary or in lieu	N/A	Inclusionary, in lieu, OR public open space; plus, no net loss of	N/A	100% (but only if not in low VMT area, or ≤0.8 kilometers (½ mile) of an existing major transit stop or an existing stop along	N/A

			affordable units		a high-quality transit corridor), per Appendix M requirements (imposed by CEQA Guidelines §15183.3).	
Environmental Limitations	Wetlands; habitat; species; hazards; historical resources; wildfire or fire hazard; public health; earthquake; landslide; flood plain; open space; utilities	All generally applicable environmental limitations, except as specified above.	Wetlands; habitat; species; hazards; historical resources; wildfire or fire hazard; public health; earthquake; landslide; flood plain; open space; utilities; 15% more energy efficient than required by Cal. Code Regs., Tit. 24, Part 6; 25% less water usage than average household; no conflict with nearby industrial uses	All generally applicable environmental limitations, except as specified above.	Must do soil and water remediation; must comply with air district requirements if near high-volume roadway	N/A
Exceptions	Unusual circumstances, substantial changes in circumstances since plan-level environmental review, new information	N/A	N/A	N/A	Substantial changes in circumstances since plan-level environmental review, new information	Substantial changes in project or circumstances since plan-level environmental review, new information

The extent of the streamlining varies significantly among the six provisions, as does the extent of their qualifying criteria. Two provisions authorize full exemption from CEQA if their various substantive requirements are met and no exceptions apply. Another also authorizes a full exemption from CEQA, but only if the proposed project is consistent with a specific plan for which an EIR has been certified, in addition to compliance with substantive requirements and avoidance of exceptions to the exemption. The other three provisions provide more limited relief from CEQA requirements, such as the elimination of certain environmental impacts from consideration.

Our study focuses on the two SB 375 streamlining provisions that are exclusively available to TOD projects—one that provides a full CEQA exemption (California Public Resources Code § 21155.1) and one that streamlines CEQA review via a “sustainable communities environmental assessment” (California Public Resources Code § 21155.2; SECA). Both the full SB 375 exemption and the SCEA provision only apply to transit priority projects, which among other things (specified in Table 1), must be located within a metropolitan planning organization’s (MPO’s) jurisdiction, and must be “consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy” (SCS) or “an alternative planning strategy,” adopted by the MPO and accepted by the California Air Resources Board (California Public Resources Code § 21155). In addition, TPPs must be within 0.8 kilometers (½ mile) of a “major transit stop” or “high-quality transit corridor.” “Major transit stop” is defined as either an existing or planned (in the applicable regional

transportation plan) “rail or bus rapid transit station,” a “ferry terminal served by either bus or rail transit,” 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” (California Public Resources Code § 21064.3). A “high-quality transit corridor” is defined as a “corridor with fixed bus route service with service intervals no longer than 15 minutes during peak commute hours” (California Public Resources Code § 21155(b)). The full SB 375 exemption requires even more stringent transit adjacency: the project must be located within 0.8 kilometers (1/2 mile) of a rail transit station or a ferry terminal included in a regional transportation plan or within 0.4 kilometers (1/4 mile) of a high-quality transit corridor.

The full SB 375 exemption theoretically offers greater streamlining than the SCEA provision. And a full exemption is especially enticing, given that TOD projects are a frequent target of CEQA lawsuits. One study of CEQA lawsuits from 2013-2015 in the five counties and 191 cities comprising the Southern California Association of Governments’ metropolitan planning organization jurisdiction found that 70% of the housing units challenged in CEQA lawsuits were in TPP-qualifying areas (Hernandez, 2018). However, projects must meet an exacting (and potentially expensive) list of criteria to qualify for the full exemption, as shown in Table 1. For example, in addition to being TPPs, the projects must be less than 8 acres, under 200 housing units, and have no single building greater than 75,000 square feet. They must also contain deed-restricted affordable housing, pay in-lieu fees, or provide at least 5 acres of open space for every 1,000 residents. In addition, they must provide greater energy efficiency than otherwise required by state law and lower water usage than the regional average. Furthermore, they must not be located on wetlands, in riparian areas, on valuable wildlife habitat, in earthquake fault zones, or in areas that are at risk of wildfires, public health exposure, landslides, hazardous substance exposure, nearby explosions, or floods. And they must not have any impact on historical resources or protected species. All of these qualifications must be confirmed via a preliminary assessment and a public hearing by the local city council or county board of supervisors.

The SCEA provision is easier to qualify for (see Table 1), but it does not provide the same level of streamlining (at least theoretically) as a full CEQA exemption. A SCEA is very similar to a mitigated negative declaration in terms of process and content. So, the lead agency for the project must still prepare an initial study and, generally, ensure that all potentially significant environmental impacts are either avoided or mitigated to a level of insignificance (California Public Resources Code § 21155.2(b)(5)). However, unlike a mitigated negative declaration, a SCEA also allows the lead agency to find that the changes necessary to sufficiently mitigate a project’s environmental impacts are “within the jurisdiction and responsibility of another public agency and have been, or can and should be, adopted by that other agency” (California Public Resources Code § 21155.2(b)(5)(B)(ii)). That can reduce the mitigation burden for SCEA projects, and it could also allow some projects to use a SCEA instead of a full EIR (which is usually required if the lead agency cannot ensure that sufficient changes or alterations would be made to a project to reduce its environmental impacts to an insignificant level). In addition, as the third district court of appeal explained in a seminal decision upholding SB 375 CEQA streamlining, the environmental “review is streamlined because an SCEA is not required to analyze certain types of impacts. It is not required to discuss growth-inducing impacts or any project-specific or cumulative impacts on global warming or the regional transportation network that may arise from automobile and light-duty truck trips generated by the project. . . . Also, where the lead agency determines that a cumulative effect has been adequately addressed and mitigated in prior applicable certified environmental impact reports, that cumulative effect shall not be treated as cumulatively

considerable and subject to further environmental review” (*Sacramentans for Fair Planning v. City of Sacramento* (2019) 37 Cal. App. 5th 698, 719). In addition to a streamlined environmental impact analysis process prior to project approval, SB 375’s SCEA provision also reduces litigation risks after project approval. It requires courts to use a more relaxed standard of review—“substantial evidence” rather than the usual “fair argument” standard that is applied to mitigated negative declarations—in reviewing local governments’ decisions to approve transit priority projects through SCEAs (*Sacramentans for Fair Planning v. City of Sacramento* (2019) 37 Cal. App. 5th 698, 722).

In sum, while both SB 375 streamlining provisions can theoretically provide financial benefits to developers (in the form of faster and more certain environmental reviews), the net benefits can be uncertain after wading through and satisfying the myriad qualifying criteria. Indeed, the SB 375 and other CEQA streamlining provisions for TOD projects (and infill developments generally) have been “criticized for layering on so many project level restrictions that no developments succeed in meeting all the eligibility requirements” (Reid et al., 2017, p. 266). However, there is limited empirical research on how frequently or where the provisions have actually been used, let alone how successful they have been at streamlining the entitlement process for TOD projects. We located just two studies that provided empirical evidence on the use of SB 375 streamlining provisions.

In one study, Smith-Heimer and Hitchcock (2019) surveyed 46 cities and counties about how they apply CEQA to housing projects with at least five units. They received data for 1,417 housing projects for which applications were submitted between 2015 and 2017, for a total of 144,111 housing units. They found that 38 projects used the full SB 375 exemption, which comprised 2.7% of all projects and 1.7% of all housing units. However, these numbers were self-reported; the respondents did not provide a list of projects for which the use of the SB 375 exemption could be double-checked. The study also did not report which jurisdictions had used the exemption. In addition, the survey did not ask respondents about the SCEA provision.

In the second study, Mawhorter et al. (2020) examined the responses to the 2016 Annual Planning Survey conducted by the Governor’s Office of Planning and Research (OPR). Only 21 cities reported having used either the full SB 375 exemption or a SCEA, though the study did not list which cities those were. The study also searched OPR’s State Clearinghouse database of CEQA documents in an attempt to identify specific projects that had “successfully utilized” the SB 375 streamlining provisions. They only found a single project, though that is likely because the State Clearinghouse does not provide a comprehensive database of CEQA documents for local land-use projects (Office of Planning and Research, 2021).

There remains significant uncertainty surrounding the use and efficacy of SB 375’s TOD-specific CEQA streamlining provisions. For one, it remains unclear how frequently or where SB 375 streamlining is used. Surveys of planners can be quite unreliable, as Lewis and Marantz (2019) found in an examination of nine surveys of California planners. Neither of the previous survey-based studies identified where SB 375 streamlining had been used nor corroborated the survey responses with a review of project-specific CEQA documentation to confirm the use of SB 375 streamlining for approved projects. Moreover, and perhaps more importantly, it remains an open question how effective SB 375 streamlining has been, and why planners and developers decide to pursue it or not. We investigate these questions further in this study.

4 Exploring the use and efficacy of SB 375 streamlining

We use a mixed-methods approach to explore the use and effect of the full SB 375 CEQA exemption and the SCEA. To answer our first question—how much and where these two SB 375 streamlining provisions have been used—we catalogued the projects that have utilized the provisions. Our documentary analysis-based approach complements the prior survey-based studies (Mawhorter et al., 2020; Smith-Heimer & Hitchcock, 2019). To identify projects that utilized SB 375 streamlining, we started by contacting California’s 18 MPOs, since qualifying projects must be consistent with the sustainable communities strategy adopted by the relevant MPO. We quickly learned, however, that most MPOs do not actually certify projects’ consistency with regional plans, let alone comprehensively track any consistency decisions they do make. So, we pivoted to identifying *locations* that could qualify for SB 375 streamlining. We used Site Check (Office of Planning and Research, 2023), an online mapping tool developed by OPR, to identify all cities that have at least once parcel meeting the basic transit adjacency criteria for all TPPs, which applies to both the full SB 375 CEQA exemption and the SCEA provision. To wit, we selected for all parcels that were within 0.8 kilometers (½ mile) of a “major transit stop” or within 0.8 kilometers (½ mile) of a “high-quality transit corridor.” Our search returned 207 cities (out of 482 in total) with at least one eligible parcel. Table 2 aggregates the 207 cities by region. It is worth noting that this tool shows all parcels that meet TPP criteria, regardless of whether the parcels are actually available or probable sites for development (under current zoning, etc.).

Table 2. Eligible cities by region

Region	Number of Cities
Northern California (Sacramento and Bay Area northward)	67
Central California (Central Valley and Central Coast)	10
Southern California (cities south of San Luis Obispo), excluding Los Angeles County	42
Los Angeles County	88

Equipped with this list, we initiated email and/or phone correspondence with each of the eligible local planning offices. We sought correspondence with planning staff who likely had expertise with TOD project permitting or otherwise had a wide base of knowledge regarding development within their locale. We obtained contact information for planning staff via the websites for the relevant city planning departments (or other related departments). We sent emails first, then followed up via phone where either we received no email response or we could not find a publicly available email address. We asked the planners to identify any projects the city had processed through CEQA using either the full SB 375 CEQA exemption (California Public Resources Code § 21155.1) or a SCEA (California Public Resources Code § 21155.2) between 2009 (the year after SB 375 went into effect) to the present (2023, at the time of the correspondence). For cities that indicated having used SB 375 streamlining for one or more projects, we requested the relevant CEQA documents prepared for the projects. In addition to identifying projects through correspondence with city planners, we searched the State Clearinghouse database, via CEQAnet (Office of Planning and Research, 2024), for all posted SCEA documents. We mapped all the projects that we confirmed to have used SB 375 streamlining using ArcGIS, and, for additional context, used the online VMT+ tool (Fehr & Peers, 2023) to compare the per capita home-based VMT in the project block groups to

citywide averages. The VMT+ tool provides estimates of 2019 (pre-COVID) VMT using StreetLight data.

We interviewed practitioners to answer our second set of questions—why SB 375 streamlining is used (or not), whether SB 375 streamlining actually helps reduce the time, cost, and uncertainty of permitting TOD projects, and how CEQA streamlining could be improved to better facilitate TOD projects. We identified potential interviewees using the aforementioned lists of MPO staff and local government planning department staff we had developed, focusing on jurisdictions with projects that had used SB 375 streamlining. From there, we used snowball sampling to identify housing developers, consultants, and attorneys who had experience with SB 375 streamlining. About one third of the practitioners that we contacted agreed to be interviewed. In total, we interviewed 10 planning and development experts, including five city planners (in cities that have used SB 375 streamlining), two affordable housing developers, an MPO planner, a principal at a consulting firm that conducts CEQA analyses, and an attorney who works with both developers and local governments. Interviews were semi-structured, guided by a questionnaire, and took approximately 30-40 minutes. The generalized interview script provided in Appendix A shows the primary types of questions we focused on. In addition to the interviews, many of the 120 email responses we received from city planners in the first part of the study provided (unprompted) insights on our second set of questions. We then conducted qualitative thematic analysis of the interview and email transcripts to identify themes in the responses related to our second set of questions. We discuss the responses to the last of our second set of questions—how CEQA streamlining could be improved—in the concluding section on lessons for policymakers rather than in a separate findings section.

5 How common is SB 375 streamlining and where is it being used?

We heard back from 120 cities out of 207 we identified as having at least one parcel meeting the transit adjacency criteria for TPPs. Of those responsive cities, only 12 (10% of the sample) had accomplished at least one TOD project with SB 375 streamlining. We identified a total of 61 TOD projects in those cities that had used SB 375 streamlining. We found 10 more projects through a CEQAnet query for all posted SCEA documents, for a cumulative total of 71 projects. Most (60) projects used a SCEA, while 11 projects used a full SB 375 CEQA exemption. Table 3 lists the 19 cities with projects that had utilized SB 375 streamlining, along with the number of projects in each jurisdiction. Figure 2 maps the 71 projects across the state. Figure 3 zooms in to show more granular project locations within the four MPO regions where SB 375 streamlining was used.

Table 3. SB 375-streamlined projects by city

City	Number of SB 375-Streamlined Projects
Anaheim, Burbank, Culver City, Daly City, Glendale, La Verne, Millbrae, Oceanside, Pasadena, San Diego, Santa Clarita, Santa Rosa, Torrance, West Hollywood	1
South San Francisco	2
Davis, Redlands	3
Sacramento	5
Los Angeles (34 SCEAs; 10 fully exempt)	5+

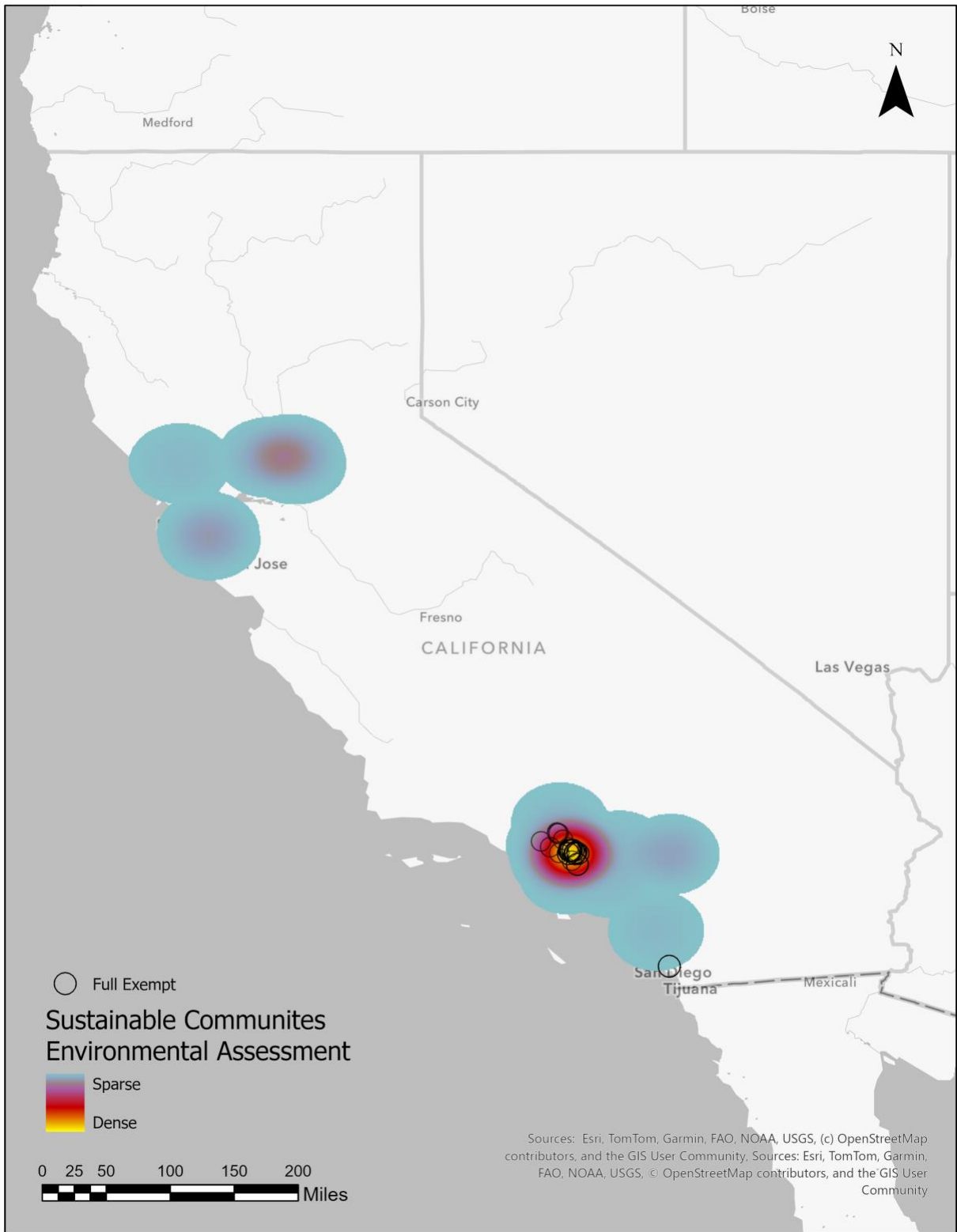


Figure 2. Map of TOD projects that utilized SB 375 streamlining

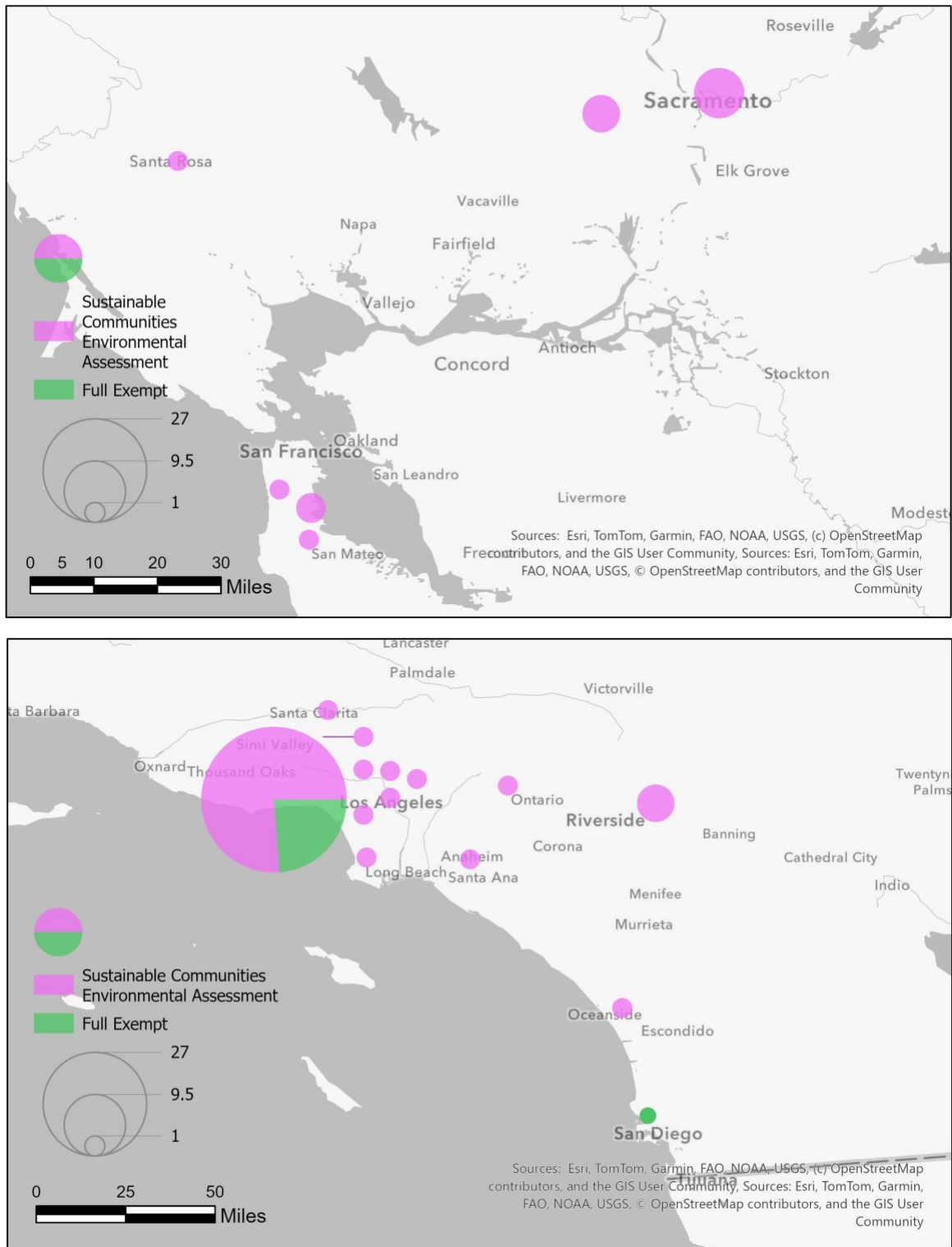


Figure 3. Map of TOD projects that utilized SB 375 streamlining in the Sacramento and San Francisco regions (top panel) and the Los Angeles and San Diego regions (bottom panel)

Our findings indicate that SB 375 streamlining has not been frequently used, especially outside of Los Angeles, which comports with earlier studies (Mawhorter et al., 2020; Smith-Heimer & Hitchcock, 2019). However, they do not represent a comprehensive tally of projects and cities that have used SB 375 streamlining, since (1) we did not receive a response from 42% of the cities we contacted, and (2) the State Clearinghouse does not provide a comprehensive database of CEQA documents for local land-use projects (Office of Planning and Research, 2021). Previous studies confirm that our counts are likely underestimates. Smith-Heimer and Hitchcock (2019) reported that 38 projects used the full SB 375 CEQA exemption alone between 2015 and 2017, while we only identified 11 such projects total. And Mawhorter et al. (2020) found that 21 cities had used SB 375 streamlining, while we identified only 19. That being said, neither of the previous two studies confirmed the use of SB 375 streamlining reported by their survey respondents.

In terms of location, our findings indicate that most projects that have utilized SB 375 streamlining are in Southern California. Los Angeles by itself accounts for 62% of the SB 375-streamlined projects that we identified. Part of the explanation for why Los Angeles has so many SB 375-streamlined projects could simply be that Los Angeles has more TPP-eligible parcels than anywhere else in the state and also permits more multifamily housing units every year. For example, Los Angeles permitted more than 15% of the total multifamily units permitted across the state in 2021 (California Department of Housing and Community Development, 2022). Two of our interviewees provided additional insights on the disparity in SB 375 streamlining utilization between Los Angeles and the rest of the state. They suggested that the creation of Los Angeles' Transit-Oriented Communities program, which incentivized TOD projects outside of the SB 375 framework (as discussed above), could have increased developers' and their legal counsel's comfort with TODs and the strategies to accomplish them. That explanation was anecdotal, but it does comport with the uptick in use of SB 375 streamlining since 2017, when the TOC program went into effect. For example, all of the 10 projects in Los Angeles that utilized a full SB 375 CEQA exemption were permitted after 2017.

There was also a smaller concentration of SB 375-streamlined projects in the Sacramento region. Two of our interviewees familiar with the planning and development landscape in the region indicated that the support and resources made available by the regional MPO—the Sacramento Area Council of Governments (SACOG)—were key reasons why. One city planner noted that coordination from SACOG had assisted “quite a bit” with streamlining. And one of the affordable housing developers we interviewed opined that SB 375 “kind of created an advocate in SACOG” for affordable TOD projects.

Another location-related finding is that, on average, the 71 projects that utilized SB 375 streamlining were located in Census block groups that had slightly (8%) higher home-based VMT per capita than the cities in which they were located. On the other hand, the projects' block groups average 21% less VMT per capita than the statewide average.

6 Why Is SB 375 streamlining not used more?

The limited use of SB 375 streamlining that we found in the first part of our study begs two related questions - why SB 375 streamlining is not being used more, and whether SB 375 streamlining actually helps reduce the time, cost, and uncertainty of permitting TOD projects. We explore the first question in this section using the themes identified in our interviews and email correspondence with city planners.

6.1 Knowledge

One potential reason why SB 375 streamlining is not more frequently used is that it is “just not on the radar of a lot of developers or their consultants,” as one city planner told us. Another city planner similarly hinted at how it was kind of a crapshoot as to whether the city and developer (or their consultants or attorneys) would be familiar enough with the relevant streamlining options for any given project: “Planners have some knowledge of the available streamlining options, sometimes consultants will raise streamlining options, and sometimes the developer’s attorneys will.” One distinguishing factor might be whether or not the developer has a knowledgeable and creative attorney. The consultant we interviewed, who had worked on three SCEAs in Southern California and was familiar with many more, observed that the decision to use a SCEA, at least in the Los Angeles region, is “a lot of times driven by [the] attorneys [who] advise the applicants and really push cities to think outside of the box.”

6.2 Cost and convoluted

Nearly all of our interviewees noted how difficult SB 375 streamlining can be to qualify for, due to the complication, time, cost, and uncertainty of complying with all relevant criteria. One even called SB 375 streamlining a “total failure.”

Regarding even the most basic qualifying criterion—transit adjacency—applicable to both the full exemption and the SCEA provision, the attorney we interviewed observed that it has been harder for projects to qualify as TPPs since COVID because “we’re now seeing . . . fewer bus routes that have anything like the required frequency of service.” That same interviewee noted the real risk, based on their experience with at least one project, that transit routes will be cancelled during the environmental review process, potentially disqualifying the project for SB 375 streamlining and necessitating a more exacting environmental review process. Another basic qualification issue noted by at least four cities we corresponded with via email is that their general plans historically have not allowed sufficient residential densities (≥ 20 units/acre) to meet SB 375’s streamlining requirements, even in areas with sufficient transit service. More broadly, one of the affordable housing developers stated that, “from a developer standpoint, we just want certainty. . . . [And] “that’s the problem. It’s hard to find a piece of property that fits [the] SB 375” streamlining criteria.

With respect to the full CEQA exemption specifically, one city planner told us about their experience unsuccessfully attempting to obtain an exemption for a project: “By the time we gathered up all the studies and everything that was required under SB 375, we might as well have done an EIR. It didn’t really streamline anything.” And, in fact, the city in that case did actually prepare an EIR as a “belt and suspenders” in case the project could not ultimately qualify for the exemption. Another planner opined that the full exemption “doesn’t really” streamline TOD permitting. They explained how it is an exhaustive process to meet all of the criteria for the exemption and that, unlike most CEQA exemptions, the SB 375 CEQA exemption has to be approved at a public hearing by the jurisdiction’s legislative body: “I would say that’s one reason why we don’t do these exemptions is because it needs city council approval when some projects don’t need to be taken to that high up in the decision-making process. And it gives it more visibility that way. And so sometimes projects mainly want to, you know, fly under the radar as much as possible. . . . [A]lso, it’s very costly to go to a decision maker because of all of staff’s time to prepare for the hearing, and so forth. So typically, if there’s a different exemption that would apply, they’d prefer to use that.” The broader sentiment—that other streamlining options are easier to attain, and thus preferred—was echoed via email by planners from 11 jurisdictions. The MPO planner we interviewed, who has seen or

advised on multiple SB 375 streamlining efforts, concurred. They observed that exemptions have been used more sparingly than SCEAs because it is “so much work” to demonstrate that a project is eligible—“It’s like the equivalent of doing” a full environmental review, with a “massive checklist of things that are really difficult to satisfy.” As a result, they concluded, it is often “way easier to pursue a different form of streamlining.”

With respect to the SCEA provision, most interviewees thought that it provided some streamlining benefits (discussed in the next section), but that qualifying for it was still easy. The MPO planner we interviewed noted that preparing a SCEA—even if you qualify to use one—is “still a lot of work. And it’s still a CEQA document that you can litigate.” The consultant we interviewed painted an even less rosy picture. They concluded that using a SCEA “doesn’t really simplify a whole heck of a lot. Because you still have to go through and do the full analysis,” as well as demonstrate “how you’re consistent with the regional plan document” (the SCS).

7 Do the SB 375 streamlining provisions actually streamline TOD projects?

There was a fairly clear consensus amongst our interviewees that the full SB 375 exemption does not provide much, if any, streamlining, for all of the reasons explored in the previous section. That being said, most interviewees believed that SCEAs can provide streamlining benefits, especially if they can be used instead of a traditional EIR. Using a SCEA versus a traditional EIR can reduce both the time and cost of project-level environmental review (and thus, project permitting and delivery). As the MPO planner we interviewed bluntly stated, a “SCEA is less work than an EIR.” One of the city planners agreed that using a SCEA saves “a little bit of time.” The attorney we interviewed, who has shepherded numerous land-use projects through the permitting gauntlet (including several SCEA projects), provided a more concrete estimate. They estimated that “instead of being 2-plus years,” as where an EIR is required, “you can get [a SCEA] done in . . . 12 to 18 months.” That reduces environmental review costs by “20 to 30 percent.”

However, one of the planners we interviewed noted that not all SCEA projects would have otherwise prepared a full EIR; some might have only required a mitigated negative declaration. And in those circumstances, the environmental review process would not be much shorter. Nonetheless, multiple interviewees explained that using a SCEA still benefits the project in those cases (where the project would have otherwise relied on a mitigative negative declaration) because it can reduce the risk of litigation on the back end. One city planner commented that it is almost “more of a streamline for the attorney and the developer on the back end, meaning, if they do get sued on it,” the court applies a more deferential “substantial evidence” standard of review, rather than the “fair argument” standard used to review mitigated negative declarations, as discussed above. Another city planner similarly speculated that the streamlining benefits might be more about “this very litigious age that we’re in” and the fact that the SCEA can be a “more legal defensible document.” A third city planner came to a similar conclusion when discussing a SCEA project in their jurisdiction—“To the extent that [the project] wasn’t challenged” in court after it was approved, “I think that shows that [the SCEA] is a useful tool.” These observations accord with the third district court of appeal’s confirmation that courts use a more relaxed standard of review in reviewing local governments’ decisions to approve transit priority projects through SCEAs (*Sacramentans for Fair Planning v. City of Sacramento* (2019) 37 Cal. App. 5th 698, 722).

8 Conclusion and lessons for policymakers

Overall, our findings suggest that SB 375 streamlining is a mixed bag. Neither the full CEQA exemption nor the SCEA provision have been used extensively—we identified only 19 cities where SB 375 streamlining had been used and only one city (Los Angeles) where it had been used for five or more projects. The full exemption, in particular, appears to have been avoided because its costs and complications outweigh any streamlining benefit. The SCEA provision was regarded as having at least some utility, with one interviewee even estimating a cost savings on project environmental review of 20-30%. Nonetheless, the SCEA provision, too, was regarded as sometimes too onerous to satisfy to be worth the streamlining benefits conferred. One of the affordable housing developers we interviewed summed up the root problem thusly: “Everything in the kitchen sink got thrown in [to the legislative language]. So, the criteria to qualify for streamlining is so arduous and particular,” that the streamlining provisions had little effect.

Furthermore, we found that SB 375-streamlined projects might not be fulfilling SB 375’s more fundamental goals—streamlining low-VMT developments. On average, the 71 projects that utilized SB 375 streamlining were located in Census block groups that had slightly (8%) higher home-based VMT per capita than the cities in which they were located. That does that mean that the actual TOD projects produced greater per capita VMT than the city average, but it does warrant further investigation into whether SB 375 streamlining is actually facilitating VMT-reducing projects.

The clearest lesson for California policymakers in fashioning new or revising existing CEQA streamlining provisions is to reduce the eligibility requirements. As the attorney we interviewed opined, “we do not have an effective CEQA exemption for housing on the books,” let alone TOD housing, because they all have onerous qualification criteria. One solution for this problem is for the legislature to simply decide that certain types of projects are categorically good (e.g., for the environment and/or for housing projects), and exempt them in mass with a legislative exemption. One suggestion we heard was to exempt “multifamily housing projects and mixed-use projects in low-VMT areas”—a kind of map-based exemption—with no other qualifications required. Map-based exemptions make a lot of sense because they reduce the information costs for planners and developers alike to identify projects and areas eligible for streamlining, while also reducing the cost of environmental review of projects proposed in the streamlining zones (Biber et al., 2024). A map-based approach also comports with historic practice—most local governments’ zoning ordinances rely on map-based zones.

Another suggestion was to create a CEQA exemption for residential projects that are consistent with the housing elements of cities’ and counties’ general plans, at least those housing elements that are approved by the state Department of Housing and Community Development. That could constitute a nearly blanket exemption for housing projects, at least in jurisdictions whose housing elements have been approved by the state. But that seems to be their point, that California is “so underwater with housing” that we need to stop “pretend[ing] that housing is this Christmas tree that you can just keep adding all kinds of other values to and hope it all works out.” Furthermore, because housing elements approved by the Department of Housing and Community Development should theoretically be compatible with the regional SCS (California Government Code § 65584.04(m)), projects that are compliant with the housing elements could, en masse, theoretically advance a lower-VMT future.

Our findings are, of course, specific to California. However, similar lessons could apply to policymakers elsewhere in the US and globally. Blanket or map-based exemptions—with limited eligibility requirements—should inherently be more effective

at streamlining the environmental review and overall entitlement process for transit-oriented developments, regardless of context. That said, while most US states and most countries globally have environmental review laws, the laws often apply to fewer types of projects and the required analysis is often less onerous than under CEQA in California. For example, only four other states in the US require environmental review for private (non-governmental) development projects that require local government approval (Ma et al., 2009). Future research should examine the effects of project-level environmental review on TOD in other parts of the US and the world.

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Author contribution

The authors confirm contribution to the paper as follows: Study conception and design: J. Volker, S. Pike, N. Marantz; data collection: B. Affolter, G. DeLeon, J. Volker; analysis and interpretation of results: J. Volker, B. Affolter, N. Marantz, S. Pike, G. DeLeon; draft manuscript preparation: B. Affolter, J. Volker, N. Marantz, S. Pike; review and revisions: J. Volker, B. Affolter, N. Marantz, S. Pike, G. DeLeon.

Appendix

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