

# CEQA Process

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## Commenting on CEQA Documents

# Effective Comments

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Basic Purposes of CEQA:

- **Prevent** significant, avoidable damage to the environment by alternatives or mitigation
- **Disclose** to public the reason why a government agency approved the project,  
If significant environmental effects are involved

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- **Inform** governmental decision makers and the public about the potential, significant environmental effects of proposed activities
  - **Identify** ways that environmental damage can be avoided or significantly reduced

# CEQA is both, Procedural **and** Substantive

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- ❑ CEQA is primarily procedural
- ❑ CEQA is also substantive

Lead agencies are not permitted to approve environmental impacts if feasible alternatives or feasible mitigation measures addressing those impacts are available

# Timeline: ND/MND

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**Review & consultation** period is a minimum of 20 days to have comments considered

30 days, if circulated to State Clearinghouse

ND/MND: Adoption within 180 days of a completed application

# ND/MND

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- ❑ Notice of Determination (NOD) filed (with OPR or County Clerk) and posted within 5 days of project approval;
- ❑ triggers 30-day-time limit to legally challenge ND/MND

# Timeline: EIR

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- ❑ Notice of Preparation (NOP) to be sent out within 30 days after lead agency has determined that EIR is needed
- ❑ scope & content response to other agencies (§15082 & §15103);
- ❑ There are **30 days** to respond to a NOP

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- ❑ EIR to be circulated for 30-60 days for public review period (45 days if submitted to SCH); submit comments **within that period**
  - ❑ Shortened review period may be requested from SCH
  - ❑ Request for review extensions is not required by CEQA, but lead agency might grant, if a reasonable request was made

# So, you are going to comment...

some ideas what to look for:

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- The project description & description of location/site; are they adequate? Are there maps, plans, drawings, photos?
- Adequacy of historical resource identification
- Who prepared cultural studies? Experts? Who developed the mitigation measures?
- Are the reports included/circulated? If not, why and where can they be found?

# More to look for...

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- ❑ Which other documents are referenced; are they included, are they in draft form or complete? i.e. Design Guidelines; Ordinances
- ❑ Direct project impact & their mitigations to Cultural Resources
- ❑ Indirect project impact & their mitigations to Cultural Resources

# And more....

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- ❑ Other elements effected by project: aesthetics, historic land uses, parks & recreation, scenic vistas
- ❑ Project alternatives: are they addressed; do they avoid impacts?
- ❑ The “feasibility” argument

# Form of CEQA Comments

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- Comments have to be **Written**
- Do not send “**late**” comments; lead agencies do not have to respond, but may choose to do so (§15207)
- “Comment to Be Part of the Record”

# More on Form ...

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- Do not “fail” to comment; assumption is person or agency has “no comment”
- Send Comments to the “right” people: Board of Supervisors, Planning Commission, School Superintendent, etc.
- Don’t forget CC’s to involved parties, groups, etc.
- Include name of contact person for a later consultation

# Contents of CEQA Comments

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Public is free to comment on any aspect of proposed project

## **However:**

Comments should focus on sufficiency of document regarding identification of impacts and on methods to avoid or mitigate those impacts (§ 15204)

# Effective Comments

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- ❑ Focus your comments on substantive points
- ❑ “I don’t like the project”
- ❑ Explain the basis for your comments & support them with substantial evidence such as data, facts, expert opinion, references, etc.
- ❑ Focus on the “document” not the project
- ❑ Adequacy **yes!** of what is reasonable

# “Comments” vs. Advocacy

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(News)Paper/Public Advocacy:  
informs/engages/often will take sides

VS.

Comments on CEQA documents have  
to address document its adequacy  
and basic purpose of CEQA

# Role of Experts

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Do you have to be an expert in order to comment? **NO.**

**BUT**

When bringing in someone to buttress your point, **an authority with recognizable credentials**, the Expert, should be substantiating your points

# Comments by an Agency

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- A public agency is limited to comments on only those aspects of a project within their area of expertise or which are required to be carried out or approved by the agency
- Comments must be supported by substantial evidence (§15204(f), 15209)

# Lead Agency's Role & Response to Public Comments

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- ❑ Responses will be to the significant environmental issues raised (§15088)
- ❑ They can “lump” responses
- ❑ Lead agency must respond to comments no less than 10 days before EIR certification
- ❑ Can hold a public hearing on DEIR's to receive comments, or on merits of project
- ❑ Lead agency not required to respond to questions during public hearings