

Westside Mobility Plan Clears the Road of CEQA Challenges

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In [*Westside Los Angeles Neighbors Network v. City of Los Angeles*](#), the Second District Court of Appeals considered and upheld the City of Los Angeles's ("City") actions associated with the approval of the Westside Mobility Plan. Specifically, the court upheld: (i) the Los Angeles City Planning Commission's ("CPC") certification of the Westside Mobility Plan Environmental Impact Report ("EIR"); (ii) the determination that the Streetscape Plan was categorically exempt from CEQA; (ii) and the finding that ("Network") failed to show that the EIR was deficient in its analysis of growth inducing impacts or the imposition of certain traffic-related mitigation measures.

While not earthshattering, this decision addresses several practical realities of jurisdiction-specific CEQA procedures, the application of categorical exemptions, and scope land use plans may have on growth inducement and mitigation measure standards.

Background on the Westside Mobility Plan

The Westside Mobility Plan is a comprehensive initiative developed by the City's Department of Transportation and the Department of City Planning. Its aim is to address mobility issues in the west Los Angeles area ("Westside") through both short-term solutions and long-term plans. The final Westside Mobility Plan included, among other things: (i) an update to the Coastal Transportation Corridor Specific Plan ("CTC Specific Plan"); (ii) an update to the West Side Los Angeles Transportation Improvement and Mitigation Specific Plan ("TIMP Specific Plan"); and (iii) the Livable Boulevards Streetscape Plan ("Streetscape Plan").

The updates to the CTC Specific Plan and the TIMP Specific Plan, which were originally adopted in 1985 and 1997, respectively, included revisions to the Transportation Impact Assessment ("TIA") fees ("TIA Fees Update"). These modifications included extension of the TIA fees to land uses previously exempt from assessment, introduction of credits for affordable and transit-oriented development, and update to the list of improvements eligible for funding by collected TIA fees.

In January 2015, the City released a draft EIR with analysis limited to the TIA Fees Update's potential environmental effects. The City concurrently deemed the Westside Mobility Plan's other components, including the Streetscape Plan, "not subject to CEQA review."

In March 2018, the CPC: (i) certified the Westside Mobility Plan EIR (ii) recommended the TIA Fees Update for Los Angeles City Council (“City Council”); and (iii) while determining that statutory and categorical exemptions also applied, adopted the Streetscape Plan.

An appeal quickly followed in June 2018, challenging the EIR’s certification, the exemption findings, and actions related to the TIA Fees Update. The trial court ultimately entered judgment for City and denied the writ.

CPC’s Authority to Certify the EIR

One of the primary issues raised by the Network was whether the CPC had the authority to certify the Westside Mobility Plan EIR particularly in light of the fact that the City Council was the lead agency authorized to approve the TIA Fees Update. In considering this contention, the court did highlight that the CEQA Guidelines expressly state that the decision-making body of a public agency may not delegate the function of reviewing and considering a final EIR.^[1] But, the court also noted that the lead agency *may* delegate certain duties under CEQA, such as the certification of the final EIR.^[2] Moreover, the CEQA Guidelines support some delegation in its specification that, if an EIR is certified by a non-elected decision-making body within a local lead agency, that certification may be appealed to the lead agency’s elected decision-making body.

Here, the City Council was the lead agency responsible for approving the TIA Fees Update; however, the court found that the CPC was authorized to certify the EIR because it was the body responsible for adopting the Streetscape Plan. The court rejected the Network’s multi-component argument and cited to the CEQA Guidelines that a “project” is the “whole of an action”^[3] and that the decision-making body for CEQA purposes is “any person or group of people within a public agency permitted by law to commit an agency to a definite course of action for a project.” Therefore, the court noted that the TIA Fees Update and the Streetscape Plan were “intertwined components” of the Westside Mobility Plan, justifying CPC’s role in certifying the EIR for both components.

TIA Fees Updates and EIR

The Network also asserted that the Westside Mobility Plan EIR was deficient because its analysis did not adequately address the growth-inducing impacts from the TIA Fees Update. However, the court held that the EIR sufficiently determined that the TIA Fees Updates would not have any growth-inducing impacts as the TIA Fees Updates would not, on their own, contribute to any new transportation improvements or development, and that the EIR supported this determination.

Streetscape Plan is Categorically Exempt from CEQA

The Streetscape Plan lays out standards for landscaping, street trees, paving, lighting, bus zone amenities, and pedestrian crossings in the Westside. The Network argued that it should not be categorically exempt from CEQA. The court disagreed, citing that the categorical exemption under CEQA Guidelines section 15301, which applies to minor alterations of structures with negligible or no expansion of use, was appropriate for application to the Streetscape Plan. The court further rejected the Network’s argument that the City’s findings were unsupported by substantial evidence, concluding that the Network had not met the burden of proof demonstrating the unusual circumstance exception applies.^[4] To this end, the court found that there was substantial evidence in the Streetscape Plan that showed that the proposed plans were guidelines for “minor alterations to existing rights-of-way” to improve “aesthetics, functionality, and safety” and that it did not include an expansion use of rights-of-way.

The Network also argued that the EIR's findings of significant and unavoidable adverse impacts to air quality, noise and vibration, and transportation proved there were unusual circumstances. The court disagreed, holding that those findings were related to the TIA Fees Update and not the Streetscape Plan, and, thus, the Network's argument equated to nothing more than apples to oranges comparison.

Support for Growth-Inducing Impacts & Mitigation Measures

The Network then contended that EIR's analysis of the TIA Fees Update's analysis of growth-inducing impacts was inadequate in concluding that the updates would improve existing infrastructure without causing additional growth. The court found to the contrary, determining that the City's record of proceedings included evidence demonstrating that the TIA Fee Update would not result in zoning or land use designation modification, and any incentives provided would not significantly impact existing or future development patterns.

In its last argument, the Network put forward the claim that Mitigation Measure MM-T-2 ("MM-T-2") would violate CEQA standards because it failed to ensure implementation. To this end, CEQA requires a public agency to find, based on substantial evidence, that the mitigation measures are feasible and will be actually implemented.^[5] The court held that the record demonstrated how MM-T-2 will be funded and that its implementation is required upon satisfaction of specific conditions. Per the court, the Westside Mobility Plan EIR adequately detailed and specified when the Los Angeles Department of Transportation would implement the measures, supporting that the MM-T-2 has been required and incorporated into.

Takeaways

Some local agencies have implemented complex project approval processes, making the application of CEQA difficult to interpret and understand. Despite these complexities, *Westside Los Angeles Neighbors Network* affirmed that (i) the CEQA review can be delegated to a non-elected decision-making body, subject to appeal to the elected decision-making body; (ii) land use plans can fall within the Class I categorical exemption; and (iii) that growth-inducing impacts analysis will be determined adequate if not relying a conclusionary summary.

Despite these affirmations, and perhaps because of the Network's failure to exhaust its administrative remedies by appealing the CPC's decision to the City Council (and the trial court's subsequent determination it forfeited a number of arguments), this case leaves more questions than answers. Of particular note is the forfeited argument, unanswered by the court, that "an agency may not apply a categorical exemption to some components of a project and not others". It has been established that a statutory exemption may be applied to exempt some disparate components of a project from CEQA review. However, there is no express authorization that categorical exemptions can be applied similarly. To the contrary, there seems to be authority that demonstrates such actions are disfavored. This question has been left to be taken up by in a future case.

FOOTNOTES

[1] CEQA Guidelines § 15025(b)(1).

[2] Pub. Res. Code § 21151.

[3] CEQA Guidelines § 15378(c).

[4] “A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant event on the environment due to unusual circumstances.” (CEQA Guidelines § 15300.2.)

[5] CEQA Guidelines § 15091(b).

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National Law Review, Volume XIV, Number 283

Source URL: <https://natlawreview.com/article/westside-mobility-plan-clears-road-ceqa-challenges>