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Senate Bill 375 CEQA Provision Flow Charts

Developed by the Governor's Office of Planning and Research
February 2011

Purpose

The Governor's Office of Planning & Research (OPR), working with the Climate Action Team's Climate Change, Land Use, and Infrastructure Group (CCLU-In) developed the following charts to assist state, regional, and local governments in understanding the California Environmental Quality Act (CEQA) provisions enacted by Senate Bill 375 (Steinberg 2008) (SB 375). SB 375's CEQA provisions will be available for agencies to utilize at such time as a regional Sustainable Communities Strategy (SCS) or Alternative Planning Strategy (APS) has been adopted by the applicable Metropolitan Planning Organization (MPO) and accepted by the California Air Resources Board. The charts outline the new options described in the California Public Resources Code (PRC) Sections for the review and analysis of certain types of projects:

- 21155.1 (Exemption for "Transit Priority Projects" (TPP's))
- 21155.2 (Sustainable Communities Environmental Assessment and Limited Environmental Impact Report (EIR) for TPP's)
- 21159.28 (Limited Analysis for "Mixed Use Residential Projects" (MURP's))

There are four charts. Chart 1 is a basic overview of all three options. Chart 2 is a basic overview of the TPP exemption. Chart 3 is a basic overview of the option of using either a Sustainable Communities Environmental Assessments (SCEA) or a Limited EIR for a TPP. Chart 4 is a basic overview of the option available for mixed use /residential projects. The PRC text has been truncated in each chart, please refer to the statute for the complete language.

These charts are meant to provide assistance in understanding SB 375's new CEQA options, and should not be considered legal advice. Lead agencies with legal questions regarding the use of the SB 375 CEQA provisions should seek assistance from their legal counsel prior to using these provisions and adopting or certifying CEQA documents.

These charts attempt to outline the CEQA statutes enacted by SB 375. Other CEQA process requirements (such as the issuance of a Notice of Preparation, holding scoping meetings, filing a Notice of Determination, etc.) are not included in these charts, but still must be completed by the lead agency to be compliant with the law. In order for TPP's or MURP's to be eligible for any of the SB 375 CEQA provisions they 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 or an alternative planning strategy"(PRC Section 21155(a) and 21159.28).

Brief Introduction to SB 375

In 2008, the California Legislature and Governor Schwarzenegger enacted SB 375. This landmark bill coordinates land use and transportation planning to reduce greenhouse gas (GHG) emissions from cars

and light trucks. The law requires MPO's to add a new component to their Regional Transportation Plans (RTPs), the Sustainable Communities Strategy (SCS). An SCS must "set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the greenhouse gas emission reduction targets approved" by the California Air Resources Board. (GC 65080(b)(2)(B)). If the SCS is unable to feasibly reduce GHG emissions to achieve the GHG emission reduction targets established by ARB, the MPO's shall prepare an Alternative Planning Strategy (APS) showing how the GHG emissions reduction targets would be achieved. After the MPO adopts the SCS or APS it must submit the SCS or APS to the ARB for review. ARB must review whether the SCS or APS would meet the regional GHG emission reduction target. Review by ARB is limited to acceptance or rejection of the MPO's determination that the SCS or APS submitted would, if implemented, achieve the region's GHG emission reduction targets.

Please refer to Government Code Section 65080 for the statutory requirements for ARB to establish and update the regional GHG emissions reduction targets, and the requirements for RTPs, SCSs, and APSs. For additional information on RTP requirements, and for detail and context of the SCS and APS provisions please see the "2010 California Regional Transportation Guidelines".

([http://www2.dot.ca.gov/hq/tpp/offices/orip/rtp/index_files/2010 RTP Guidelines 4-27-10.pdf](http://www2.dot.ca.gov/hq/tpp/offices/orip/rtp/index_files/2010_RTP_Guidelines_4-27-10.pdf))

In order to encourage land use planning and development that is consistent with an SCS or APS, SB 375 includes new CEQA provisions that can be used by lead agencies for TPP's as defined in (PRC 51155) and for MURP's as defined in PRC 21159.28(d).

Other Approvals

Projects that use the SB 375 CEQA provisions will still need to obtain discretionary permits or other approvals from the lead agency and responsible agency. Regardless of any CEQA streamlining or exemption benefits that a project receives from the SB 375 CEQA provisions, the lead agency must consider the merits of the project before moving forward with project approvals (such as a general plan amendment, rezone, use permit, variance, etc.) in accordance with local codes and procedures. Responsible agencies will also need to rely on the CEQA document prepared by the lead agency prior to issuing permits or otherwise approving the project.

Feedback and Next Steps

OPR will continue to maintain and update these charts. The next step is to include expanded explanations for each section similar to the CEQA Process Flow Chart on CERES:

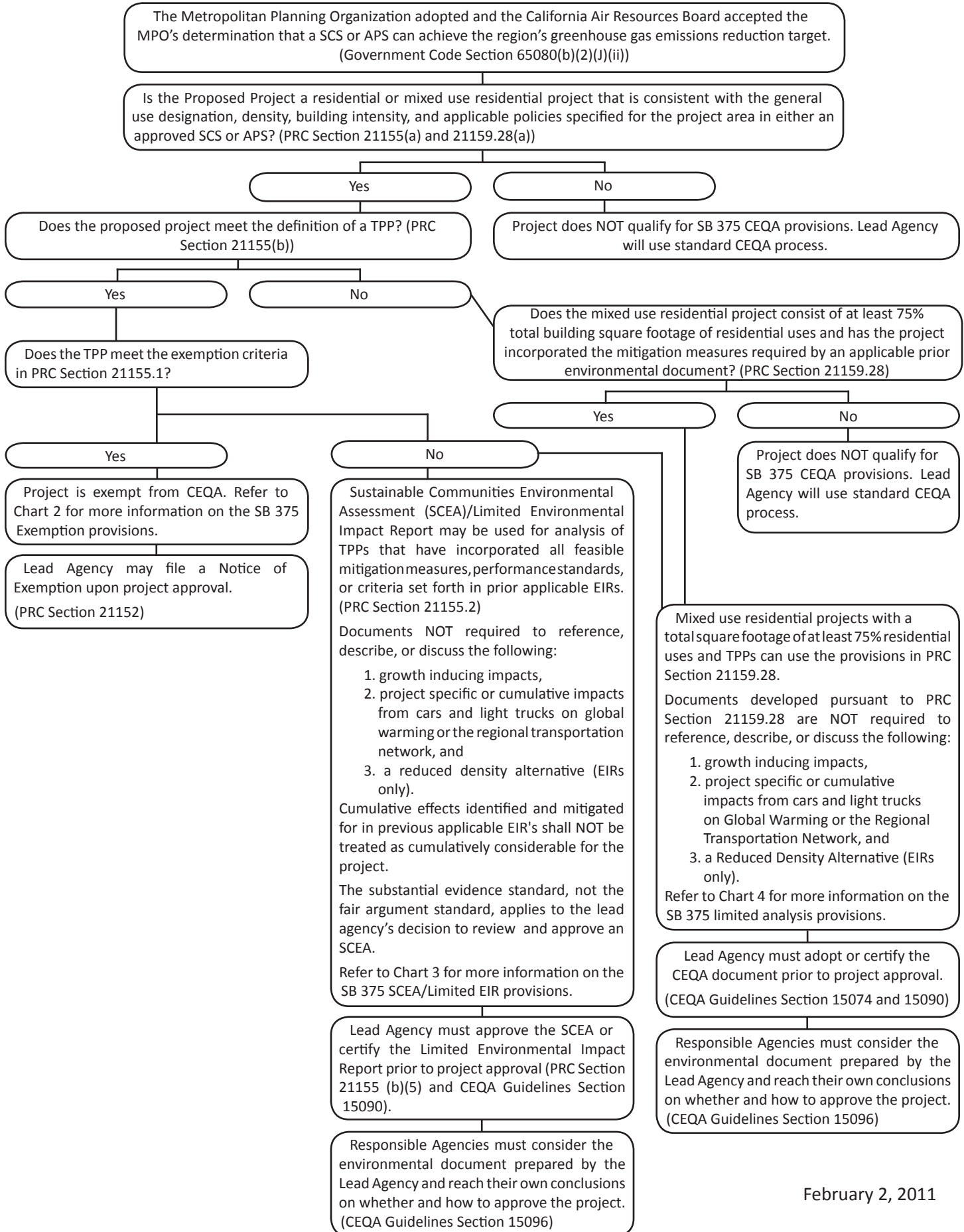
<http://ceres.ca.gov/ceqa/flowchart/> .

Please send suggestions to improve the charts to Scott Morgan, Director of the State Clearinghouse, at: Scott.Morgan@opr.ca.gov .

Edited 02.02.2011

Senate Bill 375 CEQA Chart: Overview of 3 New Options for Certain Projects

Chart 1



SB 375 Transit Priority Project CEQA Exemption Flow Chart

Chart 2

Is the project consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a SCS or APS? (PRC Section 21155(a))

Yes

Is the Proposed Project a Transit Priority Project (TPP) as defined by PRC Section 21155(b)?

Transit Priority Projects must contain the following:

1. at least 50% residential use, based on total building square footage and, if project contains between 26% and 50% non-residential uses, a FAR of not less than 0.75;
2. minimum net density of at least 20 dwelling units per acre; and,
3. be within one-half mile of either of the following which have been included in a Regional Transportation Plan:
 - a. a major transit stop that contains an existing rail station, a ferry terminal served by transit, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during peak commute periods; or,
 - b. a high quality transit corridor that has fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

No

The project does not qualify for SB 375 CEQA provisions. Lead Agency will use standard CEQA process.

Yes

Does the Transit Priority Project comply with all the following environmental criteria? PRC Section 21155.1(a)

1. The TPP served by existing utilities and the applicant has paid or committed to pay all applicable fees.
2. The site of the TPP does not contain wetlands or riparian areas, does not have significant value as a wildlife habitat, and the TPP does not harm any protected species.
3. The TPP is not included on any sites on the Cortese List.
4. The TPP is subject to a preliminary endangerment assessment to determine the existence of any hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from the area.
5. The TPP does not have a significant effect on historical resources.
6. The TPP site is not subject to:
 - a. a wildland fire hazard, as determined by CalFire,
 - b. an unusually high risk of fire or explosion from materials stored or used on nearby properties,
 - c. risk of a public health exposure,
 - d. seismic risk as a result of being within a delineated earthquake fault zone or a seismic hazard zone, and
 - e. landslide hazard, flood plain, flood way, or restriction zone.
7. The TPP is not located on developed open space.
8. The TPP buildings are 15% more energy efficient than Title 24 and use 25% less water than average households.

No

The project may NOT use the PRC Section 21155.1 CEQA Exemption, may qualify for PRC Section 21152.28 provisions. (See Chart 4)

Yes

Does the TPP meet all the following land use criteria? PRC Section 21155.1(b)

1. TPP site is not more than eight acres.
2. TPP does not contain more than 200 residential units.
3. TPP does not result in a net loss of affordable housing within the project area.
4. TPP does not include any single level building exceeding 75,000 square feet.
5. Applicable mitigation measures or performance standards from prior EIRs have been incorporated.
6. TPP does not conflict with nearby industrial uses.
7. TPP is located within one-half mile of a rail transit station or high-quality transit corridor, or ferry terminal that have been included in a RTP.
8. The TPP meets one of the following criteria (PRC Section 21155.1 (c)):
 - a. the TPP will sell at least 20% of housing to families of moderate income, 10% of housing will be rented to families of low income, or at least 5% of the housing is rented to families of very low income, and the developer provides legal commitments to ensure the continued availability of these housing units for very low-, low-, and moderate income households,
 - b. the TPP developer has paid or will pay in-lieu fees sufficient to result in the development of the affordable units described above, and
 - c. the TPP provides public open space equal or greater than 5 acres per 1,000 residents of the project.

No

The project may NOT use the PRC Section 21155.1 CEQA Exemption, may qualify for PRC Section 21151.2 and 21159.28 provisions. (See Charts 3 and 4)

Yes

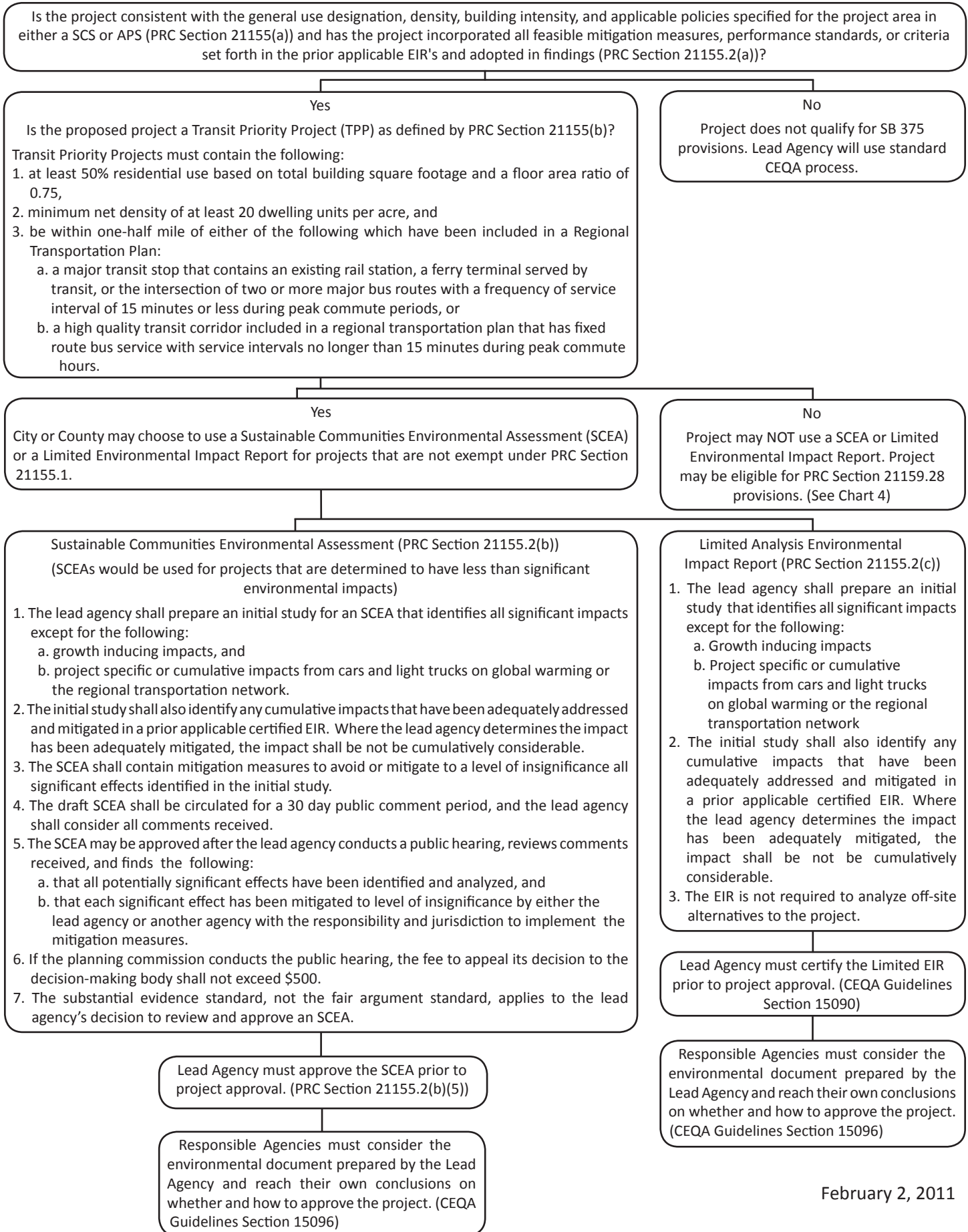
If the city or county's legislative body finds, after conducting a public hearing, that a TPP meets all of the specified requirements, the TPP is declared a sustainable communities project and shall be exempt (PRC Section 21155.1 (a)). The Lead Agency may file a Notice of Exemption after approving the project. (PRC Section 21152)

No

The project may NOT use the PRC Section 21155.1 CEQA Exemption, may qualify for PRC Section 21151.2 and 21152.28 provisions. (See Charts 3 and 4)

SB 375 Transit Priority Project SCEA/Limited Analysis EIR CEQA Flow Chart

Chart 3



SB 375 Residential/Mixed Use Project CEQA Streamlining Chart

Chart 4

