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Construction & Real Estate Alert

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California's AB 130 shapes CEQA exemptions, faster pathways to infill housing

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AB 130 is reducing CEQA's impact on infill housing and creating faster pathways to development. As a result, neighborhood conflicts are likely to shift away from the CEQA statutory regime to AB 130 eligibility qualifications.



What's the impact?

- AB 130 eliminates certain barriers to developing infill housing in an effort to address California's housing shortage.
- Developers are already availing themselves of AB 130 as an expedited path to infill housing developments.
- AB 130 has created a new, schedule-driven process for qualifying projects that includes tribal consultation as a critical-path item.
- Infill housing projects remain politically contentious and the risk is probably shifting to local processes and threshold eligibility disputes.

AB 130 and SB 131 are a paired set of 2025 California reforms (passed during the 2023–24 legislative session) to the California Environmental Quality Act (CEQA) aimed at speeding up

housing and certain other priority projects,¹ reducing litigation delay, and clarifying several recurring CEQA requirements. Aimed at responding to the state's housing shortage, AB 130 and SB 131 combine to form one of the most significant shifts in California's land use laws in recent years.

Key aspects of AB 130

- / **Faster CEQA litigation timelines for covered projects** — Creates tighter schedules for CEQA lawsuits and court review for certain priority projects (especially housing/infill), intended to reduce "delay as leverage."
- / **More emphasis on early resolution and a cleaner administrative record** — Encourages/Structures faster preparation and certification of the administrative record so cases can be decided sooner.
- / **Targeted streamlining for housing/infill** — Expands or reinforces CEQA pathways that let qualifying housing projects proceed without CEQA documentation where they are consistent with local plans and existing zoning (especially in urbanized/infill contexts).
- / **Clarifications to reduce "gotcha" claims** — Includes technical changes intended to narrow disputes over procedural issues (for example, how records are compiled and how quickly agencies must move once a case is filed).

Does your land infill project qualify?

To qualify for these exemptions under AB 130, a land infill project must meet the following criteria (stated at a high level).

- / **Project type:** It must be a qualifying housing development project that is 100% residential or a mixed-use project with at least two-thirds of the square footage dedicated to residential use
- / **Site size:** The project site must be 20 acres or less (subject to statutory details/exceptions).
- / **Urban/infill location:** The site must be in an incorporated municipality or "urban area," and must qualify as infill (e.g., previously developed with urban or near-urban uses).
- / **Objective plan/zoning consistency:** The project must be consistent with applicable general plan and zoning requirements.
- / **Minimum density:** The project must meet the statute's minimum density requirement, which generally equates to a minimum of **10 units per acre in suburban areas** and **15 units per acre**

¹SB 131 creates several CEQA exemptions specific to tightly defined, primarily nonresidential projects, including day care centers, linear broadband installations, farmworker housing, high-speed rail, community water systems, and advanced manufacturing facilities.

in metropolitan/urban areas.

- / **Environmental site screens:** The project must satisfy the SB 35 environmental criteria cross-referenced in the statute (i.e., not on certain constrained sites such as **wetlands, prime farmland, very high fire hazard severity zones, hazardous waste sites, special flood hazard areas, delineated earthquake fault zones, or habitat for protected species**).
- / **Additional statutory conditions:** The exemption includes other requirements/limitations, such as no demolition of certain historic structures, no hotel/transient lodging, and compliance with specified hazardous materials conditions and other conditions.
- / **Tribal consultation process:** The local government must conduct AB 130's tribal notification and consultation process. Within 14 days of deeming a project application complete, local governments must notify all affiliated tribes and invite them to consult. Tribes have 60 days to accept, and if they do so, consultation must begin within 14 days and conclude within 45 days — extendable once by 15 days upon a tribe's request.
- / Developers availing themselves of the new CEQA exemptions may seek to provide infill housing in already-developed commercial properties. Retail-to-housing infill is especially visible and polarizing, because local communities can be divided over such development.

For qualifying projects, this portion of AB 130 is part of the many legislative efforts over the past several years seeking to limit and clarify CEQA so that it is no longer the barrier it once was. While they may be correct, it seems inevitable that the locus of community protest will shift from using CEQA itself as a tool to delay or derail new projects to challenging whether the developer actually meets the criteria for the AB 130 exemption.

Compliance recommendations

Developers seeking to avail themselves of the AB 130 land infill exemption should scrupulously ensure compliance with the statute's requirements and treat tribal consultation as a schedule-critical process, since opposition efforts are likely to shift from "CEQA defects" to "eligibility fights." In many circumstances, particularly where there is likely to be a challenge, applicants will want to document compliance with the various criteria in the record.

If a project is denied eligibility under AB 130, it may be eligible for a re-evaluation after deficiencies are cured, or for partial relief under SB 131.

Contact Nixon Peabody's [Construction & Real Estate Litigation team](#) or the authors of this alert for assistance in assessing and asserting eligibility, and for assessing options if a project is denied eligibility under AB 130.

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