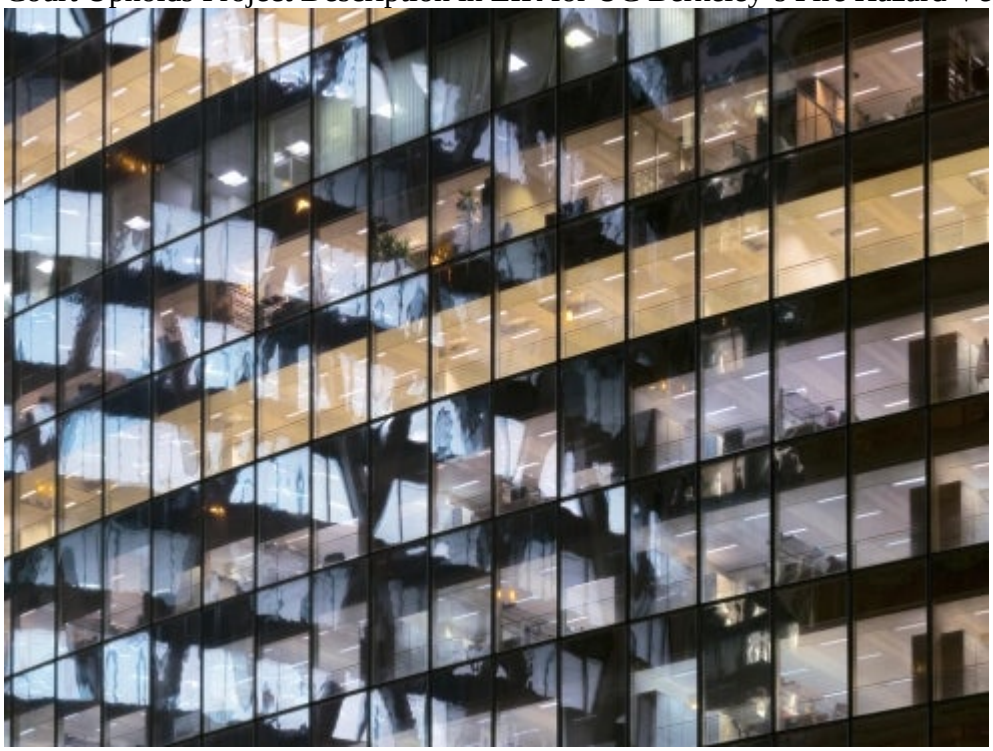
Blogs
June 13, 2023
Court Upholds Project Description in EIR for UC Berkeley’s Fire Hazard Vegetation Reduction Plan



The court of appeal upheld the project description in the EIR for the University of California, Berkeley's fire hazard vegetation reduction plan, holding that it contained sufficient information to understand the plan's environmental impacts, including objective criteria for vegetation removal, even though it did not include a detailed tree inventory or disclose the exact number of trees that would be removed. *Claremont Canyon Conservancy v. Regents of University of California*, 92 Cal.App.5th 474 (2023).

The case involved UC Berkeley's plan to conduct vegetation removal projects in a forested area in the hills above its main campus. The area is designated a Very High Fire Hazard Severity Zone and has a history of wildfires. The plan involved fire hazard reduction projects (essentially, removing trees and other vegetation) in three areas as well as constructing a 126-foot-wide fuel break on a ridgeline to reduce the spread of fire between canyons.

The plan itself did not specify which trees would be removed. For the fire hazard reduction projects, a certified arborist and registered professional forester would determine which trees to remove based on objective criteria (including tree health, size, and fire hazard) and principles of variable density thinning (which is intended to create gaps in canopy cover and tree density to reduce canopy fire spread, based on site-specific conditions). For the fuel break, the plan included objective standards for vegetation removal (based on, for example, fire hazard, horizontal spacing between trees and shrubs, and height). The EIR included photographic and textual examples of how these criteria and principles would be applied. The EIR explained that it was not feasible to specify the exact number of trees that would be removed because of changing conditions—for example, trees growing and dying, changing topography, and weather—and the need for flexibility in implementing the plan.

The court upheld the EIR's project description, holding that it provided sufficient information to understand the project's environmental impacts. The court rejected the petitioners' arguments that the EIR should have identified which trees would be removed and the number of trees that would be removed. The court found that the project description contained meaningful information about the project "while providing for flexibility needed to respond to changing conditions that may affect the precise number of trees that will be removed in the project areas."

The court explained that CEQA did not require disclosure of the exact number and type of affected trees: "When, as here, a project is subject to variable future conditions—for example, unusual rainy weather, tree growth, impact of pests and diseases, and changing natural resources, etc.—the project description must be sufficiently flexible to account for those conditions. . . . So long as the EIR provides sufficient information to analyze environmental impacts—including the objective criteria being used—a project description for large-scale vegetation removal that is subject to changing future conditions need not specify, on a highly detailed level, the number of trees removed."

The court held that substantial evidence supported the University's conclusion that preparing a tree inventory was not reasonably feasible, given the steep and rugged terrain, the costs, and the need to retain flexibility in how the project would be implemented.

## Topics

CEQA