

# LAND USE, ZONING, AND PUBLIC POLICY

## CHAPTER 4

Under CEQR, a land use analysis characterizes the uses and development trends in the area that may be affected by a proposed project, and determines whether a proposed project is either compatible with those conditions or whether it may affect them. Similarly, the analysis considers the project's compliance with, and effect on, the area's zoning and other applicable public policies. For projects that do not involve a change in land use or zoning, an analysis may not be required; however a brief description of the existing land uses and zoning designations in the immediate area, the policies, if any, affecting the area, and any changes anticipated to occur by the time the project is constructed, may be appropriate in order to inform the analyses of other technical areas described in this Manual.

As with each technical area assessed under CEQR, it is important for an applicant to work closely with the lead agency during the entire environmental review process. In addition, the New York City Department of City Planning (DCP) often works with the lead agency during the CEQR process to provide information, recommendations and approvals relating to land use, zoning, and public policy. Section 700 further outlines appropriate coordination with DCP.

### 100. DEFINITIONS

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#### 110. LAND USE AND ZONING

##### 111. Land Use

Land use refers to the activity that is occurring on land and within the structures that occupy it. Types of uses include residential, retail, commercial, industrial, vacant land, and parks. DCP's Primary Land Use Tax Lot Output (PLUTO) database provides data on the following land use types: one- and two-family residential buildings, multi-family walk-up residential buildings, multi-family elevator residential buildings, mixed residential and commercial buildings, commercial and office buildings, industrial and manufacturing, transportation and utility, public facilities and institutions, open space and outdoor recreation, parking facilities, and vacant land. Figure 4-1 shows a portion of a DCP Land Use map. Depending on the project, land uses can be aggregated into less-detailed groupings for analysis or other uses (a subset of heavy industry, for example) can be added.

##### 112. Zoning

New York City's Zoning Resolution controls the use, density, and bulk of development within the entire City, with the exception of parkland, which does not have a zoning designation. The Zoning Resolution is divided into two parts: zoning text and zoning maps. The text establishes zoning districts and sets forth the regulations governing land use and development. The maps show the locations of the zoning districts. Figure 4-2 shows an example of the zoning maps.

The City is divided into three basic zoning districts: residential (R), commercial (C), and manufacturing (M). The three basic categories are further subdivided into lower, medium, and higher-density residential, commercial, and manufacturing districts, which may also be "contextual," "non-contextual," or special districts. Contextual zoning districts regulate the height and bulk of new buildings, their setback from the street line,



and their width along the street frontage, to produce buildings that are consistent with existing neighborhood character. Medium- and higher-density residential and commercial districts with an A, B, D or X suffix, such as R6B or C6-4A, are generally considered contextual districts. “Non-contextual” districts have more permissive height and setback regulations. Special districts serve a diverse range of planning goals specific to the areas where the districts are mapped.

Development within each residential, commercial, and manufacturing district is regulated by use, bulk, and parking regulations. Each zoning district regulates permitted uses; the size (bulk) of the building in relation to the size of the lot; the required open space for residential uses on the lot; the maximum amount of building coverage allowed on the lot; the number of dwelling units permitted on the lot; the distance between the building and the street; the distance between the building and the other lot lines; height and setback of the building; the amount of parking permitted or required; and other requirements applicable to specific uses.

The nomenclature for zoning districts consists of a letter (R, C or M) followed by a number and, in some cases, additional numbers or letters. Special Mixed Use Districts have two sets of letters and numbers (e.g., M1-2/R6A). The numbers refer to permitted bulk and density (with districts ending in -1 having the lowest density and districts ending -10 having the highest) and other controls such as parking.

**RESIDENCE DISTRICTS.** A residence district, designated by the letter R (R3-2, R5, R10A, for example), is a zoning district in which residences and community facilities are permitted.

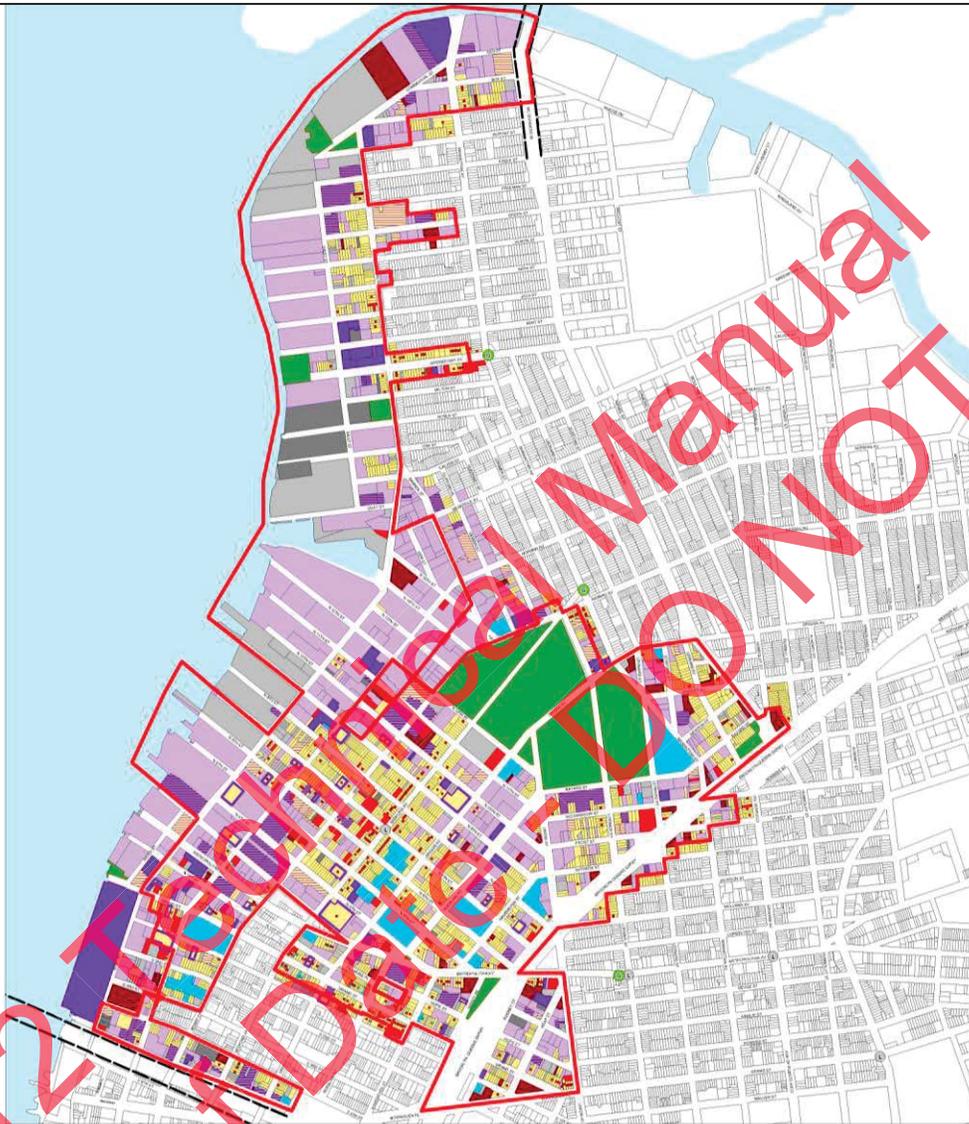
**COMMERCIAL DISTRICTS.** A commercial district, designated by the letter C (C1-2, C3, C4-7, for example), is a zoning district in which commercial and community facility uses are allowed. Residential uses may also be permitted in certain commercial districts as well. A commercial overlay is a C1 or C2 district usually mapped within residential neighborhoods to serve local retail needs. Commercial overlay districts, designated by the letters C1-1 through C1-5 and C2-1 through C2-5, are shown on the zoning maps as a pattern superimposed on a residential district. For an example of a zoning map showing a commercial overlay, see Figure 4-2, below.

**MANUFACTURING DISTRICTS.** A manufacturing district, designated by the letter M (M1-1, M2-2, for example), is a zoning district in which manufacturing, other industrial, and many commercial uses are permitted. Community facilities are limited or excluded and new residential development is not allowed.

**MIXED USE DISTRICT.** A mixed use district is a special zoning district in which new residential and non-residential (commercial, community facility and light industrial) uses are permitted as-of-right.

Additional information on New York City’s Zoning Resolution can be found at <http://www.nyc.gov/dcp> and in the Zoning Handbook, a guide to the Zoning Resolution available for purchase at the DCP bookstore. The Zoning Resolution should be consulted regarding the specific regulations applicable in the area of the proposed project.

**Figure 4-1**  
**Sample of a Land Use Map**



**Figure 4-2**  
**Sample of New York City Zoning Map**



C1-1	C1-2	C1-3	C1-4	C1-5	C2-1	C2-2	C2-3	C2-4	C2-5

**NOTE:** Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.



## 120. PUBLIC POLICY

Officially adopted and promulgated public policies also describe the intended use applicable to an area or particular site(s) in the City. These include Urban Renewal Plans, 197a Plans, Industrial Business Zones, the Criteria for the Location of City Facilities ("Fair Share" criteria), Solid Waste Management Plan, Business Improvement Districts, and the New York City Landmarks Law. Two other citywide policies, the Waterfront Revitalization Program (WRP) and Sustainability, as defined by PlaNYC, are discussed separately. The WRP is discussed separately under the Public Policy sections that follow, and guidance for conducting a sustainability (PlaNYC) consistency assessment is provided in Part B of this Chapter). Some of these policies have regulatory status, while others describe general goals. They can help define the existing and future context of the land use and zoning of an area. These policies may change over time to reflect the evolving needs of the City, as determined by appointed and elected officials and the public.

### 121. Waterfront Revitalization Program

Proposed projects that are situated within the designated boundaries of New York City's Coastal Zone must also be assessed for their consistency with the City's Waterfront Revitalization Program (See Figure 4-3). Preparation of a WRP assessment should begin with review of the [New Waterfront Revitalization Program](#) and completion of a [NYC WRP Consistency Assessment Form](#).

The WRP was adopted by the City of New York in 1999, and subsequently approved by the New York State Department of State with the concurrence of the United States Department of Commerce pursuant to applicable state and federal law, including the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (see Section 710, below). The WRP establishes the City's Coastal Zone and includes 10 policies dealing with: (1) residential and commercial redevelopment; (2) water-dependent and industrial uses; (3) commercial and recreational boating; (4) coastal ecological systems; (5) water quality; (6) flooding and erosion; (7) solid waste and hazardous substances; (8) public access; (9) scenic resources; and (10) historical and cultural resources. The ten policies are not presented in order of importance and are numbered only for ease of reference.

[DCP's Comprehensive Waterfront Plan](#) (1992) and reports prepared for each of the five boroughs (1993 and 1994) identified goals and objectives for the City's waterfront. These plans identified four principal waterfront functional areas: natural, public, working, and redeveloping. Revised in 2011, [Vision 2020: New York City's Comprehensive Waterfront Plan](#) builds on these policies and sets the stage for expanded use of the waterfront for parks, housing and economic development, and the waterways for transportation, recreation and natural habitats.

In 1993, to support the Comprehensive Waterfront Plan and the Waterfront Revitalization Program, New York City adopted the Waterfront Zoning Regulations ([NYC Zoning Resolution, Article VI, Chapter 2](#)). The regulations, which were amended in 2009, have the following stated purposes:

- To maintain and re-establish physical and visual public access to and along the waterfront;
- To promote a greater mix of uses in waterfront developments in order to attract the public and enliven the waterfront;
- To encourage water-dependent uses along the City's waterfront;
- To create a desirable relationship between waterfront development and the water's edge, public access areas and adjoining upland communities;
- To preserve historic resources along the City's waterfront; and
- To protect natural resources in environmentally sensitive areas along the shore.

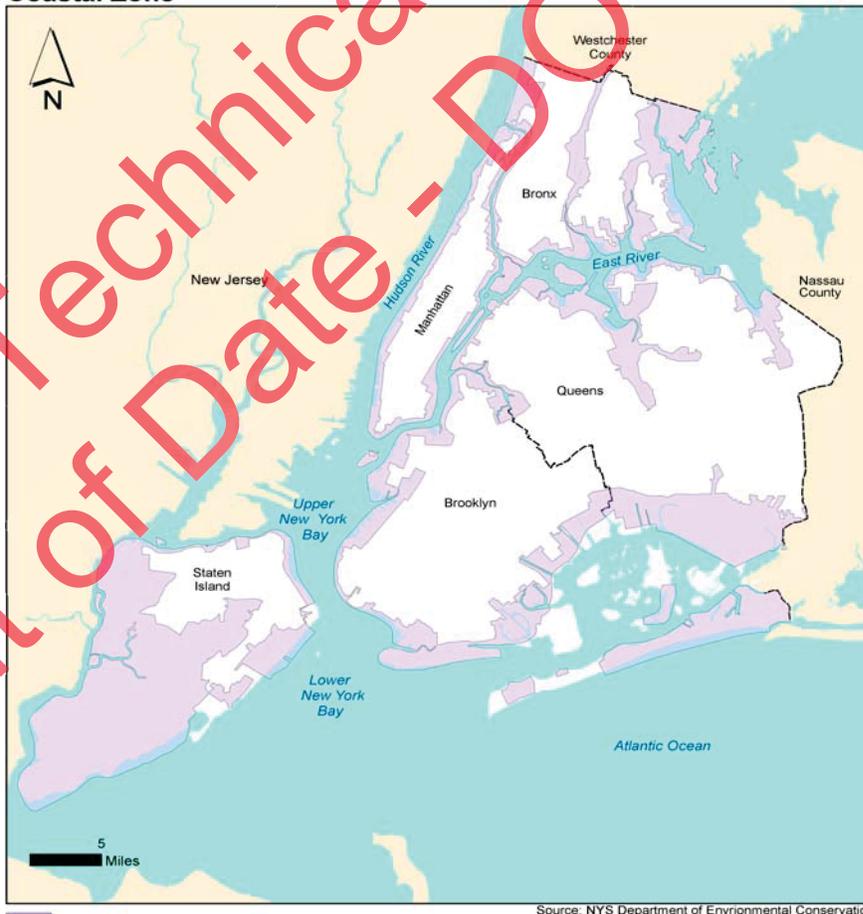


The plan and adopted zoning regulations provide useful background information; however, WRP policies, goals, and standards should be used as the basis for determining a project’s consistency with the Waterfront Revitalization Program.

The WRP consistency review includes consideration and assessment of other local, state, and federal laws and regulations governing disturbance and development within the Coastal Zone. Key laws and regulations include those governing wetlands, flood management, and coastal erosion. Although the consistency review is independent from all other environmental sections and must stand on its own, it is supported and conducted with consideration of all the other technical analyses performed as part of the project's environmental assessment under CEQR.

**COASTAL ZONE.** New York City's WRP establishes Coastal Zone boundaries (Figure 4-3), within which all discretionary actions must be reviewed for consistency with Coastal Zone policies. The Coastal Zone, which is mapped in the City's Coastal Zone Boundaries maps, is the geographic area of New York City's coastal waters and adjacent shorelands that have a direct and significant effect on coastal waters. It generally extends landward from the pierhead line or property line (whichever is furthest seaward) to include coastal resources and upland, usually at least to the first mapped street. The Coastal Zone includes islands, tidal wetlands, beaches, dunes, barrier islands, cliffs, bluffs, intertidal estuaries, flooding and erosion-prone areas, port facilities, vital built features (such as historic resources), and other coastal locations. The Coastal Zone should not be confused with the more limited areas of “waterfront blocks” or “waterfront lots” --terms defined in Article VI, Chapter 2 of the NYC Zoning Resolution.

Figure 4-3  
**Coastal Zone**



Note: Upland Boundaries extend to the upland limit of zoning districts, natural area districts, and natural drainage basins. Federal Property is excluded.



**BASE FLOOD OR 100-YEAR FLOOD.** A 100-year flood is one having a one percent (1%) chance of being equaled or exceeded in any given year. The Base Flood Elevation (BFE) is the elevation of the base flood, including wave height, as specified on FEMA Flood Insurance Rate Maps (FIRMs), relative to the National Geodetic Vertical Datum of 1929 (NGVD 1929). The NGVD 1929 elevation, the zero or sea level reference cited on FEMA’s FIRMs is lower than the Borough Datum, frequently reported on surveys of properties within the five boroughs of NYC. For example, as shown in the following table, at an elevation point of 7.392 feet, the Bronx Borough Datum is equivalent to an elevation of 10 feet NGVD 1929 (7.392 plus the conversion figure for the Bronx, 2.608). Conversely, for example, given a NGVD elevation of 10 feet, subtract the conversion figure (2.608) to calculate the equivalent Bronx Borough elevation, 7.392 feet. FEMA’s minimum standards refer to BFE requirements.

**Table 4-1**  
**Conversion of Borough Datum to NGVD**

	BOROUGH ELEVATIONS (IN FEET)	TO OBTAIN EQUIVALENCY (IN FEET)	NGVD ELEVATION (IN FEET)
BRONX	7.392	+2.608	10.000
BROOKLYN	7.453	+2.547	10.000
MANHATTAN	7.248	+2.752	10.000
QUEENS	7.275	+2.725	10.000
STATEN ISLAND	6.808	+3.192	10.000

**BULKHEAD LINE.** The proposed or actual bulkhead line most recently adopted by the U.S. Army Corps of Engineers (USACE) and DCP, as shown on the City Map.

**EROSION.** The loss or displacement of land along the coastline because of the action of waves, currents running along the shore, tides, wind, runoff of surface waters, groundwater seepage, wind-driven water or waterborne ice, or other impacts of coastal storms (as established under the State Erosion Hazard Areas Act).

**EROSION HAZARD AREAS.** Those erosion prone areas of the shore, as defined in Article 34 of the Environmental Conservation Law (ECL), and the implementation of its provisions in 6 NYCRR Part 505, Coastal Erosion Management Regulations, that: (a) are determined as likely to be subject to erosion within a forty-year period, and; (b) constitute natural protective features (*i.e.*, beaches, dunes, shoals, bars, spits, barrier islands, bluffs, wetlands, and natural protective vegetation).

**FLOODPLAINS.** The lowlands adjoining the channel of a river, stream, or watercourse, or ocean, lake, or other body of standing water, which have been or may be inundated by floodwater (as established by the National Flood Insurance Act).

**FREEBOARD.** Freeboard is a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, the hydrological effect of urbanization of the watershed, and climate change. Freeboard is not required by [National Flood Insurance Program \(NFIP\) standards](#), but communities are encouraged to adopt at least a one-foot freeboard to promote safer de-



velopment practices. New construction frequently incorporates freeboard on a discretionary basis while, in certain circumstances, the NYC Building Code mandates freeboard.

**PIERHEAD LINE.** The pierhead line is the proposed or actual pierhead line most recently adopted by the USACE and DCP as shown on the City Map.

**PUBLIC ACCESS.** Public access is any area of publicly accessible open space on waterfront property. Public access also includes the pedestrian ways that provide an access route from a waterfront public access area to a public street, public park, public place, or public access area. The NYC Zoning Resolution and the WRP encourage public access to the waterfront (both visual access and, where appropriate, physical access to the shoreline).

**VISUAL CORRIDOR.** The visual corridor is any area that provides a direct and unobstructed view to a waterway from a public vantage point within a public street, public park, or other public place.

**WATERFRONT ZONING.** The NYC zoning regulations adopted under Article VI, Chapter 2, (section 62-00) of the Zoning Resolution, guide development on the City's waterfront.

**WATER-DEPENDENT USES.** Uses that require direct access to a body of water to function or that regularly use waterways for transport of materials, products, or people.

**WATERFRONT-ENHANCING USES.** A group of primarily recreational, cultural, entertainment, or retail shopping uses that, when located at the water's edge, add to the public use and enjoyment of the waterfront.

## 122. Sustainability

Large, publicly-sponsored projects are assessed for their consistency with PlaNYC, the City's sustainability plan. Guidance for conducting this consistency review can be found in Part B (page 4-26) of this chapter.

## 200. DETERMINING WHETHER A LAND USE, ZONING OR PUBLIC POLICY ASSESSMENT IS APPROPRIATE

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### 210. LAND USE AND ZONING

A preliminary assessment, which includes a basic description of existing and future land uses and zoning, should be provided for all projects that would affect land use or would change the zoning on a site, regardless of the project's anticipated effects. This information is often essential for conducting environmental analyses in other technical areas, and helps provide a baseline for determining whether detailed analysis is appropriate. Examples of discretionary actions that may affect zoning or land use include zoning map changes, zoning text changes, zoning special permits, BSA variances or special permits, and park mapping actions.

### 220. PUBLIC POLICY

Some assessment of public policy should accompany an assessment of land use and zoning. Therefore, a project that would be located within areas governed by public policies controlling land use, or has the potential to substantially affect land use regulation or policy controlling land use requires an analysis of public policy. Examples include creation or modification of Urban Renewal Plans and projects that are within areas covered by 197-a Plans.

### 221. Waterfront Revitalization Program

The WRP applies to all discretionary actions in the designated Coastal Zone. As described above, this zone is delineated in the Coastal Zone Boundaries maps published by DCP, and is illustrated in Figure 4-3, above. A more detailed map is located [here](#). If the proposed project is located in the designated Coastal Zone, assessment of its consistency with the WRP is required. For generic actions, the potential locations likely to be affected within the coastal zone boundary should be considered.



## 300. ASSESSMENT METHODS

Land use patterns are formed by various public policies, in concert with market forces for development. A change in land use on a single site is usually not enough to constitute a significant land use impact; however, such a change could create impacts in other technical areas such as traffic. In this case, a preliminary assessment should be conducted in order to characterize the land use changes associated with the proposed project to a level of detail sufficient to provide information to other technical areas requiring it. Often, the information provided in the project description is adequate to describe land use conditions for a preliminary assessment.

Changes in land use across a broader area, either because the project directly affects many sites or because the site-specific change is important enough to lead to changes in land use patterns over a wider area, generally requires an analysis detailed enough to determine whether and where these changes might occur. Although changes in land use—such as the introduction of a new residential use in an industrial area with existing hazardous materials—could lead to impacts in other technical areas, significant adverse land use impacts are extraordinarily rare in the absence of an impact in another technical area. For example, a project affecting the market forces that shape development can also change land use; in this situation, a more detailed assessment of land use is appropriate to supplement the socioeconomic conditions analysis (See Chapter 5, "Socioeconomic Conditions"). Technical analysis areas that often require land use information include socioeconomic conditions, neighborhood character, transportation, air quality, noise, infrastructure, and hazardous materials. The land use description should be detailed enough to determine whether changes in land use could affect conditions analyzed in other technical areas.

Although the proposed project may be important enough to potentially affect land use over a broader area, the characteristics of the affected area are critical in determining impact significance. If, for example, a proposed project would be of a type generally expected to promote residential development in an area, but the surrounding area does not contain any underutilized sites zoned for residential use, the likelihood of redevelopment for a new use would be diminished. In short, the potential for land use change depends as much on conditions in the affected area as on the proposed project itself.

The geographic area to be assessed, the categories of land use, and level of detail by which such uses, zoning, and public policies are studied depend on the nature of the proposed project and the characteristics of the surrounding area. The assessment usually begins with selection of a study area.

### 310. STUDY AREA DEFINITION

#### 311. Land Use and Zoning

The appropriate study area for land use and zoning is related to the type and size of the project being proposed as well as the location and neighborhood context of the area that could be affected by the project. Unless the project involves a large scale, high density development or is a generic project, the study area should generally include at least the project site and the area within 400 feet of the site's boundaries. However, for small-scale, site-specific actions, a study area should generally include the project site and an area within 200 feet of the site's boundaries. A proposed project's immediate effects on an area of this size can be predicted with some certainty. When other, more indirect effects may also occur, a larger study area should be used. Typically, such secondary impacts can occur within a radius of 0.25 to 0.5 miles from the site of a proposed project.

These general boundaries can be modified, as appropriate, to reflect the actual context of the area by including any additional areas that would be affected by the project or excluding areas that would not be. For example, if a 0.25 mile radius from the project site is chosen as the general study area boundary, but that boundary would cut off portions of a block that is clearly part of the neighborhood, the study area can be expanded to include those portions. The study area does not have to be regular in shape. Such geographical and physical features as bodies of water, significant changes in topography, wide roads, and railroad easements often define neighborhood boundaries, and therefore, can be the appropriate delineation of the study



area. Due to the specific characteristics of certain projects and the potential for geographically dispersed effects, even larger study areas may sometimes be appropriate. It should be noted, however, that using an inappropriately large study area can dilute or obscure a project's effects, particularly when those effects are localized in nature.

When determining the size of the land use and zoning study area, the requirements of the other technical areas required to be analyzed should also be considered. The land use and zoning study area can coordinate the required technical analysis study area for the purposes of data collection.

For area-wide or generic actions, it may be appropriate to provide prototypical assumptions or groupings of information, instead of lot-by-lot descriptions typical of site-specific actions, because the extent of physical and geographic areas affected by these types of actions is large. In that case, development projections or a development scenario would determine the appropriate study area boundaries (See Chapter 2, "Establishing the Analysis Framework," for more information on establishing the development scenario).

### 312. Public Policy

The study area for public policy is generally the same as that used for land use and zoning. For projects that could affect the regulations governing an urban renewal area, the entire urban renewal area should be included within the study area.

#### 312.1. Waterfront Revitalization Program

The study area for an assessment of the WRP is defined by the site of the proposed project and those areas and resources within the Coastal Zone boundary that are likely to be affected by the proposed project. The study area may have to be enlarged for certain proposed projects to include resources that are part of a larger environmental system. For example, both natural drainage areas and potential erosion on downdrift properties (those properties located in the direction of predominant movement of material along a shoreline) may extend beyond the typical study area for a proposed project.

## 320. PRELIMINARY ASSESSMENT

### 321. Land Use and Zoning

A preliminary assessment that includes a basic description of existing and future land uses, as well as basic zoning information, is provided for most projects, regardless of their anticipated effects. For most projects the project description includes a detailed description of zoning changes. Therefore, this section should provide information on existing zoning to inform the description of land use and describe any changes in zoning that could cause changes in land use. This information is essential for conducting the other environmental analyses and provides a baseline for determining whether detailed analysis is appropriate. The following information should be provided:

**IDENTIFICATION OF THE AFFECTED SITES OR PROJECT AREA**, depicted on a map that has tax lots, land use and zoning district boundaries delineated. Clearly show the boundaries of the directly affected area or areas, and indicate the study area boundary drawn as a radius from the outer boundaries of the project site.

**PHYSICAL SETTING** (both developed and undeveloped areas), including total affected area, water surface area, roads, buildings and other paved areas.

**PRESENT LAND USE**, including existing residential, commercial, industrial, and community facility property, vacant land, and publicly accessible space. In each case, where appropriate, the number of buildings and their heights, the number of dwelling units, floor area, and gross square footage should be noted.

**ZONING INFORMATION**, including a description of existing and proposed zoning districts in the study area. A description or table comparing key elements of the existing and proposed zoning districts should be de-



scribed. These elements can include permitted uses, maximum permitted Floor Area Ratio (FAR), building height and setback requirements, required open space or maximum lot coverage, front and side yard depths, minimum parking requirements, and other relevant zoning information.

Additionally, the preliminary assessment should include a basic description of the project facilitated by the proposed actions in order to determine whether a more detailed assessment of land use would be appropriate. Often, a Reasonable Worst Case Development Scenario, developed using guidance in Chapter 2, “Establishing the Analysis Framework,” is prepared to estimate development patterns created by the proposed project. If a development scenario is prepared, it should be referenced in the description of proposed development.

- The description of potential development should include the following information:
- A summary of the amount and type of development or changes in use resulting from the proposed project;
- Identification of sites owned or controlled by the project sponsor or applicant;
- A determination of whether the proposed project involves changes in regulatory controls that would affect one or more sites not associated with a specific development. If it does, identify the location of these sites.
- For a project affecting a large area or multiple sites, a summary of expected development is typically adequate.

### 322. Public Policy

Similar to zoning, some assessment of public policy accompanies a land use assessment because such policies may help determine whether or where land uses might change as the result of a proposed project. In addition, some projects may affect other specific public planning efforts by changing land use in the area.

A preliminary assessment of public policy should identify and describe any public policies, including formal plans or published reports, that pertain to the study area. If the proposed projects could potentially alter or conflict with identified policies, a detailed assessment should be conducted. Otherwise, no further analysis of public policy is necessary.

#### 322.1. Waterfront Revitalization Program

The first step for many projects is a preliminary evaluation of the project's potential for inconsistency with the WRP policies. A [Consistency Assessment Form \(NYC CAF\)](#) was developed by DCP to help an applicant identify which WRP policies apply to a specific project. Questions listed under the heading “C. Coastal Assessment” should be answered by applicants. The numbers in parentheses after each question indicate the policy or policies that are the focus of the question. These questions are designed to screen out those policies that would have no bearing on a consistency determination for a proposed project.

“Yes” answers to any of the questions indicate that a particular policy or policies of the WRP may be relevant and would warrant further examination. “No” answers indicate that the particular policy is not applicable to the proposed project. For any questions that warrant a “yes” answer or questions which cannot be answered definitively, an explanation should be prepared to assess the consistency of the proposed project with the noted policy or policies. Errors in the completion of a WRP assessment sometimes occur when an applicant completes a NYC CAF before a thorough appraisal of potential issues has been completed. For example, early in the environmental review process, an applicant may not know if a development site contains hazardous materials or has a history of underground fuel tanks, oil spills, or other form of petroleum product use or storage. If the applicant elects to prepare a NYC CAF before necessary testing has been completed, Question 40 on the CAF, which



inquires whether the project would result in development of a site that may contain contamination or that has a history of underground fuel tanks, oil spills, or other form or petroleum product use or storage, must be answered “yes.” The application then requires an explanation of the steps that the applicant will take to evaluate site conditions and assure consistency with the identified relevant policy—in this case Policy 7.2: Prevent and remediate discharge of petroleum products.

Applicants may be reluctant to answer “yes” to a policy question, mistakenly believing that an affirmative answer will suggest that a proposed project will be viewed as inconsistent with the WRP. To the contrary, a “yes” response provides an opportunity for an applicant to demonstrate that he or she understands the requirements of the WRP and the measures that will (or may) be required to ensure WRP policy consistency, in accordance with the standards and criteria within The New Waterfront Revitalization Program.

Impacts identified within other areas of environmental analysis may raise WRP consistency issues that should be identified through the WRP consistency assessment. For example, if the environmental analysis indicates that a project may result in a significant adverse impact in another technical area, such as open space, the WRP consistency assessment should identify a potential inconsistency with WRP Policy 1, relating to the adequacy of open space facilities and infrastructure in the area.

### 330. DETAILED ANALYSIS TECHNIQUES

Although changes in land use could lead to impacts in other technical areas, significant adverse land use impacts are rare in the absence of an impact in another technical area. Often, a preliminary assessment provides enough information necessary to conduct these technical analyses. However, for some projects, such as generic or area-wide zoning map amendments, more detailed land use, zoning or public policy information is necessary to sufficiently inform other technical reviews and determine whether changes in land use could affect conditions analyzed in those technical areas.

If the preliminary assessment cannot succinctly describe land use conditions in the study area, or if a detailed assessment is required in the technical analyses of socioeconomic conditions, neighborhood character, traffic and transportation, air quality, noise, infrastructure, or hazardous materials, a detailed land use assessment is appropriate. The detailed analysis builds upon the preliminary assessment and involves a more thorough analysis of existing land uses within the rezoning boundaries and the broader study area in light of changes proposed with the project. The detailed analysis seeks to describe existing and anticipated future conditions to a level necessary to understand the relationship of the proposed project to such conditions, assess the nature of any changes on these conditions that would be created by the proposed project, and identify those changes that could be significant or adverse.

#### 331. Land Use and Zoning

The proposed project's effects on land use and zoning on the site of the project and in the study area are analyzed in the future With Action condition and measured against future No-Action conditions. After describing existing conditions, the assessment should first consider the direct effects of the project: how would the project site be zoned; what use(s) would the proposed project create on the project site; and, would that use be different from the use that would otherwise be located on the site in the build year?

The analysis should then focus on the project's compatibility and consistency with surrounding uses and zoning as they would exist in the future without the project.

Finally, the analysis should determine whether the project would have the ability to generate land use change in the study area. This analysis addresses the interplay between the proposed project in its particular location and conditions in the surrounding area. As described in more detail in Section 331.1, below, the key conditions most often include the size; use; special characteristics of the development expected with the proposed project; the current and anticipated land use trends; linkages among land uses; presence (or absence) of un-



derutilized properties appropriately zoned for the expected new use; and, zoning or other public policies in the area that promote, permit, or prohibit development of the expected new use.

### 332. Public Policy

The proposed project's effect on existing and planned policies and initiatives should be considered, and its consistency with any applicable policies should be addressed. The assessment of a project's consistency with WRP considers the future With-Action in comparison to the No-Action condition. For example, when considering whether the project would be consistent with the surrounding land uses in a small harbor area, consider the uses that are expected to exist in the future rather than only the existing uses.

#### 332.1. Waterfront Revitalization Program

As directed by the NYC CAF, the detailed analysis considers all [10 Local Waterfront Revitalization Program \(LWRP\) policies](#) with their standards and criteria, and assesses consistency with all those that are relevant to the project. This assessment may require additional information about the affected site and the project, such as the following:

- Piers, Platforms, or Floating Structures
- Mean High Water
- Mean Low Water
- Pierhead Line
- Bulkhead Line
- Water-Dependent and Water-Enhanced Uses
- Property Lines
- Depth to Water Table
- Ownership; Documentation of Lands Underwater
- Existing and Proposed Vegetation
- Existing and Proposed Stormwater Drainage
- Existing and Proposed Public Access
- Topography
- Wetlands (Freshwater and Tidal)
- Coastal Erosion Hazard Area
- Beach or Bank Profile
- Floodplains
- Base Flood Elevation
- Required or Proposed Freeboard
- Wildlife

As described below under Section 400, if a project would be inconsistent with a WRP policy, it is most often appropriate to determine whether it would also promote other WRP policies, so that these conflicting policies can be balanced against one another with regard to determining appropriate uses for the site in question.

The level of detail of the analysis depends on the nature of the project and the relevance of each policy to the project. Both qualitative and quantitative effects may be pertinent. It should be noted, however, that several policies require adherence to specific minimum standards. For each policy relevant to the proposed project, provide a brief description of how it relates to the project, and a statement as to whether or not the project is consistent with the policy.

Because the WRP review considers the many laws affecting the coastal area, consideration of a project's consistency with the WRP typically requires a comprehensive assessment that includes synthesis of different technical areas described in this Manual. Therefore, close coordination with the assessment of other technical areas is needed. The analysis of each of these technical areas—such as



natural resources, air quality, land use and zoning, or historic resources—is summarized and presented below as it relates to the WRP policies. Although much of the detail of each technical chapter can be cross-referenced, it is important that the discussion of each policy be able to stand on its own in this chapter. In some cases, supplemental information to that provided in the technical analyses may be necessary to complete the WRP consistency evaluation.

The maps shown in Figures 4-4 through 4-7 may also assist applicants; however, these maps are simplified. More detailed maps are available through the sources listed in Section 700, Regulations and Coordination.

While lead agencies should conduct their own review of a project's consistency with the WRP during an environmental assessment, the City Planning Commission is required to make its own WRP consistency finding if it is an involved agency due to an action or number of actions associated with the project coming before the City Planning Commission. The City Coastal Commission may elect to adopt the consistency determination and environmental findings of the lead agency or adopt different WRP consistency findings.

### 331. Existing Conditions

#### 331.1. Land Use and Zoning

The characterization of the study area for informational purposes should include general categories of land use (*e.g.*, residential, commercial, industrial, transportation, institutional, *etc.*), adding whatever information may be required for other technical analyses. Consideration of compliance and conformance with zoning in the study area may also be appropriate.

The extent and type of data to be collected depend on the project proposed and the area potentially affected. Typically, field surveys are conducted for the site and surrounding area. When larger study areas are used, particularly for generic or programmatic actions, secondary data can be helpful. The following sources are suggested:

**FIELD SURVEY.** Surveys of the land uses in the study area are performed through field visits. These can be made on foot or in a vehicle, depending on the size of the area and the level of detail required.

The entire study area—every street and every block—should be surveyed. The analyst should note the uses in the area, using such categories as residential, commercial, manufacturing, institutional, parks, or vacant land. More descriptive definitions can also be used: residential uses can be further categorized according to building types and form—detached, semi-detached, single-family, multifamily; commercial uses can be described as retail, office, *etc.*; and manufacturing and other industrial can be identified by category of business. It is sometimes difficult to discern the uses in a particular building, such as a residential use in converted manufacturing buildings. When there is some doubt as to a building's use, the analyst should look for visible signs, such as smoke being emitted from a stack, mailboxes or buzzers with tenants' names, or curtains in windows, *etc.* Consideration of compliance and conformance with zoning in the study area may also be appropriate.

**AVAILABLE DOCUMENTATION.** The information gathered in the field survey can be compared to available data sources to fill in missing details and verify questionable material. In some cases, particularly for generic or programmatic actions, the assessment can rely largely on secondary data, with spot field checks conducted to verify these data. It is often appropriate to use field survey data to complement maps and other secondary data to ensure that information is accurate and current. Other useful documentation includes various publications compiled by DCP and other City agencies, such as the New York City Housing Authority, and publications prepared by real estate services (see Section 730).



Zoning information may also be relevant since changes to zoning can guide land use changes. This analysis should focus on any changes to the zoning regulations or zoning maps, as well as the project's compatibility with surrounding zoning districts. For example, it may be important to note if the project would result in the elimination of manufacturing zones, particularly if this could result in a change in land use. The assessment may include identification of sites that are (or are not) protected by zoning from conversion or redevelopment to a different use.

Next, based on the information gathered through field survey and available documentation, describe the land use in the study area. This description should focus on land use patterns, relationships, and trends. It is sometimes appropriate to describe the development history of an area to understand the area's development trends. The amount of detail required in the land use discussion depends on the project's potential for impacts and on the size of the study area. For example, if the project would alter the types and ranges of mixed-use development, it may be appropriate to describe the land use in sufficient detail to understand the relationships and character of the existing mixed-use development. For a small study area, such as a 0.25 mile radius, uses are often described in detail for every lot. For larger study areas, more general descriptions can often be used because a project's effect on a larger area may be more general than specific.

If necessary, the detailed land use assessment should augment or update maps of the uses in the area provided in the preliminary assessment, detailed as appropriate to the study in question.

### **331.2. Public Policy**

The preliminary assessment should have identified existing public policies and plans within the study area (see Subsection 322, above). It is possible that more information is needed to determine whether the proposed project could potentially alter or conflict with identified policies.

More detailed information on policies can be identified through reviewing published reports and information describing their objectives. Additionally, officials at public agencies or other entities charged with administering or overseeing the relevant policies can be interviewed to better determine the goals and objectives of those policies and identify aspects of those policies that could potentially conflict with the proposed project.

## **332. Future No-Action Condition**

### **332.1. Land Use and Zoning**

The future No-Action condition analyzes land use and development projects, initiatives, and proposals that are expected to be completed by the project's build year (see Chapter 2, "Establishing the Analysis Framework," for more detail on the establishing the No-Action scenario and the build year). The scenario that is assessed in all the other technical areas is usually established in the land use analysis.

In the assessment of No-Action conditions, compile a list of all the proposals (including zoning and public policy) that can reasonably be expected to be completed, given market conditions, existing trends, and other constraints and incentives, by the build year. Information about future projects can be obtained from the appropriate borough office at DCP and from various real estate publications. Then, based on this inventory, describe the land use conditions that would exist in the build year. Depending on the anticipated impacts of the project in question (see existing conditions discussion, above), this assessment should address anticipated changes in land use and land use patterns as well as expected trends. Conditions in the future without the project can affect the potential effects of the project. For example, development may already be proposed for underutilized sites identified in the existing conditions analysis, and a review of proposed development may reveal an ongoing trend or acceleration of that trend that may diminish a project's influence on land use trends.



The analysis should also consider additional zoning changes that could go into effect by the build year in order to describe conditions in the study area. Information on zoning plans and proposals are available through DCP, either on the agency's website or through contact with the borough offices.

**332.2. Public Policy**

The future No-Action condition sets the background for public policy affecting land use in the project's build year without the project. Information regarding public policies is available through DCP, and may also be available from other city, state, or federal agencies that are undertaking planning in the study area. The assessment of the future No-Action condition should continue the focus on relevant issues.

**333. Future With-Action Condition**

As the discussion of land use makes clear, issues of zoning are important to all land use analyses, and analyzing zoning, land use, and public policy together helps the analyst frame future land use conditions.

The future With-Action condition analysis of land use and zoning should include a detailed description of the type of development that would occur as a result of the proposal. Generally, a narrative summary of the With-Action development scenario is adequate, provided it considers the type, amount and location of any new development.

Based on this description of proposed development and information provided in the existing conditions and future No-Action description, the following analyses should be conducted for the future With-Action condition.

- Considering all general categories of land use, described in Section 111, above, identify the extent to which the proposed uses characterize the study area or would be consistent or inconsistent with existing uses. In what is sometimes called a "conformance analysis," the amount of the proposed use can be presented as a percentage of existing uses or in the aggregate.
- Determine whether the proposed project would create additional non-conformance or non-compliance of existing buildings or uses.
- Determine whether the proposed development would alter or accelerate existing development patterns.
- Consider any public policy that would affect the targeted land uses and determine whether any other public policy might affect the potential for land use change.
- Determine whether the proposed project would result in the direct displacement of any existing land uses.

**340. ISSUES ASSOCIATED WITH OTHER TECHNICAL AREAS**

Since changes in land use can lead to impacts in other technical areas, the information provided must be detailed enough to inform these analyses. In determining the types of information and level of detail appropriate when providing information for other technical areas, consider the following:

- Some technical areas may require the identification of land uses that are particularly sensitive to changes in environmental conditions, such as noise levels or air pollutant emissions from manufacturing facilities. The sensitive uses generally include housing, hospitals, schools, and parks. Often, land use investigations associated with this type of technical area coordination include consideration of whether the study area includes any sensitive uses with the potential to be affected by any project-related changes in air pollution or noise. This may include such tasks as:
  - Identifying sensitive uses adjacent to routes to be taken by traffic generated as a result of the proposed project in order to help locate receptor sites for the noise and air quality analyses.



- If the use generated by the project—such as the introduction of a new residential population—would be sensitive or potentially affected by environmental conditions in the surrounding area, it may be appropriate to identify uses in the surrounding area that contribute to such conditions. This may include an inventory of all industrial uses within 400 feet of the project site to check for possible air pollution emissions from manufacturing facilities; locations of hazardous materials that could migrate onto the proposed project site; or identification of uses that may be noise or vibration sources affecting the site.
- If the project would likely affect demand for one or more community facilities (as defined in Chapter 6, “Community Facilities,”), such facilities should be identified in the land use study.

## 400. DETERMINING IMPACT SIGNIFICANCE

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### 410. LAND USE AND ZONING

The analyses above identify land use changes anticipated with a proposed project. Many land use changes may be significant, but not adverse. For example, development of a large vacant site would constitute a significant land use change on that site and perhaps in the surrounding area, but if the site had been vacant and neglected, this change might be considered beneficial.

While changes in land use conditions could create impacts in other technical areas, it is rare that a proposed project would have land use impacts in the absence of impacts in other technical areas. A typical example is of an office building proposed for a densely developed commercial area. This land use change would not be significant; however, the workers and visitors coming to and from the building might create significant traffic, transit, or pedestrian impacts. The potential to create significant impacts in other technical areas should not necessarily be confused with a land use impact. The analysis of the effect of land use changes, then, is often used to determine whether the land use changes could lead to impacts in other technical areas. In making this determination, the following should be considered:

- If the proposed project would directly displace a land use and such a loss would adversely affect surrounding land uses, this displacement should be considered in Chapter 5, "Socioeconomic Conditions".
- In general, if a project would generate a land use that would be incompatible with surrounding uses, such a change should be considered in other technical areas if:
  - The new land use or new site occupants would interfere with the proper functioning of the affected use, or of land use patterns in the area. The relevant technical area may vary depending on the type of incompatible use identified. One example could be a new heavy manufacturing use near a residential area that might diminish the quality of residential use because of noise or air pollution. If so, the information provided in the land use analysis may be relevant for the noise or air quality analysis.
  - The incompatible use could alter neighborhood character and should be considered the neighborhood character analysis described in Chapter 21, “Neighborhood Character.”
  - The project would create land uses or structures that substantially do not conform to or comply with underlying zoning. An example would be rezoning of several blocks from manufacturing to commercial use; such a change might permit development of desired residential uses on vacant or underutilized sites in the area, but it could turn existing manufacturing uses into non-conforming uses and might render their structures nonconforming as well. Such a project could affect operating conditions in a specific industry and may need to be considered in the Chapter 5, "Socioeconomic Conditions."



- If a project would alter or accelerate development patterns, it could affect real estate market conditions in the area. If this is the case, this analysis should be considered in Chapter 5, "Socioeconomic Conditions."

#### 420. PUBLIC POLICY

For public policy, the following should be considered in determining whether land use changes are significant and adverse:

- Whether the project would create a land use conflict or would itself conflict with public policies and plans for the site or surrounding area.
- Whether the project would result in significant material changes to existing regulations or policy. For example, this could include a proposed bulk variance within a special district that is in conflict with the goals and built form within the special district.

#### 421. Waterfront Revitalization Program

As stated in the [Short and Full EAS Forms](#), the lead agency should include an analysis of WRP consistency as part of the EAS. For any WRP policy, indicated as applicable on the [NYC Consistency Assessment Form](#) (CAF), the proposed project may advance that policy, be neutral to it, or hinder the policy. It is the last category—hindrance of a policy—that may result in an inconsistency, and therefore, requires more scrutiny in the policy assessment.

If the lead agency determines that the project is consistent with the applicable WRP policies, no further assessment is necessary. For projects determined to be consistent with WRP policies, the analysis should state that the project would not substantially hinder the achievement of any of the coastal policies.

If a project is inconsistent with a WRP policy, the lead agency and applicant, if applicable, should consider whether changes to the project could be made to make the project consistent with the WRP or to modify the project such that, while there may still be an inconsistency, the lead agency is able to make the four findings identified below in Section 500.

If changes that would eliminate the inconsistency are not possible, the lead agency should consider whether the inconsistency is of such a degree as to be significant. In determining the significance of any inconsistencies, the lead agency should balance the policies that would be furthered by the project against those that would be hindered by the project. The lead agency may determine that some inconsistencies are not significant. For example, a proposed new structure that would slightly block a view corridor toward the water may be found to be insignificant, depending on the existing width of that view corridor and other circumstances.

#### 500. DEVELOPING MITIGATION

Mitigation for potential significant adverse land use, zoning, or public policy impacts could include the following types of measures, as appropriate:

- Establish a buffer between the new, incompatible land use and its surroundings.
- Where a project on a particular site might lead to an incompatible or otherwise significantly adverse land use, develop terms and conditions for appropriate regulatory controls, such as the special permit (if there is one), subject the project to a restrictive declaration limiting such a use (if it is a private applicant), or include language requiring the protective restrictions in leases, urban renewal plans, or other agreements (if it is a public project). It should be noted that, for zoning map amendments, restrictive declarations that specify use types are not preferred by DCP.
- If a zoning text change is proposed, the text language could be modified to mitigate potential impacts. However, substantial changes to the proposed project would typically be considered alternatives.



Even in the absence of an impact on land use, zoning or public policy, the measures described above may also be appropriate to mitigate impacts in other technical areas if those impacts are related to land use.

### 510. WATERFRONT REVITALIZATION PROGRAM

When a project would result in significant adverse impacts related to inconsistencies with the WRP, those impacts must be mitigated to the greatest extent practicable. If the impacts can be appropriately mitigated, the project would then be consistent with the WRP. Appropriate mitigation measures vary, depending on the particular inconsistency. The measures must either be sufficient to address the policy inconsistency, or enable the lead agency to determine that:

- No reasonable alternatives exist that would permit the project to be taken in a manner that would not substantially hinder the achievement of the policy;
- The project would minimize all adverse effects related to the policy inconsistency to the maximum extent practicable;
- The project would advance one or more of the other coastal policies; and
- The project would result in an overriding local public benefit.

Proposed mitigation measures also must be assessed for consistency with the WRP to the same degree as the proposed project. Mitigation for a significant adverse impact related to the WRP may require coordination with other technical analyses.

Mitigation measures may include those described in Section 500 of the different technical chapters of this Manual. In some cases, those measures may have to be modified to provide appropriate mitigation for significant impacts related to the WRP's policies. For example, mitigation for significant impacts related to flooding and erosion (Policy 6) is discussed in Chapter 11, "Natural Resources."

In some cases, however, the significant adverse impact may be specific to the assessment of WRP and not identified in the analysis of another technical area, such as air quality or hazardous materials. For example, a reduction in existing or potential public access to or along coastal waters would be inconsistent with the WRP (Policy 8) and could constitute a significant adverse impact with respect to the WRP, although it might not constitute a significant adverse impact identified in the other technical analyses. If a project results in an unavoidable reduction of existing public access, mitigation could be proposed to create or significantly enhance public access near the project site.

### 600. DEVELOPING ALTERNATIVES

Alternatives that reduce or eliminate land use, zoning, or public policy impacts can include the following:

- Alternative site configuration to separate conflicting uses as much as possible.
- Alteration of the zoning proposal, or inclusion of provisions, to reduce non-conformance of uses and structures.
- Alternative site(s) for the project, particularly for public projects.
- Alternative uses that eliminate or reduce land use impacts.
- Alternative development proposals, such as projects that do not require modifications to the zoning (often called "as-of-right" alternatives).

For example, if a proposed project would result in an inconsistency with a policy of the WRP, consider how the inconsistency can be avoided through changes to the project. Such changes can include alternative uses (*e.g.*, water-dependent and enhancing uses rather than those that are not) or alternative design (*e.g.*, a different site plan to avoid development in the floodplain, or different building heights or site location to avoid a visual impact).



Even in the absence of an impact on land use, zoning or public policy, the measures described above may also be appropriate as alternatives that reduce impacts in other technical areas.

## 700. REGULATIONS AND COORDINATION

### 710. REGULATIONS AND STANDARDS

The New York City Zoning Resolution is the underlying regulation for land use in the City. Additionally, different parts of the City may also be affected by various other public policies, such as a 197-a plan.

New York City's Waterfront Revitalization Program was adopted in coordination with local, state, and federal regulatory programs. Consistency assessments consider the many federal, state, and local laws affecting the coastal area. For more information on the many rules and regulations affecting cultural resources, coastal erosion, flood management, natural resources, hazardous materials, and air quality, see Section 700 of the appropriate technical chapters of this Manual. Several significant laws and regulations are listed below.

#### 711. Federal Laws and Regulations

- Coastal Zone Management Act (P.L. 92 583, 16 USC 1451 *et seq.*).
- Marine Protection, Research, and Sanctuaries Act of 1972 (Section 103; 33 USC 1413).
- National Flood Insurance Act of 1968.
- Flood Disaster Protection Act.
- Water Pollution Control Act.
- Clean Air Act.
- Clean Water Act, Section 404 (33 USC 1344).
- National Environmental Policy Act.
- Rivers and Harbors Act of 1899, Section 10 (33 USC 403).
- Fish and Wildlife Coordination Act.
- Endangered Species Act.
- National Historic Preservation Act.
- Deepwater Port Act.
- National Fishing Enhancement Act of 1984.
- Marine Mammal Protection Act.
- Federal Power Act.

#### 712. New York State Laws and Regulations

- State Environmental Quality Review, Environmental Conservation Law, Part 617.
  - Part 617.11 (e) describes the linkage between SEQR and the coastal policies of Article 42 of the Executive Law, as implemented by 19 NYCRR 600.5.
  - Part 617.9 (b)(5)(vi) describes the inclusion of the state and local coastal policies in the preparation and content of Environmental Impact Statements.
- Waterfront Revitalization and Coastal Resources Act (New York State Executive Law, 1981; Sections 910 *et seq.* Article 42; and implementing regulations 19 NYCRR).
  - Part 600: Policies and Procedures.
  - Part 601: Local Government Waterfront Revitalization Programs.
  - Part 602: Coastal Area Boundary; Significant Fish and Wildlife Habitats



- Important Agricultural Lands and Scenic Resources of Statewide Significance; Identification, Mapping, and Designation Procedures.
- State Guidelines for Federal Reviews: Procedural Guidelines for Coordinating New York State Department of State and New York City Waterfront Revitalization Program Consistency Review of Federal Agency Actions, Coastal Management Program, Department of State, State of New York, 1985.
- Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Programs Are in Effect, Coastal Management Program, Department of State, State of New York.
- Coastal Zone Management Rules and Regulations (6 NYCRR 505).
- Coastal Erosion Hazard Areas Act.
- Flood Hazard Areas.
- Freshwater Wetlands Protection Program.
- Tidal Wetlands Protection Program.
- Classification of Waters Program.
- Endangered and Threatened Species Program.
- Historic Preservation Act.

### 713. New York City Laws and Regulations

- New York City Zoning Resolution
- Zoning Handbook, NYC Department of City Planning, (Guide to NYC Zoning Regulation, 2006).
- The New Waterfront Revitalization Program, 2002.
- Procedures for the City Planning Commission, acting as the City Coastal Commission, approved by the City Coastal Commission acting as the City Planning Commission, 1987.
  - This set of procedures links the Waterfront Revitalization Program with the ULURP process and describes the City Planning Commission's role in the state and federal actions that otherwise do not require local involvement.
- NYC Building Code, Flood-Resistant Construction (Appendix G).
- Grading and Drainage Rules—Local Law 7.

### 720. APPLICABLE COORDINATION

If any public policies would apply to the proposed project or the area affected by the proposed project, coordination with the responsible agency is advised. Some examples of the agencies and their respective policies are as follows:

- New York City Department of Housing Preservation and Development (HPD)—Urban Renewal Plans
- Department of Small Business Services—Industrial Business Zones
- New York City Department of City Planning—New York City Comprehensive Waterfront Plan, 197a Plans
- Agencies such as the New York City Departments of Transportation, Environmental Protection, Sanitation, or Parks and Recreation, the Police and Fire Departments, or the Board of Education, that may propose capital projects affecting land use.

This coordination is important to avoid the potential for conflicting policies, if overlapping plans are intended for a site or area. By coordinating the proposed project with the relevant agencies, provisions to accommodate potentially conflicting goals can be worked out and made to be part of the project and assessed accordingly.



In addition, the assessment of the project's consistency with WRP relies primarily on information and analyses of the other technical areas discussed in this Manual. Thus, coordination with the other environmental analyses can be very useful.

### 721. City Coastal Commission

As indicated above, lead agencies conduct their own review of a project's consistency with the WRP during environmental assessment. If the City Planning Commission is an involved agency because the project will come before the City Planning Commission, the City Planning Commission acting as the City Coastal Commission is required to make a WRP consistency finding. The City Coastal Commission may elect to adopt the consistency determination and environmental findings of the lead agency or adopt different WRP consistency findings. For this reason, the lead agency may wish to consult with the Department of City Planning, Waterfront and Open Space Division, acting as advisors to the City Coastal Commission, prior to issuance of its CEQR determination.

The City Coastal Commission's involvement may occur for a variety of federal and state actions and actions subject to ULURP (Charter section 197-c) or Charter section 197-a or 200.

Once a determination is made by a lead agency that a project is consistent with the policies of the WRP, the lead agency is responsible for keeping a WRP file which will ensure a record of consistency between the City and the State.

### 730. LOCATION OF INFORMATION

- New York City Department of City Planning
  - 22 Reade Street  
New York, NY 10007
- Map Sales:
  - Land Use Maps
  - Zoning Resolution
  - 197a Plans
  - Planning Reports
  - Waterfront Revitalization Program
- Housing, Economic and Infrastructure Planning:
  - Housing Reports
  - Economic and Industry Reports
- Database & Application Development:
  - PLUTO Data (PLUTO files are databases of developed properties, identified by tax block and lot number. The date of the structure, types of use, number of stories, and City or private ownership are identified.)
  - Sanborn Maps available for viewing
- Calendar Officer:
  - City Planning Commission Reports
- Zoning:
  - Zoning text changes, recently adopted and under consideration
- Waterfront and Open Space Division:



- Waterfront Studies
  - State and Federal Coastal Zone Requirements
  - Department of City Planning, Coastal Zone Boundary, City of New York.
  - Department of City Planning, New York City Comprehensive Waterfront Plan: Reclaiming the City's Edge, 2002.
  - Department of City Planning, New York City Waterfront Symbol, City of New York, 1989.
  - New York City Zoning Resolution, Special Regulations Applying in the Waterfront Area (Article VI, Chapter 2).
- Technical Review:
    - ULURP applications and approvals
    - Zoning and Street Maps
    - Urban Renewal Area Designation and Plans
  - Environmental Assessment and Review Division:
    - CEQR applications, approved and pending
  - Department of City Planning, Borough Offices:
    - Planning Reports
    - Planning Initiatives

Manhattan  
22 Reade Street  
New York, NY 10007

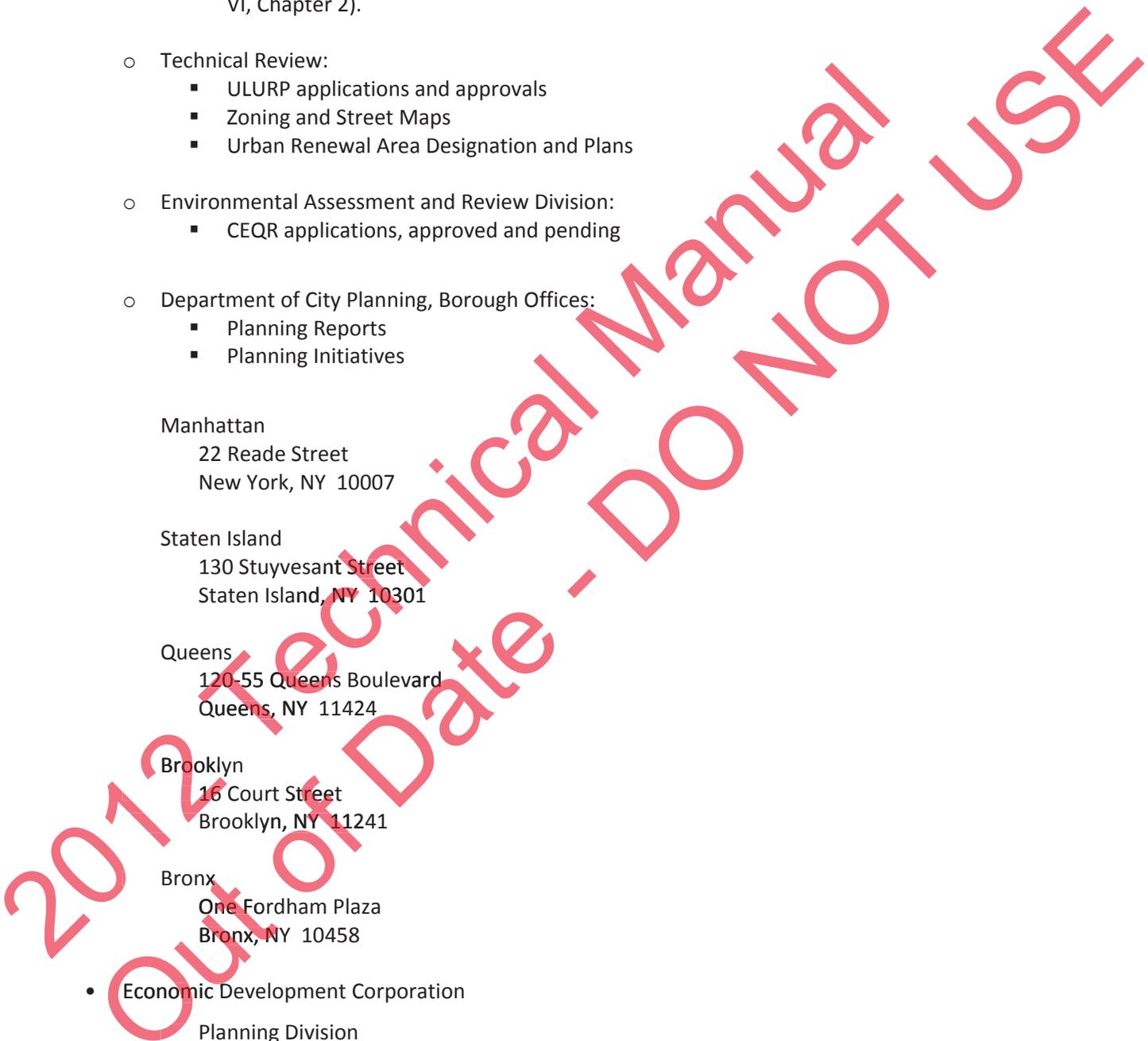
Staten Island  
130 Stuyvesant Street  
Staten Island, NY 10301

Queens  
120-55 Queens Boulevard  
Queens, NY 11424

Brooklyn  
16 Court Street  
Brooklyn, NY 11241

Bronx  
One Fordham Plaza  
Bronx, NY 10458

- Economic Development Corporation
  - Planning Division
  - 110 William Street
  - New York, NY 10038
- Department of Housing Preservation and Development
  - 100 Gold Street





New York, NY 10038

**For:**

Urban Renewal Plans  
Urban Renewal Area Designations  
Relocation Reports  
Disposition Agreements

- Buildings Department

**For:**

Building Permits  
Certificates of Occupancy

Manhattan

280 Broadway  
New York, NY 10007

Brooklyn

Municipal Building  
210 Joralemon Street  
Brooklyn, NY 11201

Bronx

1932 Arthur Avenue  
Bronx, NY 10457

Queens

120-55 Queens Boulevard  
Kew Gardens, NY 11424

Staten Island

10 Richmond Terrace  
Staten Island, NY 10301

- Board of Standards and Appeals

40 Rector Street  
New York, NY 10006

**For:**

BSA Special Permits  
BSA Reports

- New York State Department of Environmental Conservation, Region 2

47 40 21st Street  
Long Island City, NY 11101  
<http://www.dec.ny.gov/about/605.html>

**For:**

Coastal Erosion Hazard Area Maps  
Tidal Wetland Maps.  
Freshwater Wetlands Maps



<http://www.dec.ny.gov/outdoor/45415.html>

- Department of Environmental Conservation, "Stormwater for New Development," a memorandum to Regional Water Engineers, Bureau Directors, Section Chiefs, dated April 1990.
- Department of Environmental Conservation, Floodplain Regulation and the National Flood Insurance Program: A Handbook for the New York Communities, Water Division, Flood Protection Bureau, State of New York, 1990.
- Significant Coastal Fish and Wildlife Habitat Designations.
- Federal Emergency Management Agency (FEMA)
  - 26 Federal Plaza  
New York, NY 10278
  - FEMA National Flood Insurance Program Map Service Center (1-800-358-9616)
  - Federal Emergency Management Agency, Flood Insurance Rate Maps, National Flood Insurance Program. See <http://www.fema.gov/hazard/flood/info.shtm>.
  - Federal Emergency Management Agency, Flood Insurance Study: City of New York, New York, Community Number 360497, Revised, September 5, 2007.

2012 Technical Manual  
Out of Date - DO NOT USE



## B. SUSTAINABILITY

In CEQR reviews, certain public policies are assessed to determine if land use changes created by the project could substantially affect land use regulation or policy. Accordingly, public policy analysis has focused on Urban Renewal Plans, 197-a Plans, the WRP and similar land use-based public policies.

In 2007, the City adopted wide-ranging sustainability policies through PlaNYC, the City's long-term sustainability plan, that apply to the city's land use, open space, brownfields, energy use and infrastructure, transportation systems, water quality and infrastructure, and air quality, and also make the city more resilient to projected climate change impacts. The Plan brought together over 25 City agencies to work toward a greener, greater New York. Over 97% of the 127 initiatives in PlaNYC were launched within one-year of its release and almost two-thirds of its 2009 milestones were achieved or mostly achieved. The updated plan, issued in April 2011, includes 132 initiatives and more than 400 specific milestones for December 31, 2013, and can be found [here](#). The term "sustainability" can carry many meanings and interpretations, and therefore, needs to be carefully defined in the context of an environmental assessment. Currently, the City's sustainability policies are guided by PlaNYC and are used to define sustainability for the purposes of CEQR.

### 100. DEFINITIONS

The genesis of PlaNYC lies in the rebound in New York City's population to 8.36 million in 2008 from just 7.1 million residents in 1980. By 2030, the City's population is predicted to surge past 9 million – an addition of over 1 million people since 2002. PlaNYC recognizes that this future growth will require new investments in housing, parks, transportation, and drinking water and wastewater infrastructure, as well as additional public health measures, and that these must be implemented in a sustainable fashion. Its structure sets broad-based targets to be reached by 2030. To implement this overall strategic vision, PlaNYC adopts 10 goals to be achieved through 132 separate initiatives and a number of subsidiary plans such as the Sustainable Stormwater Management Plan. Many of the sustainability goals are to be achieved through a set of public sector projects, including incorporating PlaNYC initiatives into local laws or the City's regulatory frameworks governing both private and public actions.

### 200. APPLICABILITY OF A SUSTAINABILITY ASSESSMENT

Until sustainability goals are more clearly defined through the incorporation of initiatives into codes, regulations and specific policies, there are few sustainability standards to apply appropriately in assessing a proposed project for the purposes of CEQR. As these initiatives become codified, privately sponsored projects would be presumed to comply with all codes and regulations in effect. However, to ensure that large publicly sponsored projects align with the broader sustainability priorities and goals the City has set for itself, it is appropriate that the PlaNYC initiatives (whether or not yet embodied in generally applicable codes or regulations) be considered in an environmental assessment for large publicly sponsored projects only, as these projects are often multi-faceted and touch upon many of the elements addressed by PlaNYC. If a publicly-sponsored project is, itself, implementing a PlaNYC initiative, such as repairing or replacing aging infrastructure, a PlaNYC/sustainability assessment would likely be inappropriate. The discussion below details how sustainability, as encouraged through the goals and initiatives of PlaNYC, is considered in the environmental assessment of large publicly-sponsored projects.

### 300. ASSESSMENT APPROACH

While it is city policy to encourage every project, whether or not subject to CEQR, to incorporate general measures of sustainability, such as energy efficiency, water conservation, stormwater management, *etc.*, into its projects, this assessment necessarily focuses on the extent to which the stated goals and objectives of a large publicly sponsored project are consistent with the City's sustainability policies and goals, as encouraged through PlaNYC. Because PlaNYC promotes broad and wide-ranging sustainability goals, no one project can advance all of its initiatives. Therefore, a consistency analysis compares the attributes of the project with the overarching goals and initiatives of PlaNYC that are



germane to the project. The determination of which PlaNYC goals and initiatives should be examined for a particular project is a decision for the lead agency.

PlaNYC's initiatives touch upon several technical areas, including Open Space, Natural Resources, Infrastructure, Energy, Construction, Transportation, Greenhouse Gas Emissions (GHG), and Air Quality. Many of these technical areas, and whether a project would affect them, are often considered in a CEQR assessment, and are defined and described individually in other chapters of the Manual. While the assessment of a particular technical area focuses on the project's impact on that area of concern, the sustainability assessment considers the combination of project elements discussed in the technical areas as related to the City's current sustainability policy benchmark, PlaNYC. Therefore, the analyses and conclusions for each relevant technical area above can be used to provide the context in which to assess a publicly-sponsored project's consistency with relevant sustainability goals or initiatives as described in PlaNYC.

To illustrate, a large publicly-sponsored project may have the potential to affect the City's achievement of PlaNYC's water quality goals, and particularly the management of stormwater and wet weather flows of sewage. In Chapter 13, "Water and Sewer Infrastructure," the project may therefore identify best management practices to manage its predicted storm and sanitary flows and incorporate measures to ensure that these flows would not exceed sewer system capacity. The sustainability assessment would discuss those best management practices measures that reduce or control stormwater runoff and examine whether additional sustainability measures could be incorporated into a project to ensure consistency with the City's sustainability policies. Such measures may include adding vegetation to reduce or filter stormwater runoff by increased tree planting on a development parcel or within parking lots. These project elements may also align with sustainability principles by considering the full range of co-benefits; project design elements intended to offset increased stormwater runoff demands could also reduce the Urban Heat Island Effect, energy demand in the summer, and air pollutants, and could even add to open space. It may be the case that the project elements discussed in infrastructure reflect the City's sustainability policies and no further assessment is required. Consideration of these issues should be balanced with consideration of other public policy objectives and the project's purpose and need.

#### 400. DETERMINING CONSISTENCY WITH PLANYC

The following provides a guide to PlaNYC initiatives that would be most relevant to a CEQR assessment. Although the consistency review is independent from all other environmental sections and must stand on its own, it is supported and conducted with consideration of all the other technical analyses performed as part of the project's environmental assessment under CEQR. In addition, many of the PlaNYC initiatives overlap and it is recommended to consider the project holistically, as every technical area listed below may not have the potential to be affected, positively or adversely, by a proposed project. In addition, note that one goal of PlaNYC is to reduce City building and operational GHG emissions by 30 percent below Fiscal Year 2006 levels by 2017 (and reduce citywide GHG emissions by 30 percent below 2005 levels by 2030). While many of the initiatives below would reduce GHG emissions, both the GHG emissions associated with a project and specific measures to reduce GHG emissions are discussed in Chapter 18, "Greenhouse Gas Emissions." PlaNYC 2011 Update has expanded the City's goals for increased climate resilience. The discussion of climate change and increased climate resilience is located in Chapter 18 as well.

If a project is found to be inconsistent, the lead agency should consider whether changes to the project could be made to make the project consistent with PlaNYC or changes could be made such that, while there may still be an inconsistency, the lead agency is able to make a determination that the inconsistency is not significant. If changes that would eliminate the inconsistency are not possible, the lead agency should consider whether the inconsistency is of such a degree as to be significant. In determining the significance of any inconsistencies, the lead agency should balance the policies that would be furthered by the project against those that would be hindered by the project. The lead agency may determine that some inconsistencies are not significant.

##### **AIR QUALITY**

PlaNYC sets forth the goal of achieving the cleanest air quality of any big U.S. city. To reach this goal – and to overcome the City's current non-attainment with federal standards for PM<sub>2.5</sub> and ozone –



PlaNYC sets forth a multi-pronged strategy to reduce road vehicle emissions, reduce other transportation emissions, reduce emissions from buildings, pursue natural solutions to improve air quality, to better understand the scope of the challenge, and update codes and standards accordingly. Publicly-sponsored projects that are likely to undergo CEQR review would generally be consistent with PlaNYC if they include use of one or more of the following elements:

- The promotion of mass transit
- The use of alternative fuel vehicles
- The installation of anti-idling technology
- The use of retrofitted diesel trucks
- The use of biodiesel in vehicles and in heating oil
- The use of ultra-low sulfur diesel and retrofitted construction vehicles
- The use of cleaner-burning heating fuels
- The planting of street trees and other vegetation

**ENERGY**

PlaNYC sets forth the goals of reducing energy consumption and making the city's energy systems cleaner and more reliable. To reach these goals, PlaNYC sets forth a multi-pronged strategy to improve energy planning, increase energy efficiency, provide cleaner, more reliable, and affordable energy, reduce New York City's energy consumption, expand the city's clean power supply, and modernize the city's electricity delivery infrastructure. Publicly-sponsored projects that are likely to undergo CEQR review would generally be consistent with PlaNYC if they maximize their use of one or more of the following elements:

- Exceed the energy code
- Improve energy efficiency in historic buildings
- Use energy efficient appliances, fixtures, and building systems
- Participate in peak load management systems, including smart metering
- Repower or replace inefficient and costly in-city power plants
- Build distributed generation power units
- Expand the natural gas infrastructure
- Use renewable energy
- Use natural gas
- Install solar panels
- Use digester gas from sewage treatment plants
- Use energy from solid waste
- Reinforce the electrical grid

**WATER QUALITY**

PlaNYC sets forth the goal of improving the quality of New York City's waterways to increase opportunities for recreation and restore coastal ecosystems. To reach this goal, PlaNYC sets forth a multi-pronged strategy to improve water quality by removing industrial pollution from waterways, protecting and restoring wetlands, aquatic systems and ecological habitats, continuing construction of infrastructure upgrades, and using "green" infrastructure to manage stormwater. Publicly-sponsored projects that are likely to undergo CEQR review would generally be consistent with PlaNYC if they include use of one or more of the following elements:

- Expand and improve wastewater treatment plants
- Protect and restore wetlands, aquatic systems, and ecological habitats
- Expand and optimize the sewer network
- Build high level storm sewers
- Expand the amount of green, permeable surfaces across the city



- Expand the Bluebelt system
- Use “green” infrastructure to manage stormwater
- Are consistent with the Sustainable Stormwater Management Plan
- Build systems for on-site management of stormwater runoff
- Incorporate planting and stormwater management within parking lots
- Build green roofs
- Protect wetlands
- Use water efficient fixtures
- Adopt a water conservation program

**LAND USE**

PlaNYC sets forth the goals of creating homes for almost a million more New Yorkers, while making housing more affordable and sustainable. To reach these goals, PlaNYC sets forth a multi-pronged strategy of publicly-initiated rezonings, creating new housing on public land, exploring additional areas of opportunity, encouraging sustainable neighborhoods, and expanding targeted affordability programs. Other relevant elements of PlaNYC include initiatives to further brownfield, open space, and transportation goals. Publicly-sponsored projects that are likely to undergo CEQR review would generally be consistent with PlaNYC if they include use of one or more of the following:

- Pursue transit-oriented development
- Preserve and upgrade current housing
- Promote walkable destinations for retail and other services
- Reclaim underutilized waterfronts
- Adapt outdated buildings to new uses
- Develop underused areas to knit neighborhoods together
- Deck over rail yards, rail lines and highways
- Extend the Inclusionary Housing program in a manner consistent with such policy
- Preserve existing affordable housing
- Redevelop brownfields

**OPEN SPACE**

PlaNYC sets forth the goal of ensuring that all New Yorkers live within a 10-minute walk of a park. To reach this goal, PlaNYC sets forth a multi-pronged strategy of making existing sites available to more New Yorkers, expanding usable hours at existing sites, targeting high-impact projects in neighborhoods underserved by parks, creating destination-level spaces for all types of recreation, converting former landfills into public space and parkland, promoting and protecting nature, ensuring the long-term health of parks and public space, and re-imagining the public realm. Publicly-sponsored projects that are likely to undergo CEQR review would generally be consistent with PlaNYC and other related initiatives if they include use of one or more of the following elements:

- Complete underdeveloped destination parks
- Provide more multi-purpose fields
- Install new lighting at fields
- Create or enhance public plazas
- Plant trees and other vegetation
- Upgrade flagship parks
- Convert landfills into park land
- Increase opportunities for water-based recreation
- Conserve natural areas



### **NATURAL RESOURCES**

The protection of natural resources is woven throughout PlaNYC. The many ecological services provided by natural resources are recognized and promoted within the open space, water quality, air quality, and brownfields chapters of PlaNYC. In recognition of the many co-benefits provided by natural resources, publicly-sponsored projects that are likely to undergo CEQR review would generally be consistent with PlaNYC if they include use of one or more of the following elements:

- Plant street trees and other vegetation
- Protect wetlands
- Create open space
- Minimize or capture stormwater runoff
- Redevelop brownfields

### **SOLID WASTE**

PlaNYC sets a long-term goal of diverting 75% of public and private sector solid wastes from landfills. The multi-pronged strategy to meet this goal includes increasing the recovery of resources from the waste stream, improving the efficiency of the waste management system, and reducing the city government's solid waste footprint. It should be noted that for the PlaNYC Solid Waste policy area, there is a substantial overlap with New York City's adopted Solid Waste Management Plan (SWMP). Accordingly, a large, publicly-sponsored project that is consistent with the SWMP would also generally be consistent with PlaNYC. A publicly-sponsored project that improves the infrastructure for the City's solid waste collection and recycling operations would also generally be consistent with PlaNYC. The 75% diversion goal is to be achieved by many individual projects making progress towards this goal over time. In general, a large, publicly-sponsored project that is likely to undergo CEQR review would further the goals of PlaNYC with respect to solid waste if it includes one or more of the following elements and does not significantly impede other listed elements:

- Promote waste prevention opportunities
- Increase the reuse of materials
- Improve the convenience and ease of recycling
- Create opportunities to recover organic material
- Identify additional markets for recycled materials
- Reduce the impact of the waste system on communities
- Remove toxic materials from the general waste system

### **TRANSPORTATION**

PlaNYC sets forth two related transportation goals: expand sustainable transportation choices and ensure the reliability and high quality of the City's transportation network. PlaNYC sets forth a multi-pronged strategy to reach these goals by building and expanding transit infrastructure, improving transit service on existing infrastructure, promoting other sustainable modes, improving traffic flow by reducing congestion on roads, bridges, and airports, maintaining and improving the physical condition of our roads and transit system, and developing new funding sources. The specific initiatives in PlaNYC's transportation chapter may be found [here](#). A key theme in PlaNYC is to reduce congestion and vehicle traffic on our roads, particularly in our most congested areas. Accordingly, publicly-sponsored projects that are likely to undergo CEQR review would generally be consistent with PlaNYC if they include use of one or more of the following elements:

- Promote transit-oriented development
- Promote cycling and other sustainable modes of transportation
- Improve ferry services
- Make bicycling safer and more convenient
- Enhance pedestrian access and safety



- Facilitate and improve freight movement
- Maintain and improve roads and bridges
- Manage roads more efficiently
- Increase capacity of mass transit
- Provide new commuter rail access to Manhattan
- Improve and expand bus service
- Improve local commuter rail service
- Improve access to existing transit

## 500. DEVELOPING MITIGATION

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When a large publically sponsored project would result in inconsistencies with PlaNYC, and such inconsistencies are of such a degree as to be significant, those impacts must be mitigated to the greatest extent practicable, consistent with social, economic and other essential considerations. If the impacts can be appropriately mitigated, the project would then be consistent with PlaNYC. Appropriate mitigation measures will vary depending on the particular inconsistency. Mitigation measures include many of the initiatives listed above. Further sustainability and efficiency measures may also mitigate the inconsistency and can be found [here](#).

## 600. DEVELOPING ALTERNATIVES

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Sometimes, a proposed project would result in an inconsistency with PlaNYC that can be avoided through changes to the project. Such changes can include many of the mitigation measures described above.

## 700. AGENCY COORDINATION

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If a lead agency is unsure of the applicability of the sustainability assessment to the proposed project, or has questions with regard to the consistency assessment, it should contact the Mayor's Office of Environmental Coordination (MOEC). For questions regarding the PlaNYC initiatives or measures to mitigate an inconsistency, the lead agency should consult with both MOEC and the Mayor's Office of Long Term Planning and Sustainability.