PART I:
PROGRAM DESCRIPTION

COASTAL ZONE REGULATORY FRAMEWORK

16 U.S.C. Federal Coastal Zone Management Act

In recognition of the importance of meeting the challenges of continued growth in the nation's Coastal Zone, Congress enacted the Coastal Zone Management Act (CZMA) on October 27, 1972. The CZMA, administered by the National Oceanic and Atmospheric Administration's (NOAA) Office of Ocean for Coastal Management (OCM), seeks to balance economic development with environmental conservation throughout the nation's Coastal Zone. The overall program objectives of the CZMA include "to preserve, protect, develop, and, where possible, to restore or enhance the resources of the nation's Coastal Zone" and "to encourage and assist the states to exercise effectively their responsibilities in the Coastal Zone through the development and implementation of management programs to achieve wise use of the land and water resources of the Coastal Zone."

The CZMA emphasizes the primacy of state decision making regarding the Coastal Zone. Section 307 of the CZMA (16 USC § 1456), the "federal consistency provision," provides a major incentive for states to join the national coastal management program and is a powerful tool that states use to manage coastal uses and resources and to facilitate cooperation and coordination with federal agencies and among state and local agencies. States with coastal management programs approved by OCM benefit from the CZMA's federal consistency provision, which generally provides that federal agency activities and development projects, activities requiring federal licenses or permits, or activities requiring federal financial assistance, that may have reasonably foreseeable effects on the Coastal Zone must be reviewed for consistency with the approved state management program.

New York State Executive Law Article 42: Waterfront Revitalization of Coastal Areas and Inland Waterway Act

New York State's Waterfront Revitalization of Coastal Areas and Inland Waterway Act (the Waterways Act), previously the Waterfront Revitalization and Coastal Resources Act of 1981, establishes the creation of the State's Coastal Management Program. The implementing regulations of the Waterways Act and New York State's coastal area policies can be found in the Department of State regulations 19 NYCRR Part 600. The Waterways Act designates the Department of State (DOS) as the administrator of New York's Coastal Management Program (CMP). In recognition of the state policy to encourage the revitalization of waterfront areas in a manner consistent with local objectives, the Waterways Act also allows for the creation of optional local government waterfront revitalization programs (LWRP), such as New York City's Waterfront Revitalization Program (WRP), so long as such local programs are found consistent with the State's coastal policies and will achieve the waterfront revitalization purposes of the Waterways Act.

Once a local waterfront revitalization program is approved by the State and concurred with by NOAA's Office of Coastal Management as consistent with the State's coastal policies, the local coastal area management policies contained in an approved LWRP become incorporated into

the State's CMP. Both federal activities that may have a reasonably foreseeable effect on New York City's Coastal Zone and State actions located in the Coastal Zone must be reviewed for consistency with the local coastal area management policies contained in New York City's WRP, as incorporated in the CMP.

New York City's Local Waterfront Revitalization Program

New York City's original Waterfront Revitalization Program was adopted by the New York City Board of Estimate as a local plan in accordance with Section 197-a of the City Charter. The WRP was subsequently approved by DOS for inclusion in the New York State CMP. Thereafter, on September 30, 1982, the U.S. Secretary of Commerce, pursuant to federal regulation, concurred with DOS's request to incorporate the WRP into the New York State CMP The NYC WRP thus became the State's first LWRP. The original WRP incorporated the 44 state coastal policies and explanations contained in the New York State CMP, set forth an additional 12 local coastal policies, and delineated the boundary of the City's Coastal Zone. The WRP charged the City Planning Commission, acting as the City Coastal Commission, and the Department of City Planning, with responsibility for administering the WRP, and provided that local discretionary actions that occur in the Coastal Zone are subject to review and determination of consistency with the local coastal area management policies contained herein.

In 1999, the City Planning Commission revised and streamlined the original WRP with a document entitled *the New Waterfront Revitalization Program*. The New WRP consolidated the 56 city and state policies into ten categories of policies that deal 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 materials, (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. On October 13, 1999, the New WRP was adopted by the City Council pursuant to the framework set forth in Section 197-a of the City Charter. The New WRP was subsequently approved by DOS for inclusion in the New York State CMP on May 28, 2002, and, pursuant to federal regulations, the U. S. Secretary of Commerce concurred with DOS's request to incorporate the WRP into the New York State CMP.

This update to the WRP does not substantially alter the policies or structure of the program but rather reflects numerous events and waterfront planning efforts that have taken place since the WRP was last updated. Most importantly, these revisions build on and are a direct outcome of *Vision 2020: the New York City Comprehensive Waterfront Plan*, which was released in March of 2011 by the Department of City Planning. As noted above, the framework of Section 197-a of the City Charter was utilized as the vehicle in New York City for the adoption of the original WRP and the New WRP (2002). Accordingly, the 2013 update is also adopted pursuant to the framework set forth in Section 197-a of the City Charter. On October 30, 2013, the New York City Council voted to approve these revisions to the New York City Waterfront Revitalization Program. Upon approval by the New York State Secretary of State, and federal concurrence, these revisions are incorporated into the New York State CMP.

PLANNING CONTEXT FOR THE WRP UPDATES

1992 New York City Comprehensive Waterfront Plan & the 2002 WRP Update

The *1992 New York City Comprehensive Waterfront Plan* was the first citywide comprehensive waterfront plan released by the Department of City Planning. The plan proposed ways to reclaim the shoreline for public access and productive uses and identified four functional categories for waterfront activity: the Natural Waterfront, the Public Waterfront, the Working Waterfront, and the Redeveloping Waterfront. The plan organized the waterfront into 22 specific stretches, or "reaches," and made recommendations for each one. The plan also proposed many important projects that have come to fruition in the years since the report was published, recommended regulatory changes that have since been implemented, and provided a foundation for waterfront planning and policies. The New WRP that was approved in 2002 was largely based on the *1992 New York City Comprehensive Waterfront Plan*.

***Vision 2020: New York City Comprehensive Waterfront Plan* & updates to the WRP**

As noted above, this update to the WRP builds on and is a direct outcome of numerous waterfront planning efforts since the WRP was last updated, most importantly *Vision 2020: New York City Comprehensive Waterfront Plan*, released in 2011. *Vision 2020* represents an update to the 1992 plan that presents a comprehensive analysis and overall vision for New York City's 520 miles of diverse shoreline, and identifies a strategic framework for the city's waterfront, waterways, and water to achieve this vision. *Vision 2020* provides a framework for improved water quality, more water transport, increased public access to the waterfront, and economic opportunities that will strengthen New York City as a world-class harbor city and make the water part of New Yorkers' everyday lives.

Vision 2020 was the culmination of a year-long, participatory planning process involving multiple agencies and organizations and input from New Yorkers in every borough. The plan is organized around eight goals: expand public access, enliven the waterfront, support the working waterfront, improve water quality, restore the natural waterfront, enhance the Blue Network (the waterways themselves), improve governmental oversight, and increase climate resilience. For each goal, the plan examines the issues and presents numerous citywide policies and strategies to achieve the goal. In addition, the plan includes site-specific strategies to improve the waterfront in all five boroughs.

Over the past several decades, the City has made great strides in connecting New Yorkers with the water's edge. *Vision 2020* seeks to build on these achievements and continue the City's commitment to expanding public access to the waterfront and enlivening the waterfront with a range of attractive uses. As the city continues to grow, the plan envisions new waterfront development to meet housing demand as well as provide jobs, generate new tax revenue, provide new public access opportunities, and offer crucial services for New Yorkers.

Vision 2020 also takes the next step, going beyond the shoreline and establishing policies and strategies for the use of the water itself. For example, *Vision 2020* proposes to increase the use of the waterways for passenger transportation and diverse forms of recreation. The city's waterways provide an efficient means of transporting goods as well. The city's marine cargo terminals and tug and barge operators play an important role in the Port of New York and New Jersey, the third largest port in the country and largest on the East Coast. By expanding the port and supporting the growth of maritime support services, the City will create new jobs and revitalize waterfront industrial neighborhoods.

In addition, *Vision 2020* proposes to use the waterways as part of a larger strategy to make the city more sustainable and resilient. Through innovative stormwater management, the City can improve the ecological health of its water bodies, allowing for safer in-water recreation and increased biodiversity. By protecting and restoring wetlands, beaches, and other natural shorelines, the City can better protect coastal neighborhoods from flooding and storm surges. This revision to the WRP seeks to update the coastal policies in a manner that is consistent with the goals set forth in *Vision 202*0. Updating the WRP is one of the many efforts underway to implement *Vision 2020*.

COASTAL ZONE BOUNDARY

Originally mapped and adopted in 1982, the Coastal Zone Boundary defines the geographic scope of the WRP (maps delineating the boundaries of New York City's Coastal Zone are presented in Part III). Pursuant to federal statute, the boundary encompasses all land and water that imposes a direct and significant impact on coastal waters. The Coastal Zone Boundary extends water-ward to the Westchester, Nassau County, and New Jersey boundaries, as well as to the three-mile territorial limit in the Atlantic Ocean. The boundary extends landward to encompass the following coastal features:

- Staten Island Bluebelts
- Tidal and freshwater wetlands
- Coastal floodplains and Flood Hazard Areas
- Erosion hazard areas
- Coastal Barrier Resources Act Areas
- Steep slopes
- Parks and beaches
- Visual access and views of coastal waters and the harbor
- Historic, archaeological, and cultural sites closely associated with the coast
- Special zoning districts

The Coastal Zone Boundary also includes the following special area designations:

- Significant Maritime and Industrial Areas
- Arthur Kill Ecologically Sensitive Maritime and Industrial Area
- Recognized Ecological Complexes

- Significant Coastal Fish and Wildlife Habitats
- Special Natural Waterfront Areas

In developed areas devoid of these features, the Coastal Zone Boundary is generally defined as the nearest legally mapped street at least 300 feet landward of the Mean High Tide Line. In undeveloped areas devoid of these features, the landward boundary is delineated at the legally mapped street nearest to the first major man-made physical barrier. Exceptions to these guidelines include City Island, Broad Channel Island, and the Rockaway Peninsula, which are included within the Coastal Zone in their entirety. Federal lands and facilities are excluded from the Coastal Zone; however, as discussed in greater detail below, in accordance with federal legislation, Federal activities conducted on Federal lands that may affect the resources within the Coastal Zone may be subject to consistency review with New York City's WRP. Should the federal government dispose of any coastal property, it would be included in the Coastal Zone.

At the time of adoption of the 2013 comprehensive update to the WRP, the incorporation of the FEMA flood plains and flood hazard areas within the Coastal Zone Boundary was based upon the most up-to-date projections available at the time. However, floodplain and flood hazard area projections are informed by constantly evolving understanding of dynamic environmental conditions, and, accordingly, are likely to change based on newly available data and forecasting models over the next several years. In order to ensure on an on-going basis that the City's Coastal Zone Boundary incorporates the most recently delineated floodplain and flood hazard areas, the City Coastal Commission, as the administrator of the WRP, shall update the Coastal Zone Boundary, as necessary, to reflect newly available flood plain projections. Updates made to the Coastal Zone Boundary made by the City Coastal Commission shall not become effective until approved by DOS for inclusion in the New York State CMP and the U.S. Secretary of Commerce concurs with DOS's request to incorporate the updated Coastal Zone boundary into the New York State CMP. Prior to transmitting the updated Coastal Zone Boundary to DOS for approval, the proposed revised Coastal Zone Boundary maps will be transmitted by the City Coastal Commission to each affected Community Board, the Borough Board of any Borough in which more than one Community Board is affected, the Borough President of all affected Boroughs, and the local Council Member(s) of any affected areas, as applicable (the "Reviewing Parties"), for review and comment on the revised boundaries within a forty-five (45) day period. Following receipt of comments from the Reviewing Parties, the City Coastal Commission shall transmit the revised Coastal Zone Boundary, with modifications to the boundaries as necessary to address comments, to DOS for approval.

CONSISTENCY REVIEW PROCESS AND DETERMINATION

The New York City WRP policies and sub-policies (collectively referred to as "policies") presented in Part II of this document consider the economic, environmental, and cultural characteristics of New York City's waterfront. The policies represent a balance between economic development and preservation that will permit beneficial use of and prevent adverse effects on coastal

resources. They also represent the enforceable policies of the New York State Coastal Management Program for projects in the waterfront area that are subject to this WRP. The policies are comprehensive and reflect the City's concerns; and they will be enforced through use of State laws and authorities, and local laws and regulations. The policies are the basis for Federal, State and local consistency determinations for activities affecting the Coastal Zone. While the policies are enforceable as a matter of state and local law, for reviews conducted under the federal Coastal Zone Management Act, the explanatory text for each policy is for explanatory purposes only.

Federal, state and local actions affecting the Coastal Zone are reviewed to assess the consistency of a proposed activity or project with the ten policies set forth in the WRP, while seeking to reconcile the manner in which proposed uses of the waterfront area may at once advance and hinder various policies of the WRP. In accordance with federal regulations, federal agency activities and development projects, activities requiring federal licenses or permits, or activities requiring federal financial assistance that may have reasonably foreseeable effects on the Coastal Zone must be reviewed for consistency with the WRP. Similarly, state agency program actions that are likely to affect the achievement of the policies and purposes of the WRP shall be undertaken in a manner consistent to the maximum extent practicable with its policies. Finally, projects involving local discretionary action that occur in the Coastal Zone are subject to review and determination of consistency with the coastal policies of the WRP. The application of consistency review to federal, state and local actions is discussed in more detail below.

The consistency review process also serves to facilitate coordinated review among local, state and federal agencies that play a role in projects affecting the Coastal Zone. Various federal, state and local agencies, such as the U.S. Army Corps of Engineers, the New York State Department of Environmental Conservation, the Port Authority of New York and New Jersey, New York City's Department of Parks and Recreation, Economic Development Corporation, Department of Buildings, Department of Health, and Department of Environmental Protection all have varying degrees of jurisdiction over New York City's waterfront. The consistency review of a project involving approval or permitting from various agencies at different levels of government ensures that the City's coastal policies are considered by all agencies involved in projects that fall within the Coastal Zone and assists in the early identification of all coastal regulatory requirements and policy considerations that may affect a particular project.

Federal Activity Consistency

The federal consistency provisions of the CZMA require that federal agency activities or development projects—whether performed by or on behalf of a federal agency in the exercise of its statutory responsibilities, and whether proposed inside or outside of the Coastal Zone—which will have a reasonably foreseeable effect on any land or water use or natural resource of the Coastal Zone, shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs. Similarly, any application for a required federal license or permit to conduct an activity or any application for federal assistance under other federal programs submitted by state and local governments (in or outside of the Coastal Zone), that has a reasonably foreseeable effect on any land or water

use or natural resource of the Coastal Zone, shall be consistent with the enforceable policies of a State's approved program. The federal regulations that implement the consistency provisions of the CZMA are found at 15CFR Part 930 (Federal Consistency with Approved Coastal Management Programs).

The CZMA provides that the enforceable policies of an approved State management program are those State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a state exerts control over private and public land and water uses and natural resources in the Coastal Zone. In New York City, the basis for federal consistency review are the enforceable policies, as described above, set forth in New York City's Waterfront Revitalization Program (WRP), which have been approved and incorporated into the State's Coastal Management Program (CMP). In New York State, DOS administers the State's CMP and is responsible for reviewing federal activities, development projects, licensing, permitting and funding that have reasonably foreseeable effects on New York City's Coastal Zone as to their consistency with the enforceable policies of New York City's WRP.

The DOS conducts consistency review for projects involving direct actions by federal agencies, federal permits, or federal funding with the CMP and the NYC WRP. For federal agencies undertaking activities or development projects that have a reasonably foreseeable effect on any land or water use or natural resource of New York City's Coastal Zone shall provide DOS with a consistency determination of the proposed activity with the New York City WRP during the early stages of planning or reassessment of the proposed activity. In the event that DOS objects to a determination of consistency made by a federal agency, such federal agency shall not proceed with the activity over DOS objection unless the federal agency concludes that carrying out the activity in a manner that is consistent to the maximum extent practicable with the enforceable policies of the CMP is prohibited by existing law applicable to the federal agency, or the federal agency has concluded that its proposed action is fully consistent with the enforceable policies of the management program, despite the DOS objection.

Applicants for a license or permit from a federal agency to conduct activities that have reasonable foreseeable effects on any land or water use or natural resources of New York City's Coastal Zone must provide DOS with a consistency certification that the proposed activity complies with and will be conducted in a manner consistent with the CMP.

Similarly, state or local governments applying for federal assistance under federal programs affecting an land or water use or natural resource in New York City's Coastal Zone must submit a copy of their application to DOS for consistency review and shall provide a brief evaluation of the relationship of the proposed activity and any reasonable foreseeable coastal effects to the enforceable policies of the coastal management program. Where DOS objects to an applicant's consistency certification (application for license and permits) or evaluation (application for federal assistance), the federal agency shall not issue the federal license or permit or approve assistance for the activity, unless the Secretary of Commerce finds that the activity requiring a federal license or permit or federal financial assistance is consistent with the objectives or

purposes of the Coastal Zone Management Act, or is necessary in the interest of national security.

DOS is the sole designated State agency responsible for reviewing federal activities, development projects, licensing, permitting and funding actions that have reasonably foreseeable effects on New York City's Coastal Zone. DOS will issue a federal consistency decision using the enforceable policies of New York City's WRP and the federal regulatory procedures and standards at 15 CFR part 930 for an activity located within the City's Coastal Zone. In particular, DOS will review the federal agency activity (permit, license or financial assistance) and an approval would require that the activity be consistent with all the WRP coastal policies. DOS will review direct federal agency activities to determine if the activity is consistent to the "maximum extent practicable" with the WRP coastal policies. In its role in the administration of the WRP and as staff to the City Planning Commission, acting as the City Coastal Commission, the Department of City Planning assists with interagency coordination. The City Coastal Commission will consult with the DOS, as early as possible within DOS's statutory review timeframe, and will issue an advisory letter to evaluate whether the activity will or will not substantially hinder the achievements of any WRP policy. Where the City Coastal Commission concludes that the project will substantially hinder the achievement of the WRP, the City Coastal Commission will advise DOS whether the action has satisfied the following requirements: (1) no reasonable alternatives exist which would permit the action to be taken in a manner that would not substantially hinder the achievement of such policy; (2) the action taken will minimize all adverse effects on such policies to the maximum extent practicable; (3) the action will advance one or more of the other coastal policies; (4) the action will result in an overriding local public benefit. DOS will issue the federal consistency decision within the statutory timeframe for review pursuant to the standards in 15 CFR part 930.

For the list of all federal actions subject to consistency review with New York State's CMP and with New York City's WRP, please see *New York's Listed Federal Actions Table 2, Federal Activities Affecting Land and Water Uses and Natural Resources in the Coastal Zone of New York State*, which can be found in New York State's CMP document and are referenced in this document in *Appendix A: State and Federal Actions and Programs which should be undertaken in a manner consistent with the LWRP* as of the date of publication.

State Action Consistency

Pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act ("Waterways Act"), state program actions identified by the Secretary of State which are likely to affect the achievement of the policies and purposes of New York City's WRP shall be undertaken in a manner which is consistent to the maximum extent practicable with the WRP. The Secretary of State notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with NYC's approved WRP (See Appendix A). Consistency determinations of state program actions likely to affect the achievement of the policies and purposes of the WRP are coordinated with the State Environmental Quality Review process.

Where a determination is made pursuant to the State Environmental Quality Review Act (SEQRA) that an action within the Coastal Zone may have a significant effect on the environment, the State agency shall include an assessment of the action's consistency with the applicable WRP policies. Prior to making a final decision on the action that has been the subject of a final EIS, the state agency must make a written finding that the action is consistent to the maximum extent practicable with the WRP. Fulfilling this requirement constitutes a determination of consistency with the coastal management program, as required by the Waterways Act.

Where a determination is made pursuant to SEQRA that an action will not have a significant effect on the environment, at the time of making its decision on the action, the State agency must file with DOS a certification that the action will not substantially hinder the achievement of any of the policies and purposes of the WRP and, whenever practicable, will advance one or more of such policies.

If the action will substantially hinder the achievement of any policy, the State agency may proceed with the action if it certifies instead that the following three requirements are satisfied: (1) no reasonable alternatives exist which would permit the action to be taken in a manner that would not substantially hinder the achievement of such policy; (2) the action taken will minimize all adverse effects on such policies to the maximum extent practicable; and (3) the action will result in an overriding regional or statewide public benefit. Such certification shall constitute a determination that the action is consistent to the maximum extent practicable with New York City's WRP as required by the Waterways Act. Waterways

The relevant State agency will consult with the City Planning Commission, acting as the City Coastal Commission, during the State agency's review of an action for consistency with the New York City WRP. The City Coastal Commission will provide advice and comments in writing to inform the agency's determination. In its role in the administration of the WRP and as staff to the City Planning Commission, acting as the City Coastal Commission, the Department of City Planning assists with interagency coordination. Under circumstances when a state action also involves a federal action, the Department of City Planning will coordinate with DOS for federal consistency review. For more details, see *Appendix C: Guidelines for Notification and Review of Federal Agency and New York State Agency Actions.*

See *Appendix A: State and Federal Actions and Programs which should be undertaken in a manner consistent with the LWRP* for a current official list of State actions which should be undertaken in a manner consistent with the NYC WRP, as of the date of publication. The state regulations that implement the consistency provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act can be found in 19 NYCRR Part 600.

Local Action Consistency

Local discretionary actions located within the Coastal Zone and subject to City Environmental Quality Review (CEQR) are reviewed for consistency with the policies of the WRP. A Consistency Assessment Form (NYC CAF) has been developed by the Department of City Planning to help make a preliminary assessment of a proposed project's potential for inconsistency with the WRP

policies and identify which WRP policies apply to a specific project. The NYC CAF is designed to screen out those policies that would have no bearing on a consistency determination for a proposed project. For any WRP policy, indicated as applicable on the NYC CAF, an assessment of the consistency of the proposed project with the noted policies must be prepared.

The City Planning Commission, acting as the City Coastal Commission, and the Department of City Planning, are responsible for administering the WRP. All local discretionary actions within the Coastal Zone that are subject to CEQR are reviewed for consistency with New York City's coastal policies. This includes the review of actions requiring City Planning Commission approval pursuant ULURP or other provision of the City Charter, as well as projects of other City agencies that do not otherwise require City Planning Commission approval. In evaluating the project's effect on the city's waterfront, the CCC considers the policies set forth in the WRP. Where a project is approved by the City Planning Commission and the project has been found consistent with the policies and intent of the WRP, the City Planning Commission sets forth that the CCC, having reviewed the waterfront aspects of the action, finds that the actions will not substantially hinder the achievement of any WRP policy and hereby determines the action is consistent with WRP policies. Where a project is approved which does not conform to existing waterfront policy, the CCC must decide that the action has satisfied all four of these requirements: (1) no reasonable alternatives exist which would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy; (2) the action taken will minimize all adverse effects on such policies to the maximum extent practicable; (3) the action will advance one or more of the other coastal policies; and (4) the action will result in an overriding local or regional public benefit. Where the CCC finds that an action that does not conform to existing waterfront policy otherwise meets the above requirements, such finding shall constitute a determination that the action is consistent with the WRP.

Pursuant to the State Environmental Quality Review Act (SEQRA), Mayoral Executive Order No. 91 (City Environmental Quality Review) and the CEQR Rules of Procedure, discretionary actions of City agencies are reviewed for impacts on the environment before a final decision to approve the action is made. Under CEQR, a land use analysis considers the proposed project's compliance with, and the effect on, the area's applicable public policies. Accordingly, proposed projects located in New York City's Coastal Zone must be assessed for their consistency with the WRP. As directed by the EAS short/full form if a project is located within the WRP coastal boundaries a project sponsor, or lead agency, as the case may be, must complete a NYC CAF form and provide the same to the Department of City Planning.

Where a project is found to hinder any WRP policy, consideration should be given to any practical means of altering or modifying the project to eliminate the hindrance on the WRP. If reasonable alternatives or modifications to the project that would eliminate the hindrance are not possible, consideration should be given as to whether the hindrance is of such a degree as to be substantial. In making such a determination of whether a project's hindrance of a policy is substantial, the degree to which the policy will be hindered should be considered. For example, while a proposed new structure that would block a view corridor toward the water may be found to be a hindrance of a WRP policy, it may be found to be an insubstantial

hindrance, depending on the existing width of that view corridor and other circumstances. Where a hindrance to a policy is found to be substantial, those adverse effects related to the policy inconsistency should be mitigated to the extent practicable. Appropriate mitigation measures vary, depending on the particular inconsistency. Moreover, policies that would be advanced by the project should be balanced against those that would be hindered by the project in order to determine if a particular project is appropriate.

Where a project is determined to result in substantial hindrance of a policy or policies of the WRP, an agency's final decision to approve the action may be made where the mitigation measures identified and the balancing of policies that are hindered against those that are advanced are sufficient to enable a finding by such agency, with the concurrence of the CCC, that: (1) no reasonable alternatives exist which would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy; (2) the action taken will minimize all adverse effects on such policies to the maximum extent practicable; (3) the action will advance one or more of the other coastal policies; and (4) the action will result in an overriding local or regional public benefit. Such finding shall constitute a determination that the project is consistent with the WRP.

Consistency Review Considerations and Prioritization of Policies

The policies set forth in the WRP provide general goals for the city's waterfront as a whole and more specific goals for portions of the waterfront that have notable characteristics. Accordingly, the relevance of each applicable policy may vary depending upon the project type and where it is located. A policy is considered applicable to a proposed project if its site, surroundings or the action itself involves activities or conditions that may have reasonably foreseeable effects to the uses or resources of the coastal zone.

The WRP sets forth five types of special area designations: the Special Natural Waterfront Areas (SNWAs), the Significant Maritime and Industrial Areas (SMIAs), the Arthur Kill Ecologically Sensitive Maritime and Industrial Area (ESMIA), the Priority Marine Activity Zones (PMAZs), and the Recognized Ecological Complexes (RECs). Maps depicting the boundaries of all of these area designations are in Part III of this report. Within each of these areas, certain policies set forth in the WRP may be prioritized over other policies. Therefore, some policies may be more or less relevant in a consistency review depending on whether a proposed activity would occur in an area characterized as most appropriate for redevelopment, working waterfront uses, natural resource protection, or public use. For example, public access and habitat protection are less relevant objectives along the working waterfront than they are in the public or natural waterfront areas, while the promotion of water-dependent industry is less relevant than wetlands protection in the natural waterfront areas. When a policy is not applicable or relevant to a proposed project and its location, the policy would not be considered in the project's consistency review.

REGULATIONS AND PROCESSES RELATED TO THE IMPLEMENTATION OF THE PROGRAM

The City of New York is empowered to adopt land use regulations pursuant to the New York State General City Law. Many of the City's controls are contained in its Zoning Resolution, adopted by the City Planning Commission and City Council and administered by the Department of Buildings. A number of other agencies, boards, commissions, elected bodies and Mayoral agencies possess authority to control or influence land use in the waterfront area. For a full list of means of implementing the WRP, see *Appendix B: Local and State Regulations Related to the Implementation of the WRP (by Policy)*.

The City Planning Commission and the Department of City Planning

Management of New York City's WRP is the responsibility of the City Planning Commission, acting as the City Coastal Commission, and the Department of City Planning. The City Planning Commission consists of a Chairperson and twelve members. Members other than the Chair are appointed for a term of five years. The Chairperson is also Director of the Department of City Planning and serves at the pleasure of the Mayor. The major responsibilities of the agency include the review of applications respecting the use, development or improvement of real property subject to ULURP; the promulgation of zoning regulations; and the issuance of an annual Capital Needs Statement.

The Department serves as staff to the Commission in all matters under the Commission's jurisdiction, advises and assists the Mayor and other City agencies in regard to physical planning and public improvement aspects of all matters related to the development of the City, provides professional and technical assistance to community planning boards, and conducts studies and collects data on an ongoing basis to serve as the basis for planning recommendations.

As noted, the Chairperson of the City Planning Commission serves as the Director of the Department of City Planning. The Department, acting as the staff for the City Coastal Commission, has been responsible for the initiation of New York City's WRP throughout the program development and implementation process. The WRP is implemented by the Department of City Planning, acting as staff to the City Coastal Commission. City Charter Section 197-a, has been utilized as the approval process for the WRP in New York City.

Land Use Review

Since 1976, applications for major land use actions, by individuals, groups, businesses, and governmental agencies have been subject to the formal land use review process known as the Uniform Land Use Review Procedure (ULURP), pursuant to Section 197-c of the City Charter. Implementation of the WRP in the ULURP process takes place through the City Planning Commission, acting as the City Coastal Commission, which makes determinations of the consistency of land use proposals with the WRP. Where waterfront issues are raised, the Commission addresses these issues in its reports. Implementation of the WRP through ULURP ensures that the policies and concerns of the WRP are part of the consideration upon which the

Commission makes its decisions. The Department of City Planning advises the Commission and the Community Boards on WRP matters and, during the pre-certification process, ensures that applicants are aware of the WRP.

Zoning Regulations

While the designation of zoning districts (zoning map changes) is subject to ULURP, the adoption of zoning regulations (text) is subject to a slightly different procedure. Upon its own initiative, or upon application, the Commission may adopt a resolution approving new or amended zoning regulations. Following notice and public hearing, the resolution is forwarded to the City Council for adoption, modification or disapproval. The adoption of new zoning to achieve waterfront objectives of encouraging appropriate waterfront proposals and protecting valuable coastal resources is an important means to implement the policies of the WRP. The text of the City Zoning Resolution is revised from time to time to further reflect waterfront revitalization policies, guidelines, and standards.

New York City adopted special zoning regulations applicable to waterfront areas in 1993 (Article 6, Chapter 2 of the Zoning Resolution). These regulations require that most new residential and commercial development that falls within the waterfront area, as defined by the zoning resolution, must provide waterfront public access area and visual corridors and applies design standards for public walkways, upland connections, signage, lighting and other fixtures. The regulations also ensure that the scale of development is appropriate for the waterfront by controlling the height and bulk of waterfront buildings and pier structures. In order to preserve and encourage water-dependent uses, the regulations generally exempt such uses from many of the special waterfront area zoning requirements and allow for floating structures. The City Planning Commission and the City Council may also adopt Waterfront Access Plans to adapt the generic waterfront public access and visual corridor requirements to specific conditions in an area. Where WRP policy goals and the waterfront zoning overlap, the policies reference the zoning. In 2009, the City Planning Commission and the City Council adopted an amendment to the special zoning regulations applying in the waterfront area to allow for more flexibility in the design public waterfront spaces. The updated regulations are designed to ensure that public spaces are inviting and clearly accessible to the public; green the waterfront with plant life including trees, shrubs, and groundcover; include a variety of amenities including seating, table, and features like boat launches or play areas; and incorporate a variety of edge treatments and other landscape elements.

City Environmental Quality Review

As noted above, pursuant to the State Environmental Quality Review Act (SEQRA) and Mayoral Executive Order No. 91 (City Environmental Quality Review or CEQR), and the CEQR Rules of Procedure, discretionary actions of City agencies are reviewed to determine their potential to result in significant impacts on the environment before a final decision to approve the action is made. As described above and set forth in more detail in the City's *CEQR Technical Manual*, the provisions of the WRP are applied by the Department of City Planning and other city agencies when conducting environmental review. Inconsistency with the WRP may result in conditions being attached to proposed actions or in the preparation of an environmental impact statement

addressing waterfront issues. A determination of consistency does not itself authorize or require the issuance of any permit, license, certification, or other approval of any grant, loan, or other funding assistance by the local agency having jurisdiction pursuant to other provisions of law.

Community-Based 197-a Plans

Community-based plans, adopted by the City Planning Commission and the City Council pursuant to Section 197-a of the City Charter, and other local plans addressing conditions and issues within the Coastal Zone—such as the Comprehensive Manhattan Waterfront Plan (1997), the Stuyvesant Cove Plan (1997), the Red Hook Community Plan (1996), the Greenpoint and Williamsburg Waterfront Plans (2002), Andrew Haswell Green Park (2006), West Harlem Piers Park (2009), and Sunset Park (2009)—offer site-specific guidance that complement the WRP policies and continue to be consulted in assessing the consistency of proposed actions with public policy.

Parks Located in the Coastal Zone

Some parks within the Coastal Zone, such as Hudson River Park, are governed by a specific statutory, or regulatory, framework that governs actions within their boundaries. The WRP is intended to be consistent with such requirements and does not supersede them. The development of other parks within the Coastal Zone may be guided by adopted master plans or similar documents. When reviewing projects on such sites for consistency with the WRP, applicants and reviewers should consult such documents, provided they have been previously determined to be consistent with the WRP.