

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.

A. LAND USE, ZONING, AND PUBLIC POLICY

100. DEFINITIONS

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, com-



mercial, 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 subject to use, bulk, and parking regulations. Regulations for each zoning district specify 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 (e.g., R3-2, R5, R10A), is a zoning district in which residences and community facilities are permitted.

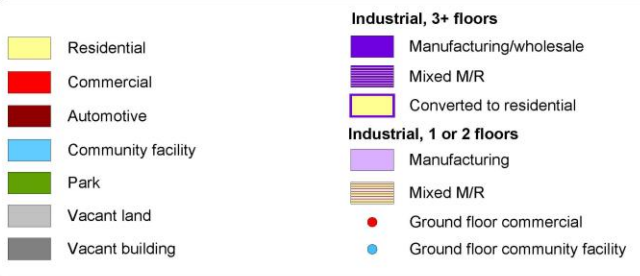
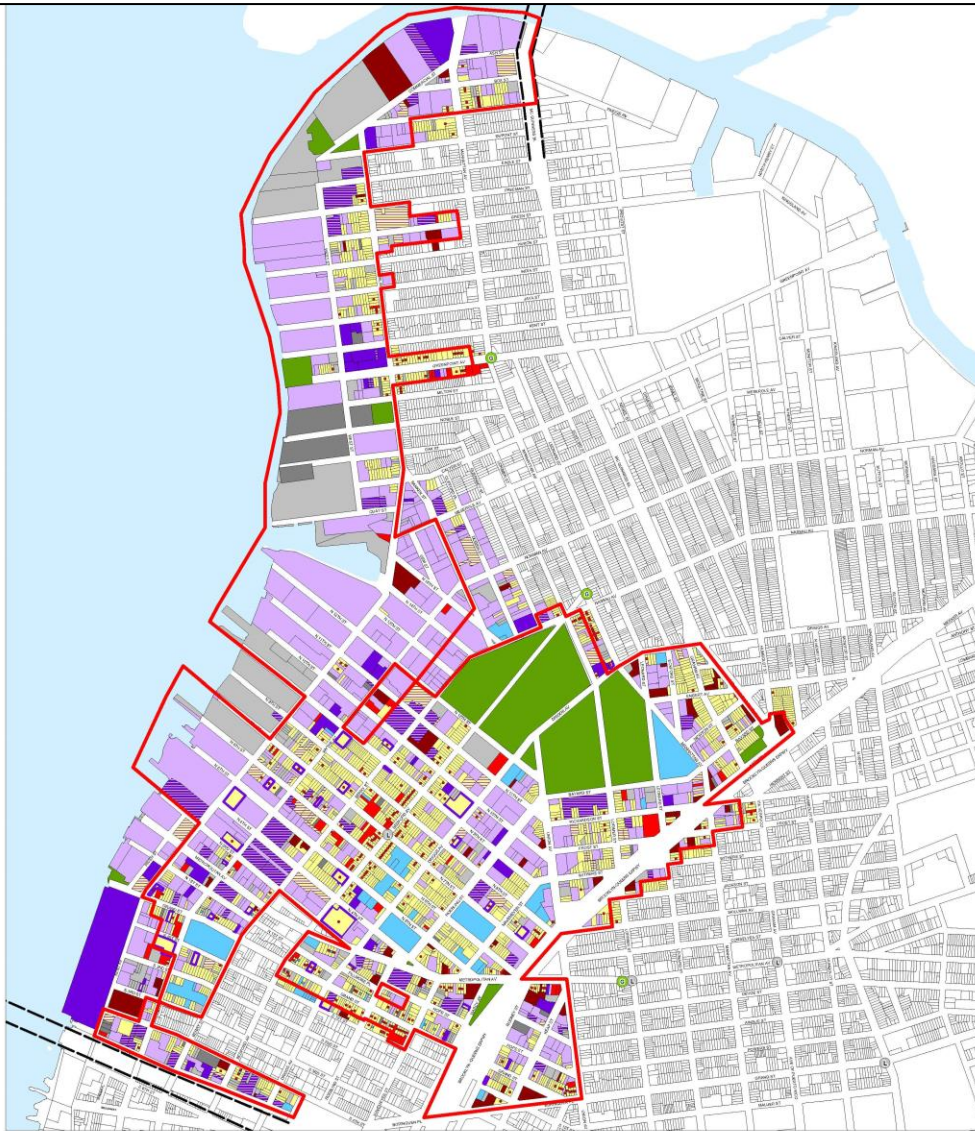
COMMERCIAL DISTRICTS. A commercial district, designated by the letter C (e.g., C1-2, C3, C4-7), is a zoning district in which commercial and community facility uses are permitted. Residential uses may also be permitted in certain commercial districts as well. A commercial overlay is a C1 or C2 district 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 (e.g., M1-1, M2-2), 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 (i.e., 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





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, for example, 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

New York City's Waterfront Revitalization Program (WRP) is the City's principal Coastal Zone management tool and establishes a broad range of public policies for the City's coastal areas. The guiding principle of the WRP is to maximize the benefits derived from economic development, environmental conservation, and public use of the waterfront, while minimizing the conflicts among these objectives. The WRP was originally adopted by the City of New York in 1982, revised in 2002, and is in the process of being updated in 2014. A local waterfront revitalization program, such as New York City's, is subject to approval 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 and the Federal Coastal Zone Management Act (see Section 710, below). The WRP establishes the City's Coastal Zone Boundary (CZB), (See Figure 4-3), and sets forth 10 categories of policies that are used to assess the consistency of a proposed project within the CZB with the WRP, which include: (1) residential and commercial redevelopment; (2) maritime and industrial development; (3) use of the waterways; (4) ecological resources; (5) water quality; (6) flooding and erosion; (7) 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. As directed by the short/full EAS form, for those projects that are located within the CZB, the preparation of the WRP consistency assessment should begin with a review of the [WRP](#) policies and completion of a [NYC WRP Consistency Assessment Form](#) (NYC CAF).

[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. 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. The WRP incorporates waterfront policies in a manner consistent with the goals set forth in Vision 2020. Accordingly, the policies set forth in the WRP should be used as the basis for assessing a project's consistency with the Comprehensive Waterfront Plan.

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 waterfront public access, wetlands, flood management, coastal erosion and hazardous materials. 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. Pursuant to federal statute, the Coastal Zone encompasses all land and water that impose a direct and significant impact on coastal waters. New York City's CZB (Figure 4-3) is set forth in the WRP and defines the geographic scope of the policies. All discretionary actions located within the Coastal Zone must be assessed for consistency with the WRP. The CZB 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 CZB extends landward to encompass the following coastal features:

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

Federal lands and facilities are excluded from the Coastal Zone; however, 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. For a more precise description and delineation of the Coastal Zone Boundary please refer to the WRP.

The Coastal Zone should not be confused with the “Waterfront Area” as such term is defined in Article I, Chapter 2 of the NYC Zoning Resolution or the more limited areas of “waterfront blocks” or “waterfront lots” as such terms are defined in Article VI, Chapter 2 of the NYC Zoning Resolution.

Figure 4-3
Coastal Zone



Source: NYS Department of Environmental Conservation

Coastal Zone Boundaries

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



The following list contains definitions of terms and concepts that contribute toward a better understanding of policies and responses to policies. It should be noted this list is not exhaustive.

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.

In December 2013, FEMA released the Preliminary FIRMs for New York City. The Preliminary FIRMs are maps to allow for public review of flood hazard risk before the issuance of effective FIRMs. FEMA developed a preliminary flood hazard data search tool (<http://hazards.fema.gov/femaportal/prelimdownload/>), and the New York City Preliminary FIRM Data Viewer (<http://apps.femadata.com/PreliminaryViewer/?appid=687703427dd347018b8fa2bb0adee979>). After a public comment period, the Preliminary FIRMs will become Effective FIRMs, which is expected to take place in 2015. The Base Flood Elevations in the Preliminary FIRMS are relative to the National North American Vertical Datum of 1988 (NAVD88).

	BOROUGH ELEVATIONS (IN FEET)	TO OBTAIN NGVD 29 EQUIVALENCY (IN FEET)	NGVD ELEVATION (IN FEET)	TO OBTAIN NAVD 88 EQUIVALENCY (IN FEET)
BRONX	7.392	Add 2.608	10.000	Subtract between 1.03 and 1.083
BROOKLYN	7.453	Add 2.547	10.000	Subtract between 1.093 and 1.119
MANHATTAN	7.248	Add 2.752	10.000	Subtract between 1.104 and 1.109
QUEENS	7.275	Add 2.725	10.000	Subtract between 1.086 and 1.106
STATEN ISLAND	6.808	Add 3.192	10.000	Subtract between 1.027 and 1.109

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. New construction frequently incorporates freeboard on a discretionary basis while, in certain circumstances, the NYC Building Code mandates freeboard by requiring a Design Flood Elevation at a higher level than the Base Flood Elevation. See Appendix G of the NYC Building Code and ASCE 24 for Flood-Resistant Construction regulations.

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).

SIGNIFICANT MARITIME AND INDUSTRIAL AREAS (SMIA). SMIA's are a special area designation defined by the Waterfront Revitalization Program that contain portions of the coastal zone especially valuable as industrial areas due to locational requirements. The criteria used to delineate these areas generally include concentrations of M2 and M3 zoned land; suitable hydrographic conditions for maritime-related uses; presence of or potential for intermodal transportation, marine terminal and pier infrastructure; concentrations of water-dependent and industrial activity; relatively good transportation access and proximity to markets; relatively few residents; and availability of publicly owned land.

SPECIAL NATURAL WATERFRONT AREAS (SNWA). SNWA's are a special area designation defined by the Waterfront Revitalization Program that contain large areas with significant open spaces and concentrations of the natural resources including wetlands, habitats, and buffer areas described above. Each of the SNWA's has a combination of important coastal ecosystem features, many of which are recognized and protected in a variety of regulatory programs, including the Significant Coastal Fish and Wildlife Habitats, Coastal Erosion Hazards Areas, and Tidal and Freshwater Wetlands.

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

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 that 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 within the designated Coastal Zone. As described above, this zone is delineated in the CZB maps set forth in the WRP, and is illustrated in Figure 4-3, above. A more detailed map is located [here](#). If the proposed project is located in the 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. 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 require 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 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 down drift 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 the zoning changes. Therefore, this section should provide further information on existing zoning and land uses, 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 uses, 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 described. 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; and



- 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 uses 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 project 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

As stated in the [Short and Full EAS Forms](#), the lead agency should include an analysis of WRP consistency as part of the environmental review if the project is located in the Coastal Zone.

The first step in conducting a WRP consistency assessment is a preliminary assessment of the project's potential effects upon the achievement of WRP policies. The NYC CAF was developed by DCP to help an applicant and reviewing parties identify the extent to which the proposed project may have an effect on the achievement of particular WRP policies. The questions presented in the NYC CAF are designed to identify whether a proposed project has potential effects upon a policy. Note that 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 may be considered applicable to a proposed project if its site, surroundings or the action itself involves activities or conditions relevant to that policy.

Further, the WRP sets forth several special area designations. Maps depicting the boundaries of all of these area designations are included within the WRP. 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, wetland restoration is a more relevant objective in areas mapped as Special Natural Waterfront Areas or Recognized Ecological Complexes, while the promotion of water-dependent industry is more relevant along the working waterfront and in areas mapped as Significant Maritime and Industrial 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.

Where the answers to a NYC CAF indicate that the proposed project does not have any potential effect upon the achievement of any particular policy, no further assessment of the projects potential effects on WRP policies is required or necessary. Where answers to the questions indicate that the project may have a potential effect on the achievement of a particular identified policy or policies set forth in the WRP, further examination through preparation of a detailed analysis is warranted and an explanation should be prepared to assess the potential effects the proposed project may have on the achievement of the noted policy or policies.

Applicants may be reluctant to indicate that a proposed project may have a potential effect on the achievement of a stated policy on the NYC CAF, mistakenly believing that an affirmative answer will suggest that a proposed project will be viewed as inconsistent with the WRP policy. To the contrary, an affirmative response provides an opportunity for an applicant to demonstrate that he or she understands the relationship of the WRP to the proposed project when assessing the potential effect of the project on the stated policy in the detailed analysis. Where an affirmative response on the NYC CAF in-



icates that a project may have an effect on a WRP policy, as described further below in section 332.1, the detailed analysis should set forth in detail how the project advances or hinders the achievement of that particular policy.

When an applicant completes a NYC CAF before a thorough appraisal of potential issues affecting the site has been completed, errors or omissions in the completion of a WRP assessment can potentially occur. 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. In the absence of completing the necessary testing before the applicant elects to prepare a NYC CAF, it cannot be assumed that the project will not have any potential effects toward the achievement of Policy 7.2: Prevent and remediate discharge of petroleum products. Where the applicant elects to complete the NYC CAF prior to conducting the necessary testing, an affirmative response is required and the explanation set forth in the detailed analysis must then address the steps the applicant will take to evaluate site conditions in order to further assess the potential effects of the proposed project toward the achievement of the identified relevant policy—in this case Policy 7.2.

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 in conjunction 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 conditions 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, and 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 underutilized 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 conditions in comparison to the No-Action conditions. 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

The detailed WRP consistency analysis considers and assesses the potential effects of the proposed project toward the achievement of those policies that are identified as relevant to the project through completion of the NYC CAF. The explanation of the project's potential effects toward the achievement of each of the noted policies should indicate whether the project advances the achievement of that policy, is neutral to it, or hinders the achievement of the noted policy, so that policies which are advanced may be balanced against those which are hindered, if necessary, with regard to determining appropriate uses for the site in question and overall consistency with the WRP.

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-Enhancing Uses
- 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

Impacts identified within other technical areas should be considered when assessing consistency with WRP policies. For example, if the environmental analysis indicates that a project may result in a significant adverse impact on open space, the detailed analysis should provide an assessment of the project effects on the achievement of WRP Policy 8, relating to the adequacy of public access to, from and along the waterfront.

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.

Because the WRP review considers the many laws affecting the coastal area, consideration of a project's overall 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 these technical areas—such as natural resources, air quality, land use and zoning, hazardous materials, or historic resources—is summarized and presented below (Section 510) 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, information supplemental 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 because an action or number of actions associated with the project comes before the City Planning Commission. The City Planning Commission, acting as the City Coastal Commission, may elect to adopt the consistency determination and environmental findings of the lead agency or adopt different WRP consistency findings.

333. Existing Conditions

333.1. 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), 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 of zoning 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 the 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.

333.2. 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.

334. Future No-Action Condition

334.1. 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, 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 could 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 by contacting the borough offices.

334.2. 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 issues relevant to the specific project.

335. Future With-Action Condition

As the discussion of land use makes clear, zoning issues 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. 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

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 non-compliant 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 noted above in Section 332.1, where the answers to the NYC CAF indicate that the proposed project may potentially affect the achievement of any one or more particular WRP policies the detailed analysis should set forth the extent to which the project may advance that policy, be neutral to it, or hinder the policy. It is the last category—hindrance of a policy—that requires more scrutiny in the consistency assessment.

If a project is found to hinder any WRP policy, the lead agency and applicant, if applicable, should consider the magnitude of the hindrance. While there may be an inconsistency with or hindrance of a policy, the lead agency may determine that the project would not substantially hinder the achievement of the coastal policy. For example, a proposed new structure that would slightly block a view corridor toward the water may be found to be an insubstantial hindrance upon policies promoting greater visual connectivity to the waterfront, depending on the existing width of that view corridor and other circumstances.

If a project is found to cause a substantial hindrance to any one policy or policies, the lead agency and applicant, where applicable, should consider whether any reasonable alternatives exist that would permit the project to be taken in a manner that would not substantially hinder the achievement of the policy. If modifications to the project would permit the project to be undertaken in such a manner that would not substantially hinder the achievement of the policy or policies, the analysis and project proposal should also be modified accordingly. Where no reasonable alternatives that would eliminate the substantial hindrance are possible, the lead agency must make the following findings:

- 1) 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;
- 2) The project would minimize all adverse effects related to the policy inconsistency to the maximum extent practicable;
- 3) The project would advance one or more of the other coastal policies; and
- 4) The project would result in an overriding local public benefit.

A substantial hindrance to an individual WRP policy typically does not result in the finding of a potentially significant adverse public policy impact. Developing measures to minimize adverse effects related to the policy inconsistency is discussed in Section 510.



500. DEVELOPING MITIGATION

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

- Establishment of 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, development of terms and conditions for appropriate regulatory controls, such as the special permit (if there is one), employment of a restrictive declaration limiting such a use (if it is a private applicant), or inclusion of 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, modification of the text language 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 no reasonable alternative exists that would permit a project to be undertaken in a manner that would not substantially hinder the achievement of a policy of the WRP, measures must be developed such that the project will minimize all adverse effects related to the policy inconsistency to the maximum extent practicable. Appropriate measures to minimize policy inconsistencies vary, depending on the particular policy.

Measures that are proposed to minimize the adverse effects related to a substantial hindrance to a policy must also be assessed for consistency with the WRP policies to the same degree as the proposed project. Measures to minimize the adverse effects related to a substantial hindrance to any WRP policy may require coordination with other technical analyses. Measures to minimize the adverse effects related to a substantial hindrance of the achievement to a WRP policy may include those mitigation measures described in Section 500 of the different technical chapters of this Manual. In some cases, mitigation measures identified in different areas of analysis may have to be adapted to minimize an inconsistency with a WRP policy. For example, mitigation for significant impacts related to flooding and erosion discussed in Chapter 11, "Natural Resources," may be used or adapted, as necessary, to minimize the adverse effects of the project related to a substantial hindrance toward the achievement of WRP Policy 6.

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 the number of non-conforming uses and non-complying 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 designs (*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 U.S.C. §§ 1451-1464)
- Marine Protection, Research, and Sanctuaries Act of 1972, Section 103 (33 U.S.C. § 1413)
- National Flood Insurance Act of 1968
- Flood Disaster Protection Act
- Water Pollution Control Act (33 U.S.C. §§ 1251-1387)
- Clean Air Act (42 U.S.C. §§ 7401-7672)
- National Environmental Policy Act (42 U.S.C. §§ 4321-4370a)
- Rivers and Harbors Act of 1899, Section 10 (33 U.S.C. § 403)
- Fish and Wildlife Coordination Act
- Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*)
- National Historic Preservation Act (16 U.S.C. § 470)
- Deepwater Port Act
- National Fishing Enhancement Act of 1984
- Marine Mammal Protection Act (16 U.S.C. §§ 1361-1423h)
- Federal Power Act (16 U.S.C. §§ 791a-828c)

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 600-602)
 - 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, 2011 Edition
- 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 (62 RCNY 4-01)
 - 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, 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
 - Department of City Planning, New York City Waterfront Symbol, City of New York, 2009



- New York City Zoning Resolution, Special Regulations Applying in the Waterfront Area (Article VI, Chapter 2).
 - 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, The New Waterfront Revitalization Program (2002).
 - Department of City Planning, Vision 2020: New York City Comprehensive Waterfront Plan (2011).
 - Department of City Planning, New York City Comprehensive Waterfront Plan (1992).
 - Reclaiming the City's Edge (2002).
 - 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) or <https://msc.fema.gov>.
 - Best Available FEMA Flood Hazard Data for Region 2: <http://www.region2coastal.com/>
 - 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.
- U.S. Fish and Wildlife Service
 - 4401 N. Fairfax Drive, Rm. 820
Arlington, VA 22203
 - Coastal Barrier Resources Act Areas. See <http://www.fws.gov/cbra/>



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 cCity'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.

Additionally, using the foundation built through PlaNYC, the Special Initiative for Rebuilding and Resiliency (SIRR) released a report titled "A Stronger, More Resilient New York" in June 2013. The SIRR report outlines recommendations to protect neighborhoods and infrastructure from future climate events. Discussion of consistency with the initiatives set forth in the SIRR Report may be appropriate for projects implementing or effecting the implementation of an initiative outlined in the SIRR Report.

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 almost 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 the incorporation of 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, the sustainability 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 lead agency determines which PlaNYC goals and initiatives should be examined for a particular project.

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, 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 whether 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 degree of inconsistency is 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_{2.5} 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, 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:

- Promotion of mass transit
- Use of alternative fuel vehicles
- Installation of anti-idling technology
- Use of retrofitted diesel trucks
- Use of biodiesel in vehicles and in heating oil
- Use of ultra-low sulfur diesel and retrofitted construction vehicles
- Use of cleaner-burning heating fuels
- 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 more 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:

- Exceedence of the requirements of the energy code
- Improvement of energy efficiency in historic buildings
- Use of energy efficient appliances, fixtures, and building systems
- Participation in peak load management systems, including smart metering
- Repowering or replacement of inefficient and costly in-city power plants
- Construction of distributed generation power units
- Expansion of the natural gas infrastructure
- Use of renewable energy
- Use of natural gas
- Installation of solar panels
- Use of digester gas from sewage treatment plants
- Use of energy from solid waste
- Reinforcement of 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 pro-



jects 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:

- Expansion and improvement of wastewater treatment plants
- Protection and restoration of wetlands, aquatic systems, and ecological habitats
- Expansion and optimization of the sewer network
- Construction of high level storm sewers
- Expansion of the amount of green, permeable surfaces across the City
- Expansion of the Bluebelt system
- Use of “green” infrastructure to manage stormwater
- Consistency with the Sustainable Stormwater Management Plan
- Construction of systems for on-site management of stormwater runoff
- Incorporation of planting and stormwater management within parking lots
- Green roof construction
- Protection of wetlands
- Use of water efficient fixtures
- Adoption of 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:

- Pursuit of transit-oriented development
- Preservation and upgrading of current housing
- Promotion of walkable destinations for retail and other services
- Reclamation of underutilized waterfronts
- Adaption of outdated buildings to new uses
- Development of underused areas to knit neighborhoods together
- Decking over rail yards, rail lines, and highways
- Extension of the Inclusionary Housing program in a manner consistent with such policy
- Preservation of existing affordable housing
- Brownfield redevelopment

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:

- Completion of underdeveloped destination parks
- Providing more multi-purpose fields
- Installation of new lighting at fields
- Creation or enhancement of public plazas



- Planting of trees and other vegetation
- Upgrades of flagship parks
- Conversion of landfills into park land
- Increase in opportunities for water-based recreation
- Conservation of 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:

- Planting of street trees and other vegetation
- Protection of wetlands
- Creation of open space
- Minimization or capture of stormwater runoff
- Brownfield redevelopment

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:

- Promotion of waste prevention opportunities
- Increase in the reuse of materials
- Improvement of the convenience and ease of recycling
- Creation of opportunities to recover organic material
- Identification of additional markets for recycled materials
- Reduction of the impact of the waste system on communities
- Removal of 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:

- Promotion of transit-oriented development
- Promotion of cycling and other sustainable modes of transportation
- Improvement of ferry services
- Making bicycling safer and more convenient
- Enhancement of pedestrian access and safety
- Facilitation and improvement of freight movement
- Maintenance and improvement of roads and bridges
- More efficient road management
- Increase in the capacity of mass transit
- New commuter rail access to Manhattan
- Improvement and expansion of bus service
- Improvement of local commuter rail service
- Improvement of access to existing transit

500. DEVELOPING MITIGATION

When a large publically sponsored project would result in inconsistencies with PlaNYC, and such inconsistencies are of 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

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

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.