

San Francisco Bay Conservation and Development Commission

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TO: Environmental Justice Commissioner Working Group Committee Members

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SUBJECT: Environmental Justice and Social Equity Policy Memo for Discussion at BCDC's Environmental Justice Commissioner Working Group meeting on January 3, 2019

Background

On July 20, 2017, at the culmination of the commissioner workshop series on rising sea levels, the Commission voted to initiate a process to amend the San Francisco Bay Plan (Bay Plan) in order “to address social equity and environmental justice” by updating policies in certain sections of the Bay Plan, specifically:

- Shoreline Protection;
- Public Access;
- Mitigation; and/or
- Adding a new section on Social Equity and Environmental Justice.

BCDC staff have outlined key topics that are associated with each of the proposed policy areas. For each topic, we have outlined potential intersections of environmental justice and social equity with the proposed policy areas; the applicable San Francisco Bay Plan policies; other relevant BCDC policies, procedures, and practices; examples/case studies or complementary (non-BCDC) efforts; and questions to consider. These topics and associated questions were derived from 1) meetings, calls, and events with environmental justice organizations and communities; 2) past Environmental Justice Commissioner Working Group meeting minutes and materials; 3) academic and non-academic research, and 4) discussions with BCDC regulatory and Adapting to Rising Tides (ART) staff.

Questions for the Working Group to Consider

1. Are there any additional policy issues relevant to the environmental justice and social equity San Francisco Bay Plan amendment that should be included in the list below?
2. Should any of the policy issues listed below be reframed or characterized differently?
3. What other research questions should be addressed?

Discussion Materials

1. Amend the Public Access section of the San Francisco Bay Plan to incorporate social equity and environmental justice

a. Environmental justice and social equity policy intersections

- (1) Inclusive and appropriate design (culturally, economically, age-appropriate, etc.) – Equity and environmental justice concerns can arise in the design of public access amenities. Certain communities have been historically and are still currently cut off from the Bay due to non-inclusive or inappropriate designs. Designs may not reflect the recreational preferences of certain communities. Some designs can even lead to reduced use or non-use of public access areas by certain communities if they no longer feel welcomed. Some amenities may require owning boats or kayaks which may exclude people based on income if they are unable to afford a boat. Certain uses may also be active, excluding older or handicapped users.
- (2) Signage language – Communities who do not speak English may be excluded from public access areas if signage is only in English.
- (3) Access to public access – Some communities may also be cut off from Bay public access by busy roads and freeways or industrial land uses. Routes to public access can be unsafe for those traveling by bike or foot.
- (4) Costs (special events, parking, transit) – Some communities may be excluded from public access if costs of special events, parking, or transit are too expensive.
- (5) Maintenance – Poor maintenance can also deter people from using public access, especially if inadequate maintenance renders areas unsafe.
- (6) Safety – In addition to the safety concerns around accessing public access mentioned above, the presence of law enforcement can deter certain communities from using public access.
- (7) Community involvement – Certain communities have been historically and are still currently underrepresented in the environmental policymaking process from planning to evaluation. The planning, designing, building, and maintaining of public access amenities are not exceptions to this.

b. Relevant existing Public Access policies

- (1) Policy 7 - Public access improvements provided as a condition of any approval should be consistent with the project and the physical environment, including protection of Bay natural resources, such as aquatic life, wildlife and plant communities, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for persons with disabilities to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs.
- (2) Policy 9 - Access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available. Diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat.
- (3) Policy 10 - Roads near the edge of the water should be designed as scenic parkways for slow-moving, principally recreational traffic. The roadway and right-of-way design should maintain and enhance visual access for the traveler, discourage through traffic, and provide for safe, separated, and improved physical access to and along the shore. Public transit use and connections to the shoreline should be encouraged where appropriate.
- (4) Policy 12 - The Public Access Design Guidelines should be used as a guide to siting and designing public access consistent with a proposed project. The Design Review Board should advise the Commission regarding the adequacy of the public access proposed.

c. Other relevant BCDC policies, procedures, and practices

- (1) Public Access Finding D - The Commission has adopted advisory "Public Access Design Guidelines" to assist in the siting and design of public access to San Francisco Bay. The Design Review Board was formed in 1970 of professional designers to advise the Commission on the adequacy of public access of proposed projects in accordance with the Bay Plan.
- (2) Public Access Finding E - Although public access to the approximately 1,000-mile Bay shoreline has increased significantly since the adoption of the Bay Plan in 1968, demand for additional public access to the Bay continues due to a growing Bay Area population and the desirability of shoreline access areas. Diverse public access experiences are in great demand, both along urban waterfronts and in more natural areas. The full potential for access to the Bay has by no means yet been reached.

- (3) Public Access Finding H - Although opportunities for views of the Bay from public access areas have increased since the Bay Plan was adopted in 1968, there are still a significant number of shoreline areas where there exists little or no visual access to the Bay.
- (4) Public Access Finding I - Public access areas obtained through the permit process are most utilized if they provide physical access, provide connections to public rights-of-way, are related to adjacent uses, are designed, improved and maintained clearly to indicate their public character, and provide visual access to the Bay. Flooding from sea level rise and storm activity increases the difficulty of designing public access areas (e.g., connecting new public access that is set at a higher elevation or located farther inland than existing public access areas).
- (5) Public Access Finding N - Providing diverse and satisfying public access opportunities can reduce the creation of informal access routes to decrease interaction between humans and wildlife, habitat fragmentation, and vegetation trampling and erosion. Formal public access also provides for more predictable human actions, which may increase the ability of wildlife to adjust to human use.
- (6) Recreation Finding B - Population growth in the Bay region will bring increases in water-oriented recreation. The demand for recreational facilities, including parks, trails, marinas, launching ramps, fishing piers, and beaches in the Bay Area will increase rapidly as the population increases, and will accelerate as population density near the edge of the Bay and spending power per capita increase, and the population ages. Many more recreational facilities will be needed. As the diversity of the Bay Area population increases, the demand for water-oriented recreational activities will also diversify. Providing a variety of accessible, water-oriented recreational facilities and diverse recreational opportunities at these facilities for people of all races, cultures, ages and income levels, would accommodate a broad range of recreational activities.
- (7) Recreation Finding E - Boating allows residents to take advantage of the unique recreational opportunities provided by the Bay. Preserving opportunities for all types of boating on the Bay is important. Additional berths and launching ramps will be needed in the future. Some locations are unsuitable for marinas or launching facilities because of high rates of sedimentation, potential conflicts with commercial shipping or ferries, impacts to valuable habitat, or insufficient upland for support facilities. An adequate number of conveniently located restrooms and vessel sewage pumpout facilities at recreational boat marinas will assist significantly in reducing wastewater discharges from vessels.

- (8) Recreation Finding H - Live-aboard boats are designed and used for active navigation but are distinguished from other navigable boats in that they are also used as a primary place of residence. Although residential use is neither a water-oriented nor a public trust use, live-aboard boats can be converted easily to a navigable, recreational use and, when properly located within a recreational boat marina, can provide a degree of security to the marina
- (9) Recreation Finding L - Completing the San Francisco Bay Trail and the Bay Area Ridge Trail and linking these regional trail systems will provide the public with better access to the Bay and to parks along the Bay shoreline. The goal of the San Francisco Bay Trail Project is to create a continuous, multiple-use trail around San Francisco Bay which can be used for hiking, jogging, bicycling and other non-motorized uses and which connects shoreline parks. The Bay Area Ridge Trail Project has as its goal establishing a continuous, multiple-use trail connecting ridgeline parks around San Francisco Bay and preserved open spaces along the trail route. Waterfront parks provide excellent locations for links in the Bay Trail and opportunities to expand shoreline access for Bay Area residents. In addition, in a few locations, such as The Presidio of San Francisco and Fort Baker, shoreline parks can include links in the Bay Area Ridge Trail system.
- (10) Recreation Finding N - Swimming in the Bay is a popular activity, especially at Bay beaches. Bay water quality can affect the health of Bay swimmers. State law requires local public health officers to test water quality at popular beaches during high use periods, and to notify the public and post closure signs when dangerous levels of bacteria are present.
- (11) Recreation Finding O - Fish contaminant monitoring programs have found that certain sport fish have high levels of persistent contaminants that pose a risk to human health if contaminated fish are consumed at levels exceeding safety thresholds established by the State Water Board. To reduce the health risks from consuming contaminated fish, health advisory signage, provided in various languages, can inform anglers of fish contamination and safe consumption levels.
- (12) Recreation Finding P - Roads, trails, public transit service and conveniently located areas where vehicles can be parked for more than short periods of time in waterfront parks and other water-oriented recreational facilities are needed to provide the public with full access to the Bay.
- (13) Recreation Finding Q - Many waterfront parks and wildlife refuges designated in the Bay Plan contain historic structures or landscapes, archaeological or cultural resources, vista points, substantial improvements or buildings that have significant potential for appropriate and compatible reuse and other features that provide exceptional opportunities for water-oriented recreation. Historic structures, historic landscapes and archaeological or cultural resources can be preserved and their contribution to the Bay Area's history can be interpreted for park visitors.

- (14) Recreation Finding V - Education, interpretation and community service opportunities can be provided in water-oriented recreational facilities and wildlife refuges, wildlife areas and ecological reserves. These activities can increase appreciation and stewardship of the Bay and improve public safety.
- (15) Recreation Policy 1 - Diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels. Periodic assessments of water-oriented recreational needs that forecast demand into the future and reflect changing recreational preferences should be made to ensure that sufficient, appropriate water-oriented recreational facilities are provided around the Bay. Because there is no practical estimate of the acreage needed on the shoreline of the Bay, waterfront parks should be provided wherever possible.
- (16) Recreation Policy 3(a)(6,7, 8) - Recreational facilities, such as waterfront parks, trails, marinas, live-aboard boats, non-motorized small boat access, fishing piers, launching lanes, and beaches, should be encouraged and allowed by the Commission, provided they are located, improved and managed consistent with the following standards: General Recreational facilities should: Sites, features or facilities within designated waterfront parks that provide optimal conditions for specific water-oriented recreational uses should be preserved and, where appropriate, enhanced for those uses, consistent with natural and cultural resource preservation. Access to marinas, launch ramps, beaches, fishing piers, and other recreational facilities should be clearly posted with signs and easily available from parking reserved for the public or from public streets or trails. To reduce the human health risk posed by consumption of contaminated fish, projects that create or improve fishing access to the Bay at water-oriented recreational facilities, such as fishing piers, beaches, and marinas, should include signage that informs the public of consumption advisories for the species of Bay fish that have been identified as having potentially unsafe levels of contaminants.
- (17) Recreation Policy 3(c) - Live-aboard boats. Live-aboard boats should be allowed only in marinas and only if: (1) The number would not exceed ten percent of the total authorized boat berths unless the applicant can demonstrate clearly that a greater number of live-aboard boats is necessary to provide security or other use incidental to the marina use; (2) The boats would promote and further the recreational boating use of the marina (for example, providing a degree of security), and are located within the marina consistent with such purpose; (3) The marina would provide, on land, sufficient and conveniently located restrooms, showers, garbage disposal facilities, and parking adequate to serve live-aboard boat occupants and guests; (4) The marina would provide and maintain an adequate number of vessel sewage pumpout facilities in locations

that are convenient in location and time of operation to all boats in the marina, particularly live-aboard boats, and would provide the service free of charge or at a reasonable fee; and (5) There would be adequate tidal circulation in the marina to mix, dilute, and carry away any possible wastewater discharge. Live-aboard boats moored in a marina on July 1, 1985, but unauthorized by the Commission, should be allowed to remain in the marina provided the tests of (2), (3), (4), and (5) above are met. Where existing live-aboard boats in a marina exceed ten percent of the authorized berths, or a greater number is demonstrated to be clearly necessary to provide security or other use incidental to the marina use, no new live-aboard boats should be authorized until the number is reduced below that number and then only if the project is in conformance with tests (1), (2), (3), (4), and (5) above.

- (18) Recreation Policy 3(e)(2) - Access points should be located, improved and managed to avoid significant adverse effects on wildlife and their habitats, should not interfere with commercial navigation, or security and exclusion zones or pose a danger to recreational boaters from commercial shipping operations, and should provide for diverse water-accessible overnight accommodations, including camping, where acceptable to park operators.
- (19) Recreation Policy 4(a)(1, 2, 4, 5, 7, 8) - To assure optimum use of the Bay for recreation, the following facilities should be encouraged in waterfront parks and wildlife refuges. In waterfront parks. (1) Where possible, parks should provide some camping facilities accessible only by boat, and docking and picnic facilities for boaters. (2) To capitalize on the attractiveness of their bayfront location, parks should emphasize hiking, bicycling, riding trails, picnic facilities, swimming, environmental, historical and cultural education and interpretation, viewpoints, beaches, and fishing facilities. Recreational facilities that do not need a waterfront location, e.g., golf courses and playing fields, should generally be placed inland, but may be permitted in shoreline areas if they are part of a park complex that is primarily devoted to water-oriented uses, or are designed to provide for passive use and enjoyment of the Bay when not being used for sports. (4) Public launching facilities for a variety of boats and other water-oriented recreational craft, such as kayaks, canoes and sailboards, should be provided in waterfront parks where feasible. (5) Except as may be approved pursuant to recreation policy 4-b, limited commercial recreation facilities, such as small restaurants, should be permitted within waterfront parks provided they are clearly incidental to the park use, are in keeping with the basic character of the park, and do not obstruct public access to and enjoyment of the Bay. Limited commercial development may be appropriate (at the option of the park agency responsible) in all parks shown on the Plan maps except where there is a specific note to the contrary. (7) Bus stops, kiosks and other facilities to accommodate public transit should be provided in waterfront parks to the maximum extent feasible. Public parking should be provided in a manner that does not diminish the park-like character of the site. Traffic demand

management strategies and alternative transportation systems should be developed where appropriate to minimize the need for large parking lots and to ensure parking for recreation uses is sufficient. (8) Interpretive information describing natural, historical and cultural resources should be provided in waterfront parks where feasible.

- (20) Recreation Policy 5 - Bay resources in waterfront parks and, where appropriate, wildlife refuges should be described with interpretive signs. Where feasible and appropriate, waterfront parks and wildlife refuges should provide diverse environmental education programs, facilities and community service opportunities, such as classrooms and interpretive and volunteer programs.
- (21) Recreation Policy 8 - Signs and other information regarding shipping lanes, ferry routes, U.S. Coast Guard rules for navigation, such as U.S. Coast Guard Rule 9, weather, tide, current and wind hazards, the location of habitat and wildlife areas that should be avoided, and safety guidelines for smaller recreational craft, should be provided at marinas, boat ramps, launch areas, personal watercraft and recreational vessel rental establishments, and other recreational watercraft use areas.
- (22) Appearance, Design, and Scenic Views Finding A - Much too often, shoreline developments have not taken advantage of the magnificent setting provided by the Bay. Some shoreline developments are of poor quality or are inappropriate to a waterfront location. These include uses such as parking lots and some industrial structures, which neither visually complement the Bay nor take advantage of a waterfront location. Over time, existing shoreline development of poor quality and inappropriate uses will be phased out or upgraded by normal market forces and by public action or a combination of both.
- (23) Appearance, Design, and Scenic Views Finding C - The appearance of the Bay, and people's enjoyment of it as a scenic resource, contribute to the enjoyment of daily life in the Bay Area. As a special kind of open space, the Bay acts as both the unifying element of the entire Bay region and as a physical divider of its parts. The wide surface of the Bay, and the distant vistas it affords, offer relief from the crowded, often chaotic, urbanized scene and help to create a sense of psychological wellbeing.
- (24) Appearance, Design, and Scenic Views Finding D - Probably the most widely enjoyed "use" of the Bay is simply viewing it from the shoreline, from the water, and from afar; a Bay view can add substantially to the value of a home, office, or apartment building. Also, the Bay is a major visitor attraction for the tourist industry.
- (25) Appearance, Design, and Scenic Views Policy 1 - To enhance the visual quality of development around the Bay and to take maximum advantage of the attractive setting it provides, the shores of the Bay should be developed in accordance with the Public Access Design Guidelines.

- (26) Appearance, Design, and Scenic Views Policy 2 - All bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore. To this end, planning of waterfront development should include participation by professionals who are knowledgeable of the Commission's concerns, such as landscape architects, urban designers, or architects, working in conjunction with engineers and professionals in other fields.
- (27) Appearance, Design, and Scenic Views Policy 11 - In areas of the Bay where oil and gas drilling or production platforms are permitted, they should be treated or screened, including derrick removal, so they will be compatible with the surrounding open water, mudflat, marsh or shore area.
- (28) Appearance, Design, and Scenic Views Policy 12 - In order to achieve a high level of design quality, the Commission's Design Review Board, composed of design and planning professionals, should review, evaluate, and advise the Commission on the proposed design of developments that affect the appearance of the Bay in accordance with the Bay Plan findings and policies on Public Access; on Appearance, Design, and Scenic Views; and the Public Access Design Guidelines. City, county, regional, state, and federal agencies should be guided in their evaluation of bayfront projects by the above guidelines.
- (29) Public Access Design Guidelines – The Public Access Design Guidelines, mentioned in the San Francisco Bay Plan consist of three sets of guidelines to aid applicants in designing public access. The three parts include: Shoreline Spaces, Shoreline Signs, and Shoreline Plants.
- (30) Design Review Board (DRB) – BCDC's DRB consists of experts in related fields, such as landscape architecture, architecture, urban design, and planning. The DRB advises project proponents on the public access portion of their projects.

d. Examples/Case Studies or complementary (non-BCDC) efforts

- (1) City of Seattle – In 2018, the City of Seattle created a rule that requires developers to conduct early community outreach prior to design review. Seattle has also designed equity areas where developers will need to tailor this early outreach to the needs of historically underrepresented communities.

- (2) Perkins+Will – Architecture and design firm, Perkins+Will are drafting an equity toolkit to better integrate community participation and equity into their work.
- (3) Resilient by Design – Permaculture plus Social Equity (P+SET) - P+SET, a Resilient by Design Bay Area team based in Marin City, is a collaboration comprised of individuals and firms passionate about community-led design that provides beneficial outcomes for people and planet. P+SET developed a social design process to build community capacity to address the challenges of coastal adaptation and resiliency planning. Along with Shore Up Marin, a People’s Plan was produced in Marin City.

e. Questions to consider

- (1) What are other intersections of environmental justice and public access?
- (2) How should BCDC consider the notion that some public access improvements can be a part of the gentrification of an area, resulting in decreased use or non-use of public access by current or historical residents?
- (3) How does BCDC balance its role as a regional agency and the localized needs of communities as we attempt to be equitable?
- (4) Can BCDC require that its public access signage is in multiple languages or is icon-based?
- (5) Should or can BCDC update the Public Access Design Guidelines to incorporate principles of environmental justice and equity?
- (6) Can BDCD require that project proponents conduct robust, authentic community outreach around public access designs? Could this process include more targeted outreach and engagement that is tailored to the underrepresented communities who may use the public access?
- (7) Should BCDC revise the Brief Descriptive Notice to allow amendments to the Recreation and Appearance, Design, and Scenic Views San Francisco Bay Plan policies?

2. Amend the Shoreline Protection section of the San Francisco Bay Plan to incorporate social equity and environmental justice

a. Environmental justice and social equity policy intersections

- (1) Cost – Shoreline protection can carry high costs throughout the project’s life from planning and design to maintenance. Lower income communities may struggle to afford the same level of protection as higher income communities.
- (2) Adjacent adverse impacts – Some protection structures can cause adjacent erosion if adjacent areas do not have the same level and/or type of protection.

- (3) Contaminated lands – Many contaminated sites around the Bay Area are located in or near low-income communities of color who may not be able to afford high levels of shoreline protection. The cleanup of these lands needs to include the best available science on future flooding and groundwater rise to prevent to the mobilization of contaminants.
- (4) Community involvement - Certain communities have been historically and are still currently underrepresented in the environmental policymaking process from planning to evaluation. The planning, designing, building, and maintaining of shoreline protection are not exceptions to this. It is important to ground-truth climate vulnerability studies with communities to ensure all assets are appropriately protected.

b. Relevant existing Shoreline Protection policies

- (1) Policy 1 - New shoreline protection projects and the maintenance or reconstruction of existing projects and uses should be authorized if: (a) the project is necessary to provide flood or erosion protection for (i) existing development, use or infrastructure, or (ii) proposed development, use or infrastructure that is consistent with other Bay Plan policies; (b) the type of the protective structure is appropriate for the project site, the uses to be protected, and the erosion and flooding conditions at the site; (c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes future sea level rise into account; (d) the project is properly designed and constructed to prevent significant impediments to physical and visual public access; and (e) the protection is integrated with current or planned adjacent shoreline protection measures. Professionals knowledgeable of the Commission's concerns, such as civil engineers experienced in coastal processes, should participate in the design.
- (2) Policy 3 - Authorized protective projects should be regularly maintained according to a long-term maintenance program to assure that the shoreline will be protected from tidal erosion and flooding and that the effects of the shoreline protection project on natural resources during the life of the project will be the minimum necessary.

c. Other relevant BCDC policies, procedures, and practices

- (1) Shoreline Protection Finding E - Addressing the impacts of sea level rise and shoreline flooding may require large-scale flood protection projects, including some that extend across jurisdictional or property boundaries. Coordination with adjacent property owners or jurisdictions to create contiguous, effective shoreline protection is critical when planning and constructing flood protection projects. Failure to coordinate may result in inadequate shoreline protection (e.g., a protection system with gaps or one that causes accelerated erosion in adjacent areas).

- (2) Climate Change Finding F - Natural systems and human communities are considered to be resilient when they can absorb and rebound from the impacts of weather extremes or climate change and continue functioning without substantial outside assistance. Systems that are currently under stress often have lower adaptive capacity and may be more vulnerable or susceptible to harm from climate change impacts. Human communities with adaptive capacity can adjust to climate change impacts by taking actions to reduce the potential damages, taking advantage of new opportunities arising from climate change, and accommodating the impacts. Understanding vulnerabilities to climate change is essential for assessing climate change risks to a project, the Bay or the shoreline. Risk is a function of the likelihood of an impact occurring and the consequence of that impact. Climate change risk assessments identify and prioritize issues that can be addressed by adaptation strategies.
- (3) Climate Change Finding J - The principle of sustainability embodies values of equity, environmental and public health protection, economic vitality and safety. The goal of sustainability is to conduct human endeavors in a manner that will avoid depleting natural resources for future generations and producing no more than can be assimilated through natural processes, while providing for improvement of the human condition for all the people of the world. Efforts to improve the sustainability of natural systems and human communities can improve their resilience to climate change by increasing their adaptive capacity.
- (4) Climate Change Finding K - Shoreline development and infrastructure, critical to public and environmental health and the region's economic prosperity, may be, or may become, vulnerable to flooding from sea level rise and storm activity. Public safety may be compromised and personal property and agricultural land may be damaged or lost during floods. Important public shoreline infrastructure and facilities, such as airports, ports, regional transportation facilities, landfills, contaminated lands and wastewater treatment facilities are at risk of flood damage that could require costly repairs, or result in the interruption or loss of vital services or degraded water quality. A current lack of funding to address projected impacts from sea level rise necessitates a collaborative approach with all stakeholder groups to find strategic and innovative solutions to advance the Bay Area's ability to meet environmental, public health, equity and economic goals.
- (5) Climate Change Finding L - Waterfront parks, beaches, public access sites, and the Bay Trail are particularly vulnerable to flooding from sea level rise and storm activity because they are located immediately adjacent to the Bay. Flooding of, or damage to these areas would adversely affect the region's quality of life, if important public spaces and recreational opportunities are lost.

- (6) Climate Change Finding N - Some Bay Area communities, particularly those whose residents have low incomes, disabilities or are elderly, may lack the resources or capacity to respond effectively to the impacts of sea level rise and storm activity. Financial and other assistance is needed to achieve regional equity goals and help everyone be part of resilient shoreline communities.
- (7) Climate Change Finding O - Approaches for ensuring public safety in developed vulnerable shoreline areas through adaptive management strategies include but are not limited to: (1) protecting existing and planned appropriate infill development; (2) accommodating flooding by building or renovating structures or infrastructure systems that are resilient or adaptable over time; (3) discouraging permanent new development when adaptive management strategies cannot protect public safety; (4) allowing only new uses that can be removed or phased out if adaptive management strategies are not available as inundation threats increase; and (5) over time and where feasible and appropriate, removing existing development where public safety cannot otherwise be ensured. Determining the appropriate approach and financing structure requires the weighing of various policies and is best done through a collaborative approach that directly involves the affected communities and other governmental agencies with authority or jurisdiction. Some adaptive management strategies may require action and financing on the regional or sub-regional level across jurisdictions.
- (8) Climate Change Finding R - In some cases, the regional goals of encouraging infill development, remediating environmentally degraded land, redeveloping closed military bases and concentrating housing and job density near transit may conflict with the goal of minimizing flood risk by avoiding development in low-lying areas vulnerable to flooding. Methods to minimize this conflict, include, but are not limited to: clustering infill or redevelopment in low-lying areas on a portion of the property to reduce the area that must be protected; formulating an adaptation strategy for dealing with rising sea level and shoreline flooding with definitive goals and an adaptive management plan for addressing key uncertainties for the life of the project; incorporating measures that will enhance project resilience and sustainability; and developing a project-based financial strategy and/or a public financing strategy, as appropriate, to fund future flood protection for the project, which may also protect existing nearby development. Reconciling these different worthy goals and taking appropriate action requires weighing competing policy considerations and would be best accomplished through a collaborative process involving diverse stakeholders, similar to that being undertaken by the Joint Policy Committee to develop the Sustainable Communities Strategy.
- (9) Climate Change Finding S - Some undeveloped low-lying areas that are vulnerable to shoreline flooding contain important habitat or provide opportunities for habitat enhancement. In these areas, development that would have regional benefits could preclude wetland enhancement that would also have regional benefits. Some developed areas may be suitable for ecosystem

restoration, if existing development is removed to allow the Bay to migrate inland, although relocating communities is very costly and may result in the displacement of neighborhoods.

- (10) Climate Change Finding T - There are multiple local, state, federal, and regional government agencies with authority over the Bay and shoreline. Local governments have broad authority over shoreline land use, but limited resources to address climate change adaptation. Working collaboratively with local governments, including agencies with responsibility for flood protection is desirable to optimize scarce resources and create the flexibility needed to plan amidst a high degree of uncertainty.
- (11) Climate Change Policy 3 - To protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects—other than repairs of existing facilities, small projects that do not increase risks to public safety, interim projects and infill projects within existing urbanized areas—should be designed to be resilient to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century.
- (12) Climate Change Policy 6 - The Commission, in collaboration with the Joint Policy Committee, other regional, state and federal agencies, local governments, and the general public, should formulate a regional sea level rise adaptation strategy for protecting critical developed shoreline areas and natural ecosystems, enhancing the resilience of Bay and shoreline systems and increasing their adaptive capacity. [...] The entities that formulate the regional strategy are encouraged to consider the following strategies and goals: (g) address environmental justice and social equity issues; (h) integrate hazard mitigation and emergency preparedness planning with adaptation planning by developing techniques for reducing contamination releases, structural damage and toxic mold growth associated with flooding of buildings, and establishing emergency assistance centers in neighborhoods at risk from flooding; (i) advance regional sustainability, encourage infill development and job creation, provide diverse housing served by transit and protect historical and cultural resources; (j) encourage the remediation of shoreline areas with existing environmental degradation and contamination in order to reduce risks to the Bay's water quality in the event of flooding; (l) identify actions to prepare and implement the strategy, including any needed changes in law; and (m) identify mechanisms to provide information, tools, and financial resources so local governments can integrate regional climate change adaptation planning into local community design processes.

- (13) Climate Change Policy 7 (a, b, c) - Until a regional sea level rise adaptation strategy can be completed, the Commission should evaluate each project proposed in vulnerable areas on a case-by-case basis to determine the project's public benefits, resilience to flooding, and capacity to adapt to climate change impacts. The following specific types of projects have regional benefits, advance regional goals, and should be encouraged, if their regional benefits and their advancement of regional goals outweigh the risk from flooding (a) remediation of existing environmental degradation or contamination, particularly on a closed military base; (b) a transportation facility, public utility or other critical infrastructure that is necessary for existing development or to serve planned development; (c) a project that will concentrate employment or housing near existing or committed transit service (whether by public or private funds or as part of a project), particularly within those Priority Development Areas that are established by the Association of Bay Area Governments and endorsed by the Commission, and that includes a financial strategy for flood protection that will minimize the burdens on the public and a sea level rise adaptation strategy that will adequately provide for the resilience and sustainability of the project over its designed lifespan;
- (14) Adapting to Rising Tides (ART) program - BCDC's ART Program developed a dataset to better understand community vulnerability to current and future flooding due to sea level rise and storm surges. The dataset includes four categories of information: 1) social vulnerability indicators, 2) contamination vulnerability indicators, 3) residential exposure to sea level rise, and 4) complementary community vulnerability screening tools. These data were developed with the help of an advisory committee of recognized experts, including community advocates, previously developed criteria for vulnerabilities and strategies based on professional experience, local knowledge, and consultation of academic and federally-sponsored research. The data have been further refined through review from organizations including the Bay Area Regional Health Inequities Initiative and the Resilient Communities Initiative, the working group for the ART Bay Area project, the Resilient by Design Bay Area Challenge, and will be continually updated as thinking surrounding social vulnerability evolves. Preliminary data interpretation shows flooding impacts due to sea level rise and storm surge in the Bay Area will be disproportionately distributed to populations with certain socioeconomic characteristics, with potential impacts including loss of property and income, displacement, disrupted access to medical care—both accessing facilities and disruption of services received; exposure to toxic substances, spread of disease, worsened pre-existing health conditions; and physical and mental damages resulting from the flooding of homes and infrastructure.

- (15) Regional Adaptation Plan (RAP) – The RAP is mentioned in both the Bay Plan Climate Change policies and in BCDC’s Strategic Plan 2017-2020. As mentioned above, Bay Plan Climate Change Policy 6 states that, “The Commission, in collaboration with the Joint Policy Committee, other regional, state and federal agencies, local governments, and the general public, should formulate a regional sea level rise adaptation strategy for protecting critical developed shoreline areas and natural ecosystems, enhancing the resilience of Bay and shoreline systems and increasing their adaptive capacity.” BCDC Strategic Plan Objective 2.1 states, “Use the Adapting to Rising Tides (ART) Bay Area Program to lead the creation of a Regional Adaptation Plan (RAP) for rising sea level.”

d. Examples/Case Studies or complementary (non-BCDC) efforts

- (1) Resilient Communities Initiative (RCI) – RCI is a coalition of eleven of the region’s leading social justice groups, bringing deep grassroots leadership and expertise to community planning.
- (2) East Oakland Neighborhood Initiative – Funded by a Transformative Climate Communities grant from the State of California’s Strategic Growth Council; the East Oakland Neighborhoods Initiative is a partnership between the City of Oakland Planning Department and twelve community-based organizations focused on planning and envisioning climate resilience goals for Deep East Oakland.
- (3) Bay Area Regional Health Inequities Initiative (BARHII) – BARHII is a coalition of the San Francisco Bay Area’s eleven public health departments committed to advancing health equity. This includes work to incorporate principles of health equity into land use and transportation planning and actively focuses on adaptation planning for the Bay Area.

e. Questions to consider

- (1) What are other intersections of environmental justice and shoreline protection?
- (2) Can BCDC require applicants to provide an equity or environmental justice analysis of shoreline protection structures (including adjacent impacts)? If so, what would such an analysis look like?
- (3) Protecting a property from flooding can raise a property’s value and contribute to displacement of current residents. How does BCDC ensure this does not happen?
- (4) How does BCDC better coordinate with Department of Toxic Substance Control (DTSC) and the San Francisco Regional Water Board on the issue of future flooding and contaminated lands to prevent the mobilization of contaminants?

- (5) If BCDC requires additional assessments on equity or environmental justice when applying for a permit to build shoreline protection, this could place a further financial burden on less resourced, smaller cities who may already be struggling with the cost of shoreline protection design, construction, and maintenance. What would BCDC do in this situation?

3. Amend the Mitigation section of the San Francisco Bay Plan to incorporate social equity and environmental justice

a. Environmental justice and social equity policy intersections

- (1) Adverse social impacts – Currently, BCDC’s policies can require mitigation for adverse environmental impacts to Bay resources. However, some projects may have adverse social impacts, such as displacement or reduced use or non-use of public access amenities by certain communities, in addition to adverse environmental impacts.
- (2) Community benefits – Currently, BCDC’s required mitigation consists of Bay fill removal, or habitat restoration, enhancement, or creation. These may not be as beneficial to communities as dedicated community benefits programs, such as affordable housing, education programs, skills-based training programs, renewable energy provisions, etc.
- (3) Location of mitigation measures – Currently, BCDC’s policies require mitigation to occur as close to the project impacts as possible. This can be difficult in low-income communities of color around the Bay, as many of these communities are in highly industrialized areas that are often not suitable for the scale of mitigation required. Additionally, mitigation at the site may encourage beautification projects rather than multi-benefit projects that compensate for the adverse impacts.
- (4) Timing of mitigation measures – Currently, BCDC’s policies encourage mitigation to occur prior or concurrently to the project impacts. In areas that are already burdened by adverse environmental impacts, it best to have mitigation occur prior to any further impacts.
- (5) Community involvement - Certain communities have been historically and are still currently underrepresented in the environmental policymaking process from planning to evaluation. The planning, designing, building, and monitoring of mitigation projects are not exceptions to this.

b. Relevant existing Mitigation policies

- (1) Policy 2 - Individual compensatory mitigation projects should be sited and designed within a Baywide ecological context, as close to the impact site as practicable, to: (1) compensate for the adverse impacts; (2) ensure a high likelihood of long-term ecological success; and (3) support the improved health of the Bay ecological system. Determination of the suitability of proposed mitigation locations should be guided in part by the information provided in the Baylands Ecosystem Habitat Goals report.

- (2) Policy 3 - When determining the appropriate location and design of compensatory mitigation, the Commission should also consider potential effects on benefits provided to humans from Bay natural resources, including economic (e.g., flood protection, erosion control) and social (e.g., aesthetic benefits, recreational opportunities).
- (3) Policy 6 - Mitigation should, to the extent practicable, be provided prior to, or concurrently with those parts of the project causing adverse impacts.
- (4) Policy 11 - The Commission may allow fee-based mitigation when other compensatory mitigation measures are infeasible. Fee-based mitigation agreements should include: (a) identification of a specific project that the fees will be used for within a specified time frame; (b) provisions for accurate tracking of the use of funds; (c) assignment of responsibility for the ecological success of the mitigation project; (d) determination of fair and adequate fee rates that account for all financial aspects of the mitigation project, including costs of securing sites, construction costs, maintenance costs, and administrative costs; (e) compensation for time lags between the adverse impact and the mitigation; and (f) provisions for long-term maintenance, management and protection of the mitigation site.

c. Other relevant BCDC policies, procedures, and practices

- (1) Mitigation Finding A - Mitigation for direct or indirect adverse effects on the environment, including to land, air, water, minerals, flora, fauna, and objects of historic or aesthetic significance, includes the following actions, taken in sequence: (1) avoiding the impact; (2) minimizing the impact; (3) repairing, rehabilitating, or restoring the impacted environment, and finally; (4) compensating for the impact by replacing or providing substitute resources, thus providing compensatory mitigation.
- (2) Mitigation Finding F - Natural resource areas provide various benefits to human welfare, including climate regulation, flood protection, erosion control, and recreational and aesthetic benefits. Therefore, there may be social and economic effects on nearby communities as a result of impacts on existing resource areas and the siting and design of compensatory mitigation projects.
- (3) Mitigation Finding I - Fee-based mitigation involves the submittal of a fee by the permittee in-lieu of requiring the permittee to undertake the creation, restoration, or enhancement of a specific mitigation site, or purchasing credits from a mitigation bank. The fee is generally submitted to a third party for implementation of an ongoing or future restoration-creation project. Provided mechanisms are in place to assure success, fee-based mitigation can also provide a timely, convenient, cost effective and ecologically successful mitigation option.

d. Examples/Case Studies or complementary (non-BCDC) efforts

- (1) San Francisco Bay Restoration Authority (SFBRA) grant prioritization criteria – The SFBRA disperses Measure AA funds for shoreline projects that protect and restore the San Francisco Bay. These types of projects can be similar to BCDC’s required mitigation. There are nine prioritization criteria used when dispersing funds. Three of these criteria are related to environmental justice and social equity concerns. These criteria include: (1) Benefit economically disadvantaged communities; (2) Benefit the region’s economy, including local workforce development, employment opportunities for Bay Area residents, and nature-based flood protection for critical infrastructure and existing shoreline communities, and (3) Work with local organizations and businesses to engage youth and young adults and assist them in gaining skills related to natural resource protection.
- (2) California Department of Toxic Substances Control (DTSC) and SB 673 (2015) - DTSC, a department of the California Environmental Protection Agency, is tasked with administering the Hazardous Waste Facility Permitting Program established under Chapter 6.5 of California Health and Safety Code, and Resource Conservation and Recovery Act (RCRA) authorization. SB 673 (2015) aimed to improve DTSC’s permitting process by including additional criteria to address community concerns, including considering criteria for vulnerable populations, cumulative impacts, and setback distances from locations for sensitive receptors, such as schools, daycare centers, and hospitals. Meaningful public participation and best available science are important to the development of cumulative impact standards and policy considerations for issuance of a hazardous waste facility permit. DTSC recently released a draft concepts paper on their regulatory framework pursuant to SB 673.
- (3) City of Richmond and Chevron’s Environmental and Community Investment Agreement (ECIA) - In 2014, the City of Richmond and Chevron agreed to an ECIA, which will provide \$90 million dollars to the Richmond community over the next ten years. This includes investments in community programs, competitive community grants, community-based greenhouse gas reduction programs and a photovoltaic solar farm.
- (4) Central SoMa Plan’s community benefits package - The desire for a Central SoMa Plan (Plan) began during the Eastern Neighborhoods planning process. In 2008 the City adopted the Eastern Neighborhoods Plan, including new land use controls and proposed community improvements for the eastern part of the South of Market neighborhood (SoMa), as well as the Central Waterfront, Mission, and Showplace Square/Potrero Hill neighborhoods. At that time, the City determined that the development potential of the surrounding area, coupled with the improved transit provided by the Central Subway, necessitated a separate, focused planning process that considered the city’s growth needs and City and regional environmental goals.

- (5) San Francisco Public Utilities Commission (SFPUC)'s community benefits programs – The SFPUC reinvests in the communities and neighborhoods most impacted by their operations in several key areas, including: workforce development, education, arts, environmental justice and land use, neighborhood revitalization, and small business operations.

e. Questions to consider

- (1) What are other intersections of environmental justice and mitigation?
- (2) Can or should BCDC require mitigation for social impacts?
- (3) Can or should BCDC's required mitigation include options with a primary focus on social or community benefits rather than a primary focus on biological resource benefits?
- (4) How can BCDC ensure more community involvement in all stages of mitigation projects?

4. Create a new section of the San Francisco Bay Plan on social equity and environmental justice

a. Potential policy areas to address in new section on social equity and environmental justice

- (1) Recognition of historic and current environmental justice issues around the San Francisco Bay Area
- (2) Definitions, terms, concepts
 - (a) Environmental justice
 - (b) Social equity
 - (c) Climate justice
 - (d) Vulnerable community
 - (e) Disadvantaged community
 - (f) Underrepresented community
- (3) Guiding principles
 - (a) First National People of Color Environmental Leadership Summit's 1991 Principles of Environmental Justice
 - (b) The California Environmental Justice Alliance (CEJA)'s Environmental Justice Principles for Policy Implementation at Regulatory Agencies
 - (c) The Environmental Justice Leadership Forum on Climate Change's Principles of Climate Justice
 - (d) Second National People of Color Environmental Leadership Summit's 2002 Principles of the Youth Environmental Justice Movement

- (4) Community outreach and engagement – Meaningful, robust, and authentic community engagement is at the heart of environmental justice and should span all of BCDC’s work. BCDC’s public process needs to be made accessible to all Bay Area residents. This can include commission meeting locations, times, and dates; the provision of food, childcare, travel stipends, and participation stipends for meetings; translation and interpretation of meetings and meeting materials; remote participation options; and expanded noticing requirements.
- (5) Local workforce development – Local workforce development, job training, and local economic development in projects come up in many discussions around environmental justice.
- (6) Equity or environmental justice analyses – Such an analysis may be one way to quantify disproportionate burdens or benefits of projects BCDC approves, potentially allowing for the conditioning of approvals to reduce such disproportionality, including required community outreach and engagement as well as additional mitigation.
- (7) Coordination with local governments and other federal, state, and regional agencies – As local governments retain most land use authority in California via their zoning laws, it is crucial that BCDC coordinate with local governments to work towards environmental justice and social equity. Other issues related to environmental justice and social equity may be out of BCDC’s authority or jurisdiction but may be under the purview of a federal agency, another state agency, or another regional agency. Again, it is crucial that BCDC work effectively and efficiently with other agencies.
- (8) BCDC workforce development and staff training – Through its involvement with the Government Alliance on Race and Equity (GARE), BCDC should improve its workforce development, including recruitment and retention to be more reflective of the general population of the Bay Area. As is mentioned in BCDC’s Strategic Plan for 2017-2020, staff should receive training on environmental justice and social equity on an on-going basis.

b. Other relevant BCDC policies, procedures, and practices

- (1) Regulations – BCDC’s regulations, found in the California Code of Regulations Title 14 Division 5, contain the procedures and processes for many actions at BCDC including amending the San Francisco Bay Plan; advisory boards; Commission meetings, hearings, and voting; dredging procedures; enforcement procedures; fees; permit procedures; public comments; and special area planning.
- (2) Strategic Plan – Currently, environmental justice is mentioned in BCDC’s most recent strategic plan update under Goal 2: Increase the Bay’s natural and build communities’ resilience to rising sea level.
- (3) ART program planning initiatives (including the RAP) – see descriptions above.

- (4) Internal workforce development - see description above.
- (5) Staff training - see description above.

c. Examples/Case Studies or complementary (non-BCDC) efforts

- (1) Save the Bay's Bay Smart Communities program – In Save the Bay's "Bay Smart Communities for a Sustainable Future" report, the authors lay out a framework for equitable and sustainable development policies in the Bay Area, with focuses on water, transportation, housing, and environmental justice policies and planning.
- (2) California Coastal Commission's Environmental Justice Policy – The California Coastal Commission is in the process of developing an environmental justice policy. The Coastal Commission has developed a list of principles to guide their policy as well as a public engagement strategy.
- (3) California State Lands Commission's Environmental Justice Policy – The California State Lands Commission adopted their environmental justice policy in December 2018. The policy has an introduction recognizing the history of environmental injustice throughout the state of California as well as a set of environmental justice goals the policy aims to achieve. Lastly, the policy includes an implementation blueprint with strategies to reach each goal.
- (4) Resilient by Design's Briefing Book - The Briefing Book is a compilation of resources assembled with Resilient by Design's partners that served as a complement to the Collaborative Research Phase of the design challenge. The book discusses relevant themes, tools, and organizations that helped orient teams to the regional resilience challenges in the Bay Area. The book emphasizes the necessity of equity for resilience.
- (5) SFPUC environmental justice analysis – ESA prepared an environmental justice analysis for the SFPUC on the biosolids digester facilities project and community benefits program in Bayview-Hunters Point to better quantify potentially disproportionate impacts related to SFPUC's footprint in Southeast San Francisco.
- (6) City of Portland and Multnomah County's "Climate Action through Equity" report – The City of Portland and Multnomah County's "Climate Action through Equity" report contains a list of nine equity considerations for conducting equity assessments of all actions in their Climate Action Plan.

- (7) CEJA's SB1000 Implementation Toolkit – CEJA's SB1000 Implementation Toolkit provides a blueprint for local governments to implement SB1000 by integrating environmental justice into their general plans. The toolkit provides a breakdown of the requirement, a guide for meaningful and robust community engagement, and case studies.
- (8) City of Richmond's Health and Wellness Element of the Richmond General Plan 2030 – Richmond's Health and Wellness Element contains several goals and actions related to environmental justice and equity on areas where BCDC's work converges including public access, climate adaptation, and shoreline protection.
- (9) City of Vallejo's Propel Vallejo General Plan 2040 – The Propel Vallejo General Plan 2040 contains several goals and actions related to environmental justice and equity on areas where BCDC's work converges including public access, climate adaptation, and shoreline protection.

d. Questions to consider

- (1) Which definitions and terms should BCDC use in its San Francisco Bay Plan amendment?
- (2) Should BCDC include a set of guiding principles or goals in its San Francisco Bay Plan amendment?
- (3) How can BCDC do meaningful, robust, and authentic community engagement around the Bay Area given its legal, staff, and monetary restrictions?
- (4) Can BCDC address local workforce development in the projects it approves or public access and mitigation it requires?
- (5) Can BCDC require an equity or environmental justice analysis for its approval of projects? If so, what would such an analysis look like? Would an analysis be the same for all projects or analogous to the project size and type?
- (6) How can BCDC improve its coordination and consultation with other relevant federal, state, and regional agencies, as well as local governments to work towards environmental justice and social equity in the Bay Area?
- (7) How can BCDC improve its workforce development and staff training given resource constraints?
- (8) Are all of the policy areas listed above appropriate to include in a San Francisco Bay Plan section on social equity and environment justice or do they belong in other BCDC policies, plans, and procedures?