



Date: June 20, 2013
To: ABAG Executive Board
From: Ezra Rapport, Executive Director, ABAG
Subject: **Consistency of Local Projects with Plan Bay Area**

Summary:

After adoption of Plan Bay Area (Plan) and certification of the programmatic Environmental Impact Report (EIR) for the Plan, cities and counties will have options for making the development entitlement process more efficient, utilizing provisions of SB 375 and SB 226.¹ To activate these provisions, and potentially provisions included in future legislation, the regional agencies can adopt language in the Plan and EIR that will allow for certain development in PDAs to be considered consistent with the Sustainable Communities Strategy (SCS).

On May 16, 2013, the ABAG Executive Board authorized staff to develop the appropriate language for action by the Executive Board and the Metropolitan Transportation Commission (MTC). Based on such consultation staff recommends that we and MTC work jointly to prepare the findings necessary to support a regional consistency finding for CEQA.

Some State programs require a determination from regional agencies that a project is consistent with an adopted regional plan. Staff recommends that it work with MTC staff on recommendations for criteria for making such a determination for adoption by ABAG and MTC at the joint meeting on July 18.

Background and Discussion:

A. CEQA:

As required by SB 375, ABAG and MTC have prepared the Draft Plan and a programmatic Draft EIR (DEIR) for the Plan. The land use component of the Draft Plan Bay Area is based on the Priority Development Areas nominated by local jurisdictions and approved by ABAG. Each PDA includes a specified range of residential uses based upon density and for commercial and office uses based on intensity, along with a place type designation that coordinates these uses and ensures the development of complete communities. The Plan Bay Area Draft EIR has analyzed, at the regional level, the environmental impacts of a PDA's designated densities, intensities, land uses and place type.

Under the California Environmental Quality Act (CEQA), the final adopted programmatic EIR for the Plan can be used by cities and counties to (a) exempt a local project that meets criteria related to density, transit proximity and, in some cases, mitigation and community benefits, from preparing an

¹ SB375 and SB226 provide identical language defining project consistency with a SCS or APS: "consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy" (CA PRC 21155(a); CA PRC Section 6, 21094.5(c)(1)(4);

Consistency of Local Projects with Plan Bay Area

June 14, 2013

2

environmental impact report; (b) allow a local project that meets similar criteria and provides mitigations necessitated by additional environmental impacts, to use a Sustainable Communities Environmental Assessment (SCEA); or (c) allow the EIR for a local project to tier off the EIR for the Plan. A local project benefits from using a SCEA or from tiering because the entitlement process becomes more efficient by drawing on the analysis from the EIR for the Plan. In addition, there is a tougher threshold for a legal challenge to the SCEA.

Cities and counties may exempt a local project, use a SCEA or tier off the EIR for the Plan only if the local project is consistent with the Plan. In theory, the determination of consistency can be made at the local or regional level. Staff believes that a process with both a regional and local component could provide clear criteria based upon the characteristics of the PDAs in the Plan while also allowing local flexibility. This would not require changes to local zoning, general plans, or other land use policies.

The Plan projects growth in areas outside of PDAs. However, unlike the PDAs, these areas do not have an associated range of densities or intensities, or place type. Therefore, staff proposes that ABAG and MTC not make any regional determination of consistency for non-PDA areas.

B. Other State Programs:

ABAG expects that access to some State resources and programs will be conditioned, in part, on a determination that a proposed local project is consistent with a regional plan. One example is the Infill Infrastructure Grant Program (IIG) conducted by the Department of Housing and Community Development (HCD). ABAG and the Metropolitan Transportation Commission (MTC) have jointly responded to past requests from projects applying for IIG funding and provided the requisite determination for projects located within PDAs. Applications for the current round of IIG funding are due on July 31.

Staff proposes working with MTC staff to prepare an analysis of the criteria for how such determinations should be made in the future and recommendations for Executive Board and MTC action on July 18.

Recommended Action:

A. Direct staff to develop the findings necessary to support action by the Executive Board and the Commission determining that for CEQA purposes, future local projects are consistent with Plan Bay Area if the project:

- is located within a PDA that is in the Plan,
- has the same range of densities and intensities of the place type designation of the PDA,
- has uses specified for the place type designation of that PDA, and
- is determined by the local jurisdiction to be consistent with Plan Bay Area.

B. Direct staff to prepare an analysis of how such determinations should be made in the future and recommendations for Executive Board and Commission Action on July 18.