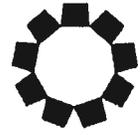


# ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



**ABAG**

Date: May 3, 2013

To: Executive Board

From: Ezra Rapport  
Executive Director

Subject: **SB 375 Provisions for Development Entitlement Process**

## Summary and Recommendation

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 (see Chapter 4.2 “Implementation of the Sustainable Communities Strategy.”) To activate these SB 375 provisions, the regional agencies can adopt language in the reports that will allow for certain PDA development to be considered consistent with the Sustainable Communities Strategy (SCS). Staff recommends that the Executive Board support the concept of including a regional consistency determination to support these local options and authorize staff to develop the appropriate language for possible action by the Executive Board and the Metropolitan Transportation Commission (MTC) at our joint meeting in July.

## Background and Discussion:

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 Plan is based on the Priority Development Areas (PDAs) approved by ABAG. Each PDA includes a specified range of residential uses based on 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 DEIR has analyzed, at the regional scale, the environmental impacts of a PDA’s designated densities, intensities 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 qualifies as Transit Priority Projects (TPPs) from preparing an environmental impact report, (b) allow a local project 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.

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Cities and counties may 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 there may be a benefit to a process for making a consistency determination that has both a regional and a local component.

ABAG and MTC could include a regional determination of consistency in the Plan and/or the Plan EIR that covers all local projects that:

1. are located within a PDA that is in the Plan, and
2. have the same range of densities and intensities as in that PDA, and
3. have uses included in place type designation for that PDA.

**However, the regional determination of consistency will not be sufficient by itself or binding on a city or county. A local project can use the SCEA or tier off the Plan EIR only if a city or county also makes a local determination of consistency for the project.**

In addition, the Plan includes a forecast of development in areas that are not currently in PDAs. However, unlike the PDAs, these areas do not have an associated range of densities or intensities, or place type. Therefore, ABAG and MTC will not be making any regional determination of consistency for non-PDA areas.

Staff has discussed this concept with MTC staff. We have not undertaken the analysis associated with appropriate findings to enable a regional consistency determination. If the Executive Board and the MTC support this concept, staff will begin work with MTC and CEQA counsel to develop a proposal for your consideration and possible action in July.