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July 30, 2021

Via email: [Nicholas.Moreno@boston.gov](mailto:Nicholas.Moreno@boston.gov)

Nicholas Moreno, Executive Director  
Boston Conservation Commission  
One City Hall Square  
Boston, MA 02201

Re: Draft Phase II Wetlands Regulations

Dear Mr. Moreno,

On behalf of Boston Harbor Now, thank you for the opportunity to comment on the draft Phase II Wetlands Regulations which set forth performance standards for Isolated Vegetated Wetlands, Vernal Pools, and Land Subject to Coastal Storm Flowage (LSCSF). Boston Harbor Now has actively monitored the development of these regulations. Various members of our staff have participated in the public meetings, and we were grateful to have them presented in more detail at the Climate Roundtable meeting we convened in June 2021.

Promoting increased coastal resilience in the face of sea level rise and other climate change impacts is part of Boston Harbor Now's core mission. As such, our comments on the Phase II regulations will focus on the LSCSF section of the regulations. We commend the Boston Conservation Commission for its efforts to protect coastal resources while balancing the clear need to allow for the implementation of the coastal resilience options put forward by the Climate Ready Boston reports. These new performance standards, when combined with coastal adaptation measures envisioned by the neighborhood-specific *Coastal Resilience Solutions* plans issued by the City of Boston's Environment Department, contribute to a layered approach to combating the effects of climate change. We urge continued coordination between the Environment Department and other city agencies to ensure that the combined effect of the regulations is to ensure that coastal resources are protected from the impacts of climate change while not inhibiting our collective ability to implement adaptation projects that will contribute to this effort.

We note initially that the regulations define LSCSF using FEMA maps, which are based solely

on historical inundation and do not account for increased inundation as a result of climate change. The City has already created projected 100-year storm maps based on data that take climate change impacts into account. We suggest that the Commission to consider using the more inclusive of these forward-looking maps and the FEMA maps to define the LSCSF. Language could be added that creates a presumption that, for example, the more inclusive maps be used to define LSCSF, and that the presumption could be overcome upon clear and convincing evidence from a credible professional source (e.g. NOAA). It is our understanding that based on the modeling used to project these areas, the forward-looking maps may at times be less-inclusive than the FEMA maps. In this case, the more inclusive of the two should be used to define the resource area. Many projects that will be permitted under these regulations have an expected life span of fifty years or more. Future flooding events will impact new areas of the City and projects in these areas should be required to undergo the same review as projects in areas that currently flood in much the same way that the flood zoning overlay proposed by the Boston Planning and Development Agency extends beyond the extent of current flooding.

Section XVII.F. of the regulations sets forth different standards for redevelopment within previously developed LSCSF. Redevelopment is defined as “work or activity that constitutes previously developed or degraded areas prior to December 19, 2019.” For clarity, we would encourage the Commission to produce a map which illustrates where these provisions apply. This would reduce confusion when an area may have been previously disturbed by filling or other infrastructure but has returned to a natural or natural looking state.

Finally, we are encouraged that the Commission has reserved the discretion to approve projects “that are designed to reduce the risk of coastal flooding, inland flooding, extreme weather events, SLR, and other adverse impacts of climate change, including, but not limited to, strategies and plans described in Climate Ready Boston or any successive initiative of the City.” Section XVII.E.9.viii. Addressing climate change will require the use of innovative projects which improve coastal resilience, such as those set out in the Climate Ready Boston reports. These projects, including those envisioned by the Stone Living Lab ([www.stonelivinglab.org](http://www.stonelivinglab.org)), of which Boston Harbor Now is a partner, include nature-based solutions that are monitored for their efficacy. The Commission should do everything it can to encourage the projects that will help us to mitigate climate change impacts in the future. Toward this end, we suggest that the Commission consider adding language to this section that would (1) exempt instrumentation that is needed to study coastal conditions and processes, as scientific information and data should be encouraged to be pursued and installed, resulting in better science-based information to inform policies and decision-makers in the future; and (2) create a separate regulatory section/framework to promote and incentivize additional scientific exploration and experimentation, creating a streamlined process that will allow and promote innovative scientific studies. One example could be to create a sub-section similar to the “limited project” provisions of the Wetlands Protection Act regulations (310 CMR 10.24(7)), allowing the Commission to waive performance standards for projects whose sole purpose is to conduct scientific research and experimentation. Further conditions on such a regulatory structure could include a requirement that the scientific research be conducted by, or in collaboration with, a university, scientific organization, or non-profit organization. We strongly believe that creating a streamlined review process for research and experimentation will have positive and wide-ranging benefits to the broader community.

Thank you for your consideration of these comments. We look forward to continuing to contribute to the conversation to adapt to climate change and ensure resilience throughout the City and would be happy to provide more details and proposed language for consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron Toffler', with a stylized flourish at the end.

Aaron Toffler  
Director of Policy  
Boston Harbor Now