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September 16, 2024

Via email: MEPA-regs@mass.gov

MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114
Attn: Tori Kim

Re: MEPA Climate Resiliency Policy Straw Proposal

Dear Ms. Kim,

Thank you for the opportunity to comment on the Massachusetts Environmental Protection Act (MEPA) Climate Resiliency Policy Straw Proposal. Boston Harbor Now's mission is to ensure that Boston's Waterfront, Harbor, and Islands are accessible, inclusive, and adapted to the risks of climate change. We do this to realize our vision of a vibrant, welcoming, and resilient Waterfront, Harbor, and Islands for the benefit of everyone. We advocate for climate resiliency measures that contribute to district-scale flood protection and improve ecosystem services while activating the waterfront by facilitating public programming and ensuring equitable access.

Ease of Use

Though the new requirements, as presented, add minimal additional analysis to MEPA ENF and EIR filings, we respectfully request that MEPA consider the burden that complicated permitting puts on proponents, especially smaller property owners looking to build infrastructure that would improve climate resilience. If the goal of the straw proposal is to encourage thoughtful flood infrastructure creation, MEPA permitting should be efficient, intuitive, and accessible for those trying to do so.

Overall, additional guidance on using the ResilientMass Action Team Climate Resilience Design Standards Tool (RMAT Tool) should be made available to everyone. The tool is still relatively new, and for smaller property owners, community members, and advocates trying to understand how flooding will impact them, it can be complicated and confusing. Resources on flood terminology and fundamental concepts, as well as tutorials on using and interpreting the tool's results, would be a welcome resource. Regarding more seasoned users of the RMAT Tool, Boston Harbor Now and the Green Ribbon Commission's Coastal Resilience Working Group found that waterfront property owners wanted more precise information. Even when using the tool, proponents found it unclear what target Design Flood Elevation (DFE) they should strive to achieve. Additional guidance on the different Base Flood Elevations (BFEs) outputs provided by the RMAT Tool should be provided for both tidal flooding and storm surge.

One additional note on the RMAT Tool: while it helps identify the level of climate risk at development and infrastructure projects, it is not as helpful in evaluating nature-based approaches designed to reduce climate risks. Boston Harbor Now recommends separating the data associated with development and infrastructure projects from nature-based approaches, especially since we hope to encourage the use of nature-based resilience projects in high-risk areas, and since natural



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resources, especially wetlands, are critical to absorbing stormwater and flooding, while reducing heat islands, and providing numerous co-benefits.

Boston Harbor Now has also received feedback that EIRs, in particular, can be challenging to navigate. With nearly all of Boston located within a mile of Environmental Justice Populations, almost every Boston-based project subject to MEPA will go through both ENFs and EIRs. To combat this, we urge MEPA to provide technical support for waterfront property owners looking to build flood resilience into their sites. Additional involvement from MEPA staff could help them see the broader picture in the development of flood infrastructure. In this scenario, MEPA staff could potentially help connect and coordinate proximate property owners to encourage district-scale solutions.

Flood Infrastructure Best Practices

The updated requirements outlined in the straw proposal encourage proponents to consider how coastal flooding will impact their project. During the ENF, proponents will use the RMAT Tool to identify risks to their “primary’ assets,” discuss whether the project is anticipated to be consistent with the RMAT Tool outputs, and how their project will incorporate resilience. In the EIR, they will need to address whether or not their project is consistent with the RMAT Tool output, explain why it is not, and consult best practices for assessing criticality and useful life. While these exercises help understand how the primary assets will be protected from coastal flooding where feasible, it is also essential to know how projects contribute to district-level flood strategies. ENFs and EIRs should encourage proponents to consider, but not require, how their resilience plans contribute to broader district-level protection, including inland properties impacted by flood pathways.

We appreciate that MEPA allows flexible adaptation strategies as a resilience compliance alternative. Regardless of whether or not proponents are able to meet the target elevation, building adaptable coastal flood infrastructure is a general best practice and will likely be important as the useful life of structures can extend beyond our current flood modeling. Flood modeling at present is only reliable to a 50-year horizon, and it is challenging to predict the nature of sea level rise and the extent of coastal flooding beyond this timeframe. As such, the MEPA will need a protocol to determine an acceptable level of flood resilience for projects seeking permits beyond our current flood model’s capacity. Finally, the process of establishing and updating the projected elevations is critical. MEPA and the Massachusetts Office of Climate Science should review the relevant climate science regularly and observe sea-level rise trends annually. Flood maps, BFEs, and DFEs should be updated accordingly every five to ten years.

Expediting Permitting Review

In addition to MEPA’s straw proposal, Boston Harbor Now requests that the MEPA Office take a lead role in creating consistent and predictable permitting processes for climate resilience projects by helping to accelerate, streamline, and align multiple state agency permit requirements. Such reforms have the potential to reduce delays, eliminate inefficiencies, and expedite the process of securing permits for projects incorporating coastal resilience infrastructure, including nature-based approaches.

Unfortunately, the regulatory process of securing permits for coastal resilient infrastructure can be long and expensive. This is especially true for restoration and



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nature-based projects, which often take more than two years to permit. Sometimes agencies ask for the same or different data without coordinating and provide inconsistent responses. The lack of alignment is especially costly for projects designed to improve conditions for Environmental Justice Populations, under-resourced communities, and nonprofit partners.

We urge MEPA to review the success of other states in coordinating project review. The Environmental Policy Innovation Center has compiled a database of programs in states across the country working to streamline restoration projects, as well as a summary of best practices in a report, Funding Nature Not Paperwork. One of our favorites is the Cutting Green Tape program in California. Since the MEPA process already provides an opportunity for multiple relevant agencies to comment on projects requiring state permits, MEPA is well positioned to facilitate a smooth and rapid permitting process.

We appreciate the opportunity to comment on the Climate Resiliency Policy Straw Proposal and hope to review the finalized text of the policy update. We would be happy to speak with the MEPA to address any questions regarding these comments and look forward to continuing working with MEPA to ensure that appropriate resilience projects can move forward expeditiously.

Sincerely,

A handwritten signature in black ink that reads "Kathy Abbott".

Kathy Abbott