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November 21, 2016

Comments: November 7, 2016, Draft 2030 Target Scoping Plan Overview

On behalf of the California Building Industry Association (CBIA), thank you for the opportunity to offer these comments on the above noted document. CBIA is a statewide trade organization representing thousands of member companies including homebuilders, land developers, trade contractors, architects, engineers, designers, suppliers and other industry professionals.

California homebuilders lead the nation in innovation and the use of environmentally friendly designs, materials and practices. CBIA continually works toward that next level of design and efficiency and we are proud that we've been able to help design the last five triennial updates of California's Title 24 code – by far, the nation's most aggressive building and energy code.

We've also long recognized that today's modern land use planning requires a dynamic approach to responsible development with coordination between local, regional, state and federal agencies. This is what led us to be a key architect of SB 375, and why we remain fully committed to seeing that law implemented in the most successful way possible.

Housing Supply & Cost Should be Key Considerations

California has a growing housing supply and affordability crisis.

This point was well-articulated recently by the state's Legislative Analyst (LAO) in its report *California's High Housing Costs: Causes and Consequences*. It correctly noted that the primary cause of the problem is fundamental: Supply is not keeping pace with demand driven by population growth, job creation and household formations. The median price of an average California home is nearly two-and-a-half-times the national average. The state's average rent per month is fifty percent higher than the rest of the country. Tellingly, the LAO points out that a significant contributing factor to undersupply are regulatory and legal obstacles to the delivery of new housing units.

Working Californians' and their families are struggling financially to make ends meet and establish a better life for themselves. This noble goal is made significantly more challenging due in large part to the exceptionally high cost of housing and rents. Poverty rates in California are high and getting higher as costs of living, i.e., housing costs, increase. The United Way of California produced a report earlier this year showing that nearly 25 percent or nine million Californians are living in poverty – the highest rate in the nation.

As the Board moves forward with the next round of climate strategy, we urge that it be done in a way that is cognizant of and balanced with the need to grow the California economy and meet the housing supply and housing affordability expectations of Californians --- especially those working and middle-income families and individuals.

Role of Local Action -- Transportation-Housing-Land Use Framework

SB 375 is the accepted and primary "known commitment" recognized by CARB and past and future scoping plans to address GhG emissions from automobiles and light duty trucks at the local and regional levels. As correctly noted in the draft "Local governments are critical partners in [a] State strategy."

A key component of 375 is for regional transportation agencies to adopt strategies within their regional transportation plans to better coordinate transportation investments with housing and land use decisions. With eight years of planning behind us now, regional agencies are in the process of updating their first generation of sustainable communities' strategies (SCSs). While progress has been made, clearly more needs to be done on the incentive side to ensure that the housing activities anticipated by the SCS growth assumptions are realized.

The Institute of Governmental Studies, U.C. Berkeley recently published a research brief focused on the progress to date of implementing SB 375. It noted that the main obstacles to SCS implementation fall into two areas: (1) the dearth of financing to provide the technical, planning and infrastructure investments necessary to support the plans, and (2) the need to improve the CEQA-related incentives to accomplish both infill and suburban development. Notably, according to the brief, “No jurisdictions reported using the Sustainable Communities Environmental Assessment alternative to a normal EIR, provided by SB 375.”

It is imperative as CARB moves forward with the 2030 Scoping Plan that it be a strong and active partner in demanding that both robust financing and regulatory reform be in place to ensure that the very ambitious local plan-level community-wide goal of 6 MTCC02e per capita by 2030 can reasonably and feasibly be achieved.

Project Level GHG Goals

The draft recommends that individual projects implement all feasible measures to reduce GHGs. This, based on our understanding of CEQA, acknowledges that to the extent significant effects are identified mitigation measures are employed to reduce those effects to a level of insignificance. If this is the purpose and intent of this project level goal then it needs to be so clarified. If the goal here is to suggest that projects implement all feasible mitigation measure to not just *reduce* GhG's but to *eliminate* them entirely to achieve a no net increase in emissions that would be an expansive interpretation of CEQA and would likely render the vast, vast majority of projects infeasible.

The project level GHG goals slide notes that “Some projects are able to achieve no net increase in GHG emissions.” We know of only one, recently-announced large-scale master-planned project (yet to be built) that purports to be able to achieve a no net increase. Importantly, the scale and scope of such a project makes it unique and sets it far apart from others. Broad generalizations should not be made here. One tree does not make a forest and one grain does not fill a sack.

One final comment here: Local agencies certainly can develop project level thresholds. They may be either qualitative or quantitative.

Project Level Thresholds

The draft poses the following question: *Please provide feedback on whether it would be helpful for ARB to provide recommendations on minimum or “floor” project level thresholds as a post Scoping Plan activity.*

We recommend that rather than provide recommended minimum project level thresholds that may or may not be consistent with or align with thresholds set by the local lead agency, the better approach would be for CARB to establish or recommend “safe harbors” that could provide compliant projects with the certainty that they will not be caught up in endless CEQA litigation. For example, to comply with SB 743’s direction to replace congestion as a CEQA transportation metric in TPAs, we feel it would be better to establish a plan-based compliance metric as a safe harbor so that If a project is located within a TPA and is consistent with an approved SB 375 Plan or General Plan, that project would have no significant transportation impact on roads or highways. We would be happy to discuss this idea with you further.

Draft goals: Protect ... (Natural & Working Lands)

Under this goal the statement is made ... *Pursue development and new infrastructure construction patterns that avoid greenfield development and increase protections on natural and working lands to reduce the rate of conversion to intensified uses.*

On its face this is a very broad and troubling statement that seems to run counter to the accepted framework of SB 375 which anticipates an incentive based program, locally controlled and built on community and regional buy-in, trust and enthusiasm. One also that integrates with the unique features and complexities of the individual markets.

Rather this statement seems to suggest a strategy of compliance by state mandate or fiat which is a departure from and disconnect to the objectives of SB 375.

On the broader issue of the role of natural and working lands in helping to achieve our climate objectives, the diversity of plant, soil, precipitation and climate zones in the state fundamentally points to the fact that when it comes to acting as a carbon sink, not all lands are created equal. CARB should prioritize lands based upon the ability to grow plants that have the greatest *net* capacity to act as a carbon sink over the life cycle of the plant. – taking into account its decomposition. Not all soils are suitable for plant growth not do all regions have adequate precipitation to support plant growth. CARBs prioritization should include all of these factors. Moreover, while carbon absorption is important preservation of such lands could be administered in a way that increases carbon emissions.

California remains a desirable place to live and work and our culture has been one of welcoming those who wish to come here. This means that there are competing demands on the use of land in order to accommodate our growing population at an affordable and manageable cost of living. To accomplish these competing priorities the preservation of such lands needs to be administered in a flexible manner. Preservation in the wrong place or at the wrong time could disrupt the connectivity of land needed for infrastructure as well as housing and employment needs resulting in increased commutes and their carbon related emissions. Measures that increase the cost of housing also increase commutes as shelter is an essential need. CARB should keep in mind that only 5.3% of California's land base is urbanized and that preservation of such lands in places necessary for affordable housing to all income levels and especially the middle class may exacerbate carbon emissions.

Preservation of such lands should be considered in balance with the demand for other uses. Additionally, preservation could take place on private lands and therefore the program would have to be administered with the willingness and cooperation of private landowners. This likely means that landowners would have to be willing to accept conservation easements. Climate change necessarily means that some areas that would initially support a carbon sink may not in the future. Adaption principles would need to apply to these easements and areas.

The easements would need to be moveable over time. As the preservation of private land is complicated and as 50% of the land in California is publically owned, CARB should look first to public land for preservation.

Thank you again for the opportunity to offer these comments.

Respectfully,

A handwritten signature in black ink, appearing to read "R. Lyon", with a stylized, cursive script.

Richard Lyon
Senior Vice President