



CBIA

CALIFORNIA BUILDING
INDUSTRY ASSOCIATION

1215 K Street/Suite 1200
Sacramento, CA 95814
916/443-7933
fax 916/443-1960
www.cbiam.org

2016 OFFICERS

Chair
DON HOFER
Shea Homes

Vice Chair
JEFFERY PEMSTEIN
Homes by Towne

CFO/Secretary
CHRIS AUSTIN
DPFG

MEMBER ASSOCIATIONS

Building Industry
Association of
the Bay Area

Building Industry
Association of
Fresno/Madera Counties

Building Industry
Association of
the Greater Valley

Building Industry
Association of
San Diego County

Building Industry
Association of
Southern California

Building Industry
Association of
Tulare & Kings Counties

Home Builders
Association of
Central Coast

Home Builders
Association of
Kern County

North State Building
Industry Association

December 16, 2016

Comments submitted electronically: www.arb.ca.gov/cc/scopingplan/scopingplan.htm

Thank you for the opportunity to comment on the December 2, 2016, Discussion Draft 2030 Target Scoping Plan Update. The specific sections of the draft that we will focus our comments on include:

- Transportation sustainability
- Natural and working lands
- VMT measures
- State and local government considerations

Collectively, these areas are encompassed by Senate Bill 375 (2008) which serves as the transportation, land use, and housing framework to enable regions served by metropolitan planning organizations (MPOs) to achieve their CARB-established GhG targets. SB 375 was the product of over a year's worth of negotiations that delicately balanced the intergovernmental duties and responsibilities between and among state, regional and local agencies in the quest to reduce GhG emissions from automobiles and light duty trucks. Essential to the success of SB 375 was (and is) the need for market forces within the envelope of sustainable regional strategies to fully accommodate future population, housing and employment growth. That is a big challenge and it requires building trust and cooperation in multi-dimensional ways involving broad audiences of participants and market forces whose actions cannot be orchestrated or forced but rather must be aligned in a collaborative way.

SB 375 was enacted as the statutorily preferred framework to the alternative command-and-control regulatory scoping plan approach applicable to other economic sectors.

A reading of the December 2 discussion draft suggests that CARB no longer believes the SB 375 partnership is sufficient and that more *parallel* strategies are necessary – we find this astonishing and very troubling.¹

Combining “stronger SB 375 reduction targets” with scoping-plan level VMT travel behavior changes upends the delicate balance of relationships and market incentives and certainties envisioned by SB 375.

Just as there is some truth to the notion that enlightened regulatory policies can positively influence innovation and outcomes, so too can misguided policies imperil economic progress and impose obstacles to accommodating growth and meeting necessary housing needs. We believe that this draft of the scoping plan crosses that line.

Throughout a number of scoping plan sections and especially in the parallel Vibrant Communities document, a number of themes about housing and land use are advanced that are asserted to be true or viable not because they actually work, are cost-effective or market-realistic, but more

¹ Page 50 of the December 2 Discussion draft: *While the majority of the GHG reductions from the transportation sector in this Discussion Draft will come from technologies and low carbon fuels, a reduction in the growth of VMT is also needed. VMT reductions are necessary to achieve the 2030 target and must be part of any strategy evaluated in this plan. Stronger SB 375 GHG reduction targets will enable the State to make significant progress towards this goal, but alone will not provide all of the VMT growth reductions that will be needed. There is a gap between what SB 375 can provide and what is needed to meet the State's 2030 and 2050 goals. More needs to be done through continued land use changes, synergies with emerging mobility solutions like ride sourcing, and changes in travel behavior, especially among millennials.*

because they are stated and repeated often. Examples include limiting land² for future growth and housing advances sustainable communities; future housing needs can be accommodated by building internally only and avoiding so-called Greenfield development³; encouraging new and additional regulations through the CEQA process on new construction activity is a “fair share” strategy⁴; compact, high density infill development supplies “affordable housing.”

In our SB 375 testimony before the ARB during the adoption of the initial targets, as well as in private meetings with ARB staff and in numerous comment letters over the years, CBIA has been clear that we see ourselves and the industry we represent as partners in accomplishing our “fair share” of economy-wide GhG reductions. SB 375 is the framework we agreed upon to accomplish that fair share. All parties knew going in that as an incentive-based process the right mix of incentives – both fiscal and regulatory – had to be in place to ensure the effectiveness of SB 375. Instead of highlighting the need for stronger incentives, the scoping plan draft identifies a menu of suggestions that act as barriers to housing production, that impede increasing housing supply and work against housing affordability – not to mention actually *increasing* GhG emissions and vehicle miles travelled. (Please see the attached September 28 comment letter addressing these specific issues.)

An acceptable and meaningful regulatory framework needs to work within the local decision-making process and with the private markets to achieve the maximum value creation that is possible but only if the regulations are aligned with society, the markets and with what consumers really want at a cost they can afford.

According to a study just released this month, for every \$1,000 increase in the price of a new home, 15,328 California families are priced out of the housing market. See: <http://www.nahb.org/en/research/housing-economics/housings-economic-impact/households-priced-out-by-higher-house-prices-and-interest-rates.aspx> and <http://www.nahb.org/~media/Sites/NAHB/Research/housing-economics/housings-economic-impact/housholds-priced-out-by-higher-house-prices-and-interest-rates/State-2016-161129>. As the last 60 years of experience has demonstrated, when Californian’s can’t afford a house in the community of their choice, they locate farther away from where the work – they “drive until they qualify.”

Kate Dowling, a lawyer who served on the planning and transportation commission for the city of Palo Alto, resigned from her volunteer position. In her resignation letter, announcing that she and her husband, a software engineer, were leaving pricey Palo Alto for Santa Cruz, some 40 miles away.

After many years of trying to make it work in Palo Alto, my husband and I cannot see a way to stay in Palo Alto and raise a family here. We rent our current home with another couple for \$6200 a month; if we wanted to buy the same home and share it with children and not roommates, it would cost \$2.7M and our monthly payment would be \$12,177 a month in mortgage, taxes, and insurance. That’s \$146,127 per year — an entire professional’s income before taxes. This is unaffordable even for an attorney and a software engineer.

² Or as the draft plan asserts without any factual backup, sustainable communities will be advanced and VMT reduced by *Promoting stronger boundaries to suburban growth through enhanced support for sprawl containment mechanisms such as urban growth boundaries ...* page 57.

³ “...pursuing through local planning processes urban and infrastructure development patterns that avoid greenfield development” Page 59

⁴ See Page 105, Project-Level Greenhouse Gas Emissions Reductions Actions and Thresholds.

A copy of her resignation letter may be found here: <https://shift.newco.co/letter-of-resignation-from-the-palo-alto-planning-and-transportation-commission-f7b6facd94f5#.gv7noti5k>. As this anecdote illustrates, higher housing costs are directly contributing to an increase in GhG emissions and VMT.

Higher housing costs also have a high social cost, increasing homelessness and adverse health effects that have a disparate impact on minorities and others who live on the margins.

Establishing urban growth boundaries, as our September 28 letter indicated, has resulted in land costs within the boundary escalating to *11 times* the cost of land outside the boundary. This will continue to increase VMT and GhG emissions as Silicon Valley workers seek housing within the boundary of Modesto or an even more distant location.

Protection of Natural & Working Lands (NWL) can have the same effects, increasing GhG, VMT, and housing cost if placed in the wrong area. As our November 21 letter (attached) indicated, we believe that NWL should be prioritized in locations 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 nor do all regions have adequate precipitation to support plant growth. CARBs prioritization should include all of these factors. Additionally, preservation of NWL 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.

As you move forward with discussions on ways to implement VMT-reduction strategies (a goal we support and believe needs to be applied consumer-wide and economy-wide) we would welcome the opportunity to participate in that effort.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Lyon". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard Lyon
Senoir Vice President
California Building Industry Association



Comments On:

**Vibrant Communities and Landscapes – A Vision for California in 2050
- and -**

**Potential State-Level Strategies to Advance Sustainable, Equitable
Communities and Reduce Vehicle Miles of Travel (VMT) – for Discussion**



Comments on behalf of:

- California Building Industry Association
- California Association of Realtors
- California Business Properties Association
- California Business Roundtable
- California Chamber of Commerce
- Associated General Contractors of California
- Apartment Association of Greater Los Angeles
- Santa Barbara Rental Properties Association
- San Diego County Apartment Association

September 28, 2016

Comments On:

- **Vibrant Communities and Landscapes – A Vision for California in 2050**
- **Potential State-Level Strategies to Advance Sustainable, Equitable Communities and Reduce Vehicle Miles of Travel (VMT) – for Discussion**

Sent electronically via:

[https://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=scoplan2030trnspt-
ws&comm_period=1](https://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=scoplan2030trnspt-
ws&comm_period=1)

And via email to CA.50m@opr.ca.gov

"We can work together to break down rules that stand in the way of building new housing and that keep families from moving to growing, dynamic cities." – Barack Obama, President of the United States – remarks to the U.S. Conference of Mayors, January 21, 2016.

"Excessive barriers to housing development result in increasing drag on national economic growth and exacerbate income inequality." -- Housing Development Toolkit, The White House, September 2016.

"California has a serious housing shortage. California's housing costs, consequently, have been rising rapidly for decades. These high housing costs make it difficult for many Californians to find housing that is affordable and that meets their needs ..."

"... we suggest policy makers primarily focus on expanding efforts to encourage private housing development. Doing so will require policymakers to revisit long-standing policies on local governance and environmental protection ..." – Perspectives on Helping Low-Income Californians Afford Housing. California Legislative Analyst, February 9, 2016.

"We live in a regulatory state with ... thousands of new regulations annually. Most regulations ... are like a boulder in a strong-flowing river. Throw in one and the river finds ways around it. But throw in a thousand boulders and the river's flow slows considerably." – Can U.S. Presidents Much Affect the U.S. Economy? David Henderson, Library of Economics & Liberty, September 2016.

In the closing days of the 2016 legislative session, AB 197 a companion measure to SB 32 was approved creating the *Joint Legislative Committee on Climate Policies* with the stated purpose of increasing transparency and legislative oversight of state regulators. Fifteen days later, with the Legislature adjourned for the year, eight state agencies with little notice posted a "Land Use White Paper" on the ARB website, held a workshop the following day and subsequently allowed a short thirteen days for public comment. Thirteen days is hardly sufficient comment time for such sweeping proposals. Concurrently, a companion "discussion" document on vehicle miles travelled (VMT) was released with no identified agency or author noted --- also subject to the thirteen day comment deadline.

Collectively, the aforementioned documents fail to provide a clear picture of exactly what regulatory force the "visions," "sets of action," or "strategies" carry or what authority a state agency would have to implement them or whether they will be required to follow standard

rulemaking processes. The *Foreward* [sic] to the Vibrant Communities document notes that eight state agencies collaborated in a shared desire to "better consider" land use in achieving the state's climate change goals and to influence actions at all levels of government. Clearly, with these new regulations the intent is for the state to advance even more land use and transportation policies to fortify what are already acknowledged as the most aggressive and far-reaching climate change policies anywhere.

With this in mind we offer the following comments:

Vibrant Communities - Visions

Land is protected, managed, and developed in a manner that maximizes resilient carbon storage, food security, and other ecological, economic, and health objectives.

Envisioning communities and landscapes through any single filter in a state as large and diverse as California is both unwise and dangerous. The vision needs to demonstrate appropriate balance by acknowledging and committing to provide for the fiscal resiliency of cities and counties; to plan realistically for future growth; to fully meet the state's short and long-term housing needs; to provide a full-range of transportation options; and to avoid throwing unnecessary new regulatory boulders in the path of a growing population.

New development and infrastructure are built primarily in locations with existing infrastructure, services, and amenities (i.e., previously-developed locations), rather than greenfield locations.

Depending upon how the state intends to implement this vision, it appears to run up against a century-plus of constitutionally-protected "home rule" authority of cities and counties to make laws and control matters involving their municipal affairs. It also appears to be in conflict with SB 375 which specifically acknowledges that cities and counties maintain their existing authority over local planning and land-use decisions. State action that intrudes on local authority to accomplish the above vision is unwise and potentially polarizing because one-size-does-not-fit-all and would likely produce even greater levels of displacement and adverse environmental impacts. SB 375's Sustainable Communities Strategy (SCS) requires that the SCS must accommodate the full-range of housing needs by identifying sites throughout the diversity of the region over an eight year regional housing needs assessment (RHNA). Restricting new development to "infill only" in previously-developed locations is tantamount to favoring alternative planning scenarios that are uniformly acknowledged to adversely impact existing communities, restrict local land use authority, and impede job and population growth.¹ An "infill only" approach presents conflicts with other vision goals (for example - healthy communities, social equity, affordable housing, and outdoor recreational activities) and infill sites are typically the unhealthiest due to proximity to toxic air contaminants and toxic soils. It

¹ In the 9-County Bay Area, a recent analysis by the Metropolitan Transportation Commission (MTC) shows that without major state level CEQA reform, local government finance, excessive development fees and exactions, and local planning and zoning entitlement reform only 70% of the roughly 615,000 new units planned for the region's density-driven Priority Development Areas (PDAs) will be feasible during the 2040 planning period. Even with the reforms (noted above) the maximum feasibility figure gets to 87%. (<http://mtc.ca.gov/sites/default/files/PDA%20Update%20Final.pdf>)

also works against efforts to combat the urban heat island effects of climate change as well as efforts to mitigate those effects like urban forest initiatives.

Increasing density does not necessarily translate into lower costs for housing production. Costs go up exponentially as heights increase above two stories. For example, an eight-story housing project can cost 5-7 times that of a two-story home because taller buildings require more expensive engineering, building materials and labor.²

The value of ecosystem services conferred by natural systems are accounted for and included in State, local and regional planning and investment decisions, resulting in protection of these services and California's globally significant biodiversity.

"Ecosystem services" is a scholastic notion envisioning a taxation scheme requiring payments to support public and private "natural systems" in exchange for the privilege of occupying urbanized and agricultural areas. The closest California has come to this is the voluntary Williamson Act land conservation program that saw state subventions effectively eliminated in the 2010-11 budget.

Vibrant Communities - Actions

Establish land conservation targets: The state will develop quantitative and achievable goals to protect and limit the conversion of the State's most productive farmland, rangeland, and forests, as well as the natural and working lands most critical to preserving California's biodiversity and the ability for Californians to adapt to climate impacts.

This appears to pose a potential conflict with the local land use authority of cities and counties as well as their land use planning and governance rights and responsibilities under SB 375. According to the law, statewide land conservation "targets" would need either specific legislative, statutory authority or direct voter approval. We also note that for decades California has failed to meet its housing targets. Better to focus on meeting existing targets before taking on new, additional ones.

Of California's 101 million acres, only about 5 percent or 5.3 million acres are occupied by our existing population. Fifty (50) million acres are in federal, state or tribal ownership and are not readily available for private use. Agriculture accounts for 25.5 million acres.⁵

Update regional greenhouse gas reduction targets to achieve 2030 and 2050 greenhouse gas emission reduction targets: The State will work with local and regional governments

² Bay Area Housing Cost Comparison (May 8, 2015 presentation to MTC Planning Committee/ABAG Administrative Committee by J. Fearrn, D. Pinkston, N. Arenson).

³ Additionally, under the Federal Endangered Species Act, 20,040,250 acres are currently designated as critical habitat (no development) in California. Excluding overlapping designations, over 17 million acres, or approximately 17 percent of the land total of California is designated as critical habitat for one or more species. The actual area impacted by the designations is much larger and extends to at least 25 percent or more of the total land area of the state. These designations apply to 113 species. There are over 320 listed species in California. It is apparent that if critical habitat is designated for all listed species in the state, much of California itself could be designated as critical habitat.

to develop stronger GhG emission reduction targets for regional sustainable community strategies under SB 375 and identify opportunities to strengthen implementation success.

SB 32 establishes a statutory reduction limit for 2030. There is no statutory mandate for 2050 as it was expressly rejected by the Legislature in the negotiations involving SB 32. A key reason for the rejection is there is no existing plan, pathway or credible analysis of how the 2050 limitation target can be feasibly achieved given the existing state of research and development or technology and innovation -- and cost. Notably, SB 375 does not reference or authorize implementation of non-statutory GhG reduction mandates. Although executive orders establish goals beyond 2030, the authority of an executive order does not extend to the private sector. This is an issue the Joint Legislative Committee on Climate Change Policies should look into immediately.

Explore and develop financing, regulatory, and other tools to support more efficient and more equitable development.

As noted in a recent LAO report,⁴ housing in California is so expensive because the private markets are producing less than the growing population base, household formation, and job creation demand. Just this week, the New York Times reported that more jobs have been created in Los Angeles than new housing, forcing many out of the city as rents are now unaffordable for even the upper middle-class.⁵ Key factors that limit supply are the high cost and (un)availability of land with suitable zoning, the absence of financing for necessary infrastructure and services, labor shortages, the risk associated with environmental litigation and CEQA lawsuits, a higher incidence of construction defect litigation, and the high cost of the regulatory and land use entitlement processes. We know this for a fact and have known it for quite some time. Unfortunately, the "actions" specified in the document, e.g., *exploring, evaluating and developing* tools while well-meaning are simply peradventure in nature. They talk around the issues but fail to get to the point.

Vehicle Miles Traveled (VMT)

The VMT discussion paper postulates that "California must reduce vehicle miles traveled" and that "strategies to reduce VMT are essential to ensuring both environmental quality and a high quality of life for the future of California." With this as background the draft identifies strategies for the state to pursue to achieve further VMT reductions.

We offer the following comments:

We begin with what is not stated in the document. Missing is any state agency acknowledgement, support or strategy to improve our system of highways, streets and roads, and transit operations. Missing is an acknowledgement of the need to implement congestion relief and goods movement projects across California that have been approved by voters, are consistent with federal, state, regional and local plans and programs, and that comply with the

⁴ *California's High Housing Costs and Consequences*, California Legislative Analyst, March 17, 2015, <http://www.lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.odf>

⁵ California Today: "Sticker shock" in Los Angeles Housing, New York Times, September 27, 2016.

state's legislatively-enacted GhG reduction targets. The Los Angeles region, for example, has some of the worst congestion in the country. Reducing congestion there is a critical component of the region's transportation and air quality plan. A significant part of the LA regional economy is dependent on the movement of goods and represents a (dwindling) middle-class-income employment opportunity. Clearly, state strategies should balance economic and congestion-relief with VMT reduction. The draft should acknowledge this fact and provide that necessary balance.

Efficient & Equitable Development Tools

The “tools” to increase infill development and achieve land use changes necessary for longer-term VMT reduction include, among others:

- Promotion of urban growth boundaries (UGBs);
- Transfer of development rights from natural and working lands;
- Establishing transit corridor financing districts;
- Promotion of reduced parking;
- Creative financing mechanisms to enhance the viability of infill development;

A number of these ideas, though well-meaning, tend to be shapeless and speculative and difficult to comment on. Some, however, like urban growth boundaries are better documented and understood.⁶

Promote and strengthen Urban Growth Boundaries to promote infill development and conserve natural and working lands ... by defining and limiting developable land within a metropolitan area according to projected growth needs.

Intended or not, a broad-adoption of urban growth boundaries (UGBs) would significantly and negatively affect the ability of the state and its municipalities to accommodate projected future housing development. Moreover, UGBs increase housing costs inside the boundary pricing many people out which in turn *increases VMT and GhG emissions.*⁷ At its core, a decision to implement an UGB is arbitrary.

It is not based on the physical capabilities of the land to support development but rather on a set of political decisions and capricious accommodations about growth. In describing the UGB scheme adopted in Ventura County, a commenter recently noted:

In practice, this {UGB} has made the kingdom a mighty fortress. Those sprawling suburban housing developments that fill up the San Fernando Valley to the east and the Santa Clarita

⁶ These proposals are essentially land use strategies and as such the document should, as noted in the foreword to the Vibrant Communities and Landscapes document, recognize that they are the domain of local governments and that this document does not suggest that they be removed from local government authority.

⁷ “Faced with expensive housing options, workers in California’s coastal communities commute 10 percent further each day than commuters elsewhere.” *California’s High Housing Costs and Consequences*, California Legislative Analyst, March 17, 2015. See also, *A Line In the Land: Urban Growth Boundaries, Smart Growth and Housing Affordability*. Staley, et al. See also *Property Values 11 Times Higher Across Portland’s Urban Growth Boundary*. Wendell Cox, 2010.

*Valley to the North? They stop at the county's edge. It's almost as if Ventura County has built a wall against growth along its border – and made neighboring Los Angeles pay for it.*⁸

The notion that California's future housing needs can be met through infill development within artificially-drawn UGBs is a fantasy.

According to well-documented sources,⁹ California needs to build 3.5 million housing units by the year 2025, but current construction rates will only produce 1 million units --- leaving a 2.5 million unit supply gap. This raises the question: Can dense infill alone accommodate anticipated future housing needs?

In 2006, the Department of Housing and Community Development produced a study¹⁰ concluding that, at best, only 25% of California's housing future housing need can feasibly be met on infill sites.

We hasten to add that since the release of that study the regulatory environment for infill in California has not gotten any better. In fact, it has regressed. A comprehensive analysis of CEQA lawsuits filed over the three-year period of 2010-2012¹¹ reveal that the most frequent targets of CEQA lawsuits are projects designed to advance environmental policy objectives such as residential infill development in established communities and public infrastructure transit projects.

Though some state legislative attempts have recently been made to advance modest, by-right streamlining of infill development, little success has been realized. It will take more than good intentions to make infill development more viable. Until that time, it is unrealistic to expect infill development to provide more than a fraction of the need.

A quick word on the costs of infill

High-density infill projects are costly to construct and typically require strong housing markets because of the requirement to pre-sell or rent significant percentages of the units soon after completion of construction. The presence of toxics in the soil of many infill sites and increased risk of construction defect litigation also add to the cost and delay of building infill projects. Infill sites are small and builders and local governments have recently lost a significant tool – redevelopment – to facilitate land assemblage and financing. According the state's LAO, "Housing in California has long been more expensive than most of the rest of the country. Between 1970 and 1980, California home prices went from 30 percent above U.S. levels to more than 80 percent higher. This trend has continued. Today, an average California home costs \$440,000 {note; the most recent figure from the LA Times pegs the average home price in the state at \$446,900}. Also, California's average monthly rent is about \$1,240, fifty percent higher than the rest of the country."

⁸ Joe Matthews, August 11, 2016.

⁹ US Census, Moody's Analytics, McKinsey Global Institute analysis

¹⁰ *The Future of Infill Housing in California: Opportunities, Potential, Feasibility and Demand*. University of Pennsylvania, 1-1-2006, Landis et al.

¹¹ *In The Name Of The Environment*. Holland & Knight. Hernandez, Friedman and DeHerrera (2015). Also see the 2016 update chronicling CEQA lawsuits in the Southern California Association of Governments region for the years 2013-2015. To wit: The largest targets of CEQA actions were residential projects.

Because UGBs arbitrarily limit the availability of land to accommodate projected growth needs, do not contain the entitlement streamlining measures necessary to ensure project approvals and significantly drive up the cost of housing they significantly favor higher-income buyers, exacerbate the gap between the haves and the have-nots and promote economic segregation.¹² Bottom line: They do not produce either equitable or practical outcomes.

Pricing Policies

[P]ricing strategies can present cost savings for many drivers, while helping to ensure that infrastructure is appropriately and adequately maintained and promoting use of transportation alternatives.

Using congestion pricing and market-based strategies as tools to address traffic congestion -- including mileage-based strategies as an alternative to the existing gasoline tax -- allowing the operator/consumer to manage demand and limit congestion are ideas that are well-worth exploring. In general, that those who use the transportation facilities should pay for them; negative effects should be dealt with in a cost-efficient manner; and new technologies that increase mobility at low cost should be embraced.

To the extent that cost-burdens impact low-income and disadvantaged communities, one way to address this social welfare concern is to ensure that users have several price choices accounting for a variety of service levels.

The existing housing stock in California is 14 million homes. We are adding about .007% (98,000) in new homes per year. The principle of equity should also apply to whatever VMT regime CARB comes up with so that the existing housing supply is subject to the same rules as new residents of a community. For these reasons we believe that pricing strategies are the most equitable approach and may encourage existing residents who live farther from their jobs to relocate closer in.

Conclusion

In light of the substantial impact the strategies, visions, and actions identified in the dual documents could have on the ability to meet our housing supply and affordability needs, on locally approved transportation financing measures, on the cost and delivery of transportation projects and on the balance between local control and state governance, we strongly encourage you to withdraw the Land Use White Paper and the companion VMT “discussion” document and defer all further action until the Joint Legislative Committee on Climate Change Policies has had the opportunity to be organized, fully briefed and hold Legislative oversight hearings on these proposed new policies.

Thank you for the opportunity to offer these comments.

¹² See U.S. Supreme Court ruling upholding the application of “disparate impact” under the U.S. Fair Housing Act. *Texas Department of Housing & Community Affairs v. The Inclusive Communities Project, Inc.*



CBIA

CALIFORNIA BUILDING
INDUSTRY ASSOCIATION

1215 K Street/Suite 1200
Sacramento, CA 95814
916/443-7933
fax 916/443-1960
www.cbiam.org

2016 OFFICERS

Chair
DON HOFER
Shea Homes

Vice Chair
JEFFERY PEMSTEIN
Homes by Towne

CFO/Secretary
CHRIS AUSTIN
DPFG

MEMBER ASSOCIATIONS

Building Industry
Association of
the Bay Area

Building Industry
Association of
Fresno/Madera Counties

Building Industry
Association of
the Greater Valley

Building Industry
Association of
San Diego County

Building Industry
Association of
Southern California

Building Industry
Association of
Tulare & Kings Counties

Home Builders
Association of
Central Coast

Home Builders
Association of
Kern County

North State Building
Industry Association

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". The signature is stylized with a large, sweeping initial "R" and a cursive "Lyon".

Richard Lyon
Senior Vice President