



Operation Resilient Living and Innovation, Plus, LLC

July 1, 2022

Re:

NY State Climate Leadership and Community Protection Act
Draft Scoping Plan - Public Comments

Dear New York State Climate Action Council members,

Thank you for this opportunity to provide comment on the 2022 Draft Scoping Plan for New York State's Climate Leadership and Community Protection Act. This is a historic opportunity to set bold standards for socially and racially just, environmentally sustainable, and economically regenerative responses to the climate crisis, and a model for swift and sustained implementation of such strategies. Given the recent U.S. Supreme Court decision on *West Virginia vs. EPA*, there is additional urgency to scope out a plan that is bold and just.

As co-founders of Operation Resilient Living and Innovation, Plus (ORLI+), a consultancy working to support comprehensive climate readiness and justice in design and development through research, engagement, empowerment, and design, we submit the following comments for your consideration. ORLI+ is a member of the NY RENEWS Coalition, which consists of over 300 environmental, justice, faith, labor, and community groups, fighting for good jobs and climate justice. As a member of the Coalition, we have sought to advocate for the alignment of architectural organizations and coalitions, such as the American Institute of Architect' New York State and New York City chapters, to further align their agenda, policy advocacy, educational programming, and industry standards with those of NY RENEWS and other regional and national Climate Justice coalitions. Health, Safety, and Welfare (HSW) is the oath we take as Architects.

We believe that professionals in the Architecture-Engineering-Construction (AEC) professionals have a duty to use our expertise in building codes and zoning regulations, materials and assemblies, construction financing and management processes, building operations and maintenance, and design thinking and visualization to interpret, communicate, and support the operationalization and implementation of the CLCPA and other climate change legislation. Architects can be an integral part of the conversation when it comes to (A) advocating for Just transitions towards Climate Justice, (B) providing technical assistance for Environmental Justice and disadvantaged communities, and affordable housing residents, (C) walk the walk on Justice, Equity, Diversity and Inclusion in the AEC industries, and (D) creatively build other tools for climate justice in the built environment, in partnership with community and advocacy leaders. However, we cannot do so if the scope and implementation pathways of the CLCPA do not provide opportunities for true, Just transitions and progressive, systemic change.



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General Comments

We follow the lead of frontline community leaders, labor and environmental justice advocates within NY RENEWS in regards to the CLCPA's scoping and implementation:

- Environmental Justice, Public Health, and a Just transition come first.
- No False Solutions.
- Fund the CLCPA - dedicated funding mechanism.
- New York needs "Scenario Three" for Clean Air and a Healthy Environment.
- CLCPA is law, to be treated as one.

The following specific comments are organized by CAC Technical Advisory Committee, to facilitate distribution for review. As with our general comments, ORLI+ fully endorses and supports all comments and recommendations by the NY RENEWS Coalition, whether or not they are referenced herein, and have submitted separate comments through the Coalition. This comment letter shall focus on additional comments and recommendations on Sectors affecting and affected by the Architecture, Engineering, and Construction sectors, given our professional background as Registered Architects.

Building Sector

While this scoping plan represents a comprehensive plan that largely addresses the impacts and potential of our built environment in the advancement of The State's climate goals, additional provisions must be incorporated to (a) support an equitable and just implementation of its provisions, (b) integrate natural systems and adaptation strategies for increased co-benefits, and (c) support local, closed loop, regenerative green economies that minimize GHG emissions and environmental impacts across sectors and throughout the full life cycle of buildings and materials. While some of these provisions may not fall entirely within the scope of CLCPA, they should be considered and referenced in the final Scoping Plan, for coordination across agencies and stakeholders at the state and local levels.

- 1. Reinforce and expand provisions for workforce development, training, and technical assistance for construction and related sector workers across the life cycle of buildings and physical infrastructure, with particular focus on ensuring a Just Transition to fossil fuel-intensive industry workers.*
 - a.** Adopt advanced zero-emissions codes and standards to enhance building performance and phase out fossil fuel combustion appliances and technologies will require integration of funding, technical support, training and capacity building to help responsible State, municipal, town, and county jurisdictions and agencies with enforcement.

- b. Provide retraining, prioritize and fund expansion of relevant workforce to the operations and enforcement of building electrification, decarbonization, and energy efficiency, including but not limited to: energy auditors, construction and special inspectors, energy efficiency code inspectors, construction plan reviewers, and building commissioners and retro-commissioners. Such programs shall include prioritization for low income and disadvantaged community (DAC) residents looking to enter into or advance within these workforces, similar to the proposed NYSEDA Climate Justice Fellowship program.
 - c. Provide and expand training and technical assistance programs in material testing and third party certifications for green and re-manufactured building materials, including expanded access for DAC residents and manufacturing workers and companies. Such programs could support the expansion and diversification of this industry in New York State, providing a necessary service in an ever evolving building materials industry seeking to comply with increasingly stringent energy and greenhouse gas emissions regulations.
 - d. While acknowledging concerns raised by the Climate Justice Working Group regarding the need to front-load investments, technical assistance, and other resources in disadvantaged communities (DACs) to ensure those communities are not left stranded in an aging and expensive fossil fuel-based energy system, the Scoping Plan fails to align strategies that prioritize investments in DACs with the proposed timelines for the adoption of new codes and standards. These strategies must move in lockstep to create the conditions for a Just Transition. The proposed Retrofit and Electrification Readiness Fund should be created immediately and capitalized at a minimum of \$1 billion per year following the recommendations of the Energy Efficiency and Housing Advisory Panel. The Fund should provide targeted direct investments to DACs and the affordable housing sector.
- 2.** *Provide protections, investments and financing opportunities to ensure that The State's Disadvantaged Communities, low- and moderate-income residents, and residential and commercial tenants do not suffer unintended consequences of climate action.*
- a. NYS must phase out fossil fuels and combustion appliances and technologies, support electrification, particularly in new construction (by 2024), and make residences safer for all. Include targeted investments in disadvantaged communities for affordable housing, and work towards ensuring low- and middle-income residents in our state are less vulnerable to extractive financial practices and unsafe housing conditions.
 - b. Additional front-loaded investment and resources for disadvantaged communities, consumer protection on energy and rent rate increases, predatory business practices, mistreatment by landlords, and gentrification must be

included to protect the rights of low- and moderate-income residents, tenants and DAC communities. Provisions shall include:

- i. a Utility Customer Bill of Rights,
 - ii. a safety net guarantee of affordable renewable energy to every household,
 - iii. public education to combat the power of the investor-owned utilities and the opaqueness of the energy system,
 - iv. stronger regulations on investor-owned utilities and subsidies to private landlords in order to mitigate rent increases and evictions, and
 - v. clawback provisions around public subsidies to private landlords as an anti-displacement strategy to mitigate rent increases and evictions.
- c. Provide financing support to existing operations of grassroots, cooperative social and environmental infrastructure projects that align with the mission of the CLCPA, such as community compost programs, community solar power cooperatives, and community land trusts, to incentivize organic growth in local, frontline regenerative economies. Provide simplified access to local, state, and federal financing and other resources to help expand these operations.

3. *Support the expansion of Nature Based Solutions, Green Infrastructure, Green Roofs and related natural systems as part of a holistic climate action agenda for the built environment, supporting carbon sequestration, green economic development, climate change mitigation and adaptation, and public and environmental health, among other goals and strategies of the CLCPA.*

- a. Although the CLCPA is focused on climate change mitigation and energy efficiency and transitions, further mention and integration of nature-based, Climate Adaptation strategies into Building sector regulations and programs is critical to the adaptive capacity of our state's built fabric to climate change. Additional regulatory provisions for the co-location of green roofs and other natural, green infrastructure in the built environment can ensure that these solutions are included in a holistic built environment approach to climate action. Examples include the continued expansion of the existing green roof tax abatement, but also increased technical support and integration of green infrastructure into climate change mitigation strategies in the building sector. Such actions will complement and improve the performance of on-site solar photovoltaics, air heat pump systems, and deep energy retrofits, in addition to significant environmental and health co-benefits.
- b. Prioritize green roofs, nature based solutions, and reforestation in the development of carbon sink programs. The greening of our urban environment, particularly in dense urban centers such as New York City, can provide needed growth in the state's carbon sink near major sources of greenhouse gas

emissions and pollution. This natural, healthier carbon capture strategy does not disproportionately rely on technocratic solutions or incentivize polluting industries.

- c. While some advances have been made to increase relevant tax breaks and prioritize DACs for green roof installations, more financing programs and incentives are necessary to ensure green infrastructure and nature based solutions proliferate and catch up to expansion of technologies such as on site solar photovoltaics and air source heat pumps. The CLCPA Scoping Plan should include provision of funds and regulatory mechanisms to support interagency collaboration at local, regional, and state jurisdictions and promote integration of climate mitigation and adaptation strategies - such as green roofs and green infrastructure - that provide co-benefits stretching across the jurisdiction of multiple agencies.
4. *Mandate and support implementation and enforcement of administrative codes, construction codes, energy codes, industry standards across the State's jurisdictions that do not just comply with current mandates, but continue to push the AEC Industry toward full life-cycle, environmentally sustainable and climate positive impacts.*
 - a. Administrative Codes: Provide guidance and support for local jurisdiction adoption of Administrative Code clauses requiring materials, documents, reports and inspections that:
 - i. ensure compliance of construction projects with CLCPA and its scoping plan and related regulations,
 - ii. increase site and environmental protections and related penalties for polluting construction activities, including illicit infrastructure connections, soil, air, and water contamination, and
 - iii. increase construction site waste diversion for potential re-use, both within a site and through local or regional resource exchanges.
 - b. Construction Codes:
 - i. Incorporate green roof requirements for new construction, in conjunction with solar photovoltaic and other installations. Current regulations in New York City and other jurisdictions pit climate action strategies as choices against each other, when they should be promoted as complementary and symbiotic strategies.
 - ii. Implement NY State Construction Code requirements that support accelerated building electrification across the state, including renewable energy ready-requirements for single family residential construction, solar requirements for larger buildings, and the transition to renewable energy usage and storage for all buildings, existing or new. Building on NY Sun Solar Equity program, provide incentives for accelerated adoption of these code provisions to local jurisdictions and building owners, specifically those in DAC.

- iii. In keeping with NY RENEWS comments on public health and health equity, promote environmental health and indoor air quality by increasing requirements for healthy building materials, including zero VOC materials and finishes, and zero formaldehyde insulating materials. Furthermore, limit the use of mineral-based wool insulation, as producing it requires burning fossil fuels. Provide funding and networking opportunities between environmental justice and health advocates, academic and research centers (e.g., New School's Healthy Materials Lab), AEC industry professionals and code developers to support the proliferation of healthy materials that are also affordable and energy efficient throughout their life cycle.
- c. Energy Codes:
 - i. Limit implementation of code provisions permitting carbon trading, offsets, and other False Solution economic mechanisms that shift the burden of paying for climate change adaptation and mitigation from polluters and real estate interests to local, regional, national and international frontline communities and ecosystems. Trading and offsets, where necessary, must be done within a limited area (within the state, or neighboring states) to minimize negative externalities that may not be typically accounted for.
 - ii. Plan for the eventual expansion of existing energy codes to encompass zero-GHG (greenhouse gas), zero-energy use targets for buildings and infrastructure, rather than Net Zero - in keeping with the CLCPA's goals for a 100% renewable power sector by 2040.
 - iii. Use the example of NYC's Local Law 97 and set progressively more stringent greenhouse gas emissions and energy use and efficiency standards, with specific attention to mechanisms for alternative compliance and emphasis on enforcement for existing building performance. Support built environment professionals, building owners and managers in progressive compliance, by providing incentives for accelerated adoption of these code provisions to local jurisdictions and building owners.
- d. Support enforcement of enhanced local and state codes by providing financial support, education and training opportunities to local agency staff, construction workers, and other AEC industry professionals.

Industry Sector

- 5. *Incentivize a regional and circular construction material supply chain, in the process helping revitalize manufacturing across New York State and promoting a Regenerative (Re)Manufacturing Economy.*
 - a. Provide code requirements as well as financial, infrastructural and logistical support for construction waste re-use, with incentives for on-site re-use where



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- feasible. Track reduction of GHG emissions from construction, transportation and waste sectors as a result of the recovery and local remanufacture of valuable resources and materials.
- b. Provide training and technical assistance for companies and workers in the concrete, steel, masonry, and other construction material industries, to support a greening and reinvention of these industries in NY State, with specific attention to circular economies, remanufacturing and resource recovery and reuse.
 - c. Develop financing mechanisms to fund research and development for innovative and remanufactured building materials, in collaboration with circular economy experts and pioneering companies, local manufacturing stakeholders, local workforce development, climate justice, and green economy actors.
 - d. Provide local Industrial Business Zone managers and business owners with financial, logistical, operational, and workforce development support to revitalize and transform NY State's (re)manufacturing economy. Dedicate funding to pilot programs - with potential for expansion - that give DAC residents and existing industry workers the opportunity to participate and advance their careers in the research, prototyping, testing, and bringing to market of innovative efficient building and climate resilience infrastructure materials.

We thank you again for this opportunity to provide public comment on this milestone and wide-spanning Act and Scoping Plan. We understand and appreciate the amount of research, deliberation, consultation, and compromise that has already gone into this work, and ultimately trust that NYSERDA, NYS DEC, and other involved agencies and partners will provide a thorough Scoping Plan that promotes the interests of all new Yorkers, especially frontline communities, communities of color, and low-income and working class residents. There is a lot of work ahead, and we pledge to continue to work with you and others towards Just Transitions and a Decarbonized, Electrified, just and green economy and building sector in New York State and beyond.

Sincerely,

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Co-founders

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