WATERFRONT ACCESS FOR ALL

Breaking Down Social and Physical Barriers to the Waterfront
WHY CAN’T WE TOUCH THE WATER?
BARRIERS TO PHYSICAL ACCESS

CHALLENGE 1: ZONING FOR DIRECT ACCESS AND PROGRAMMING

**Case Study:** Accessibility challenges for non-motorized recreational boaters on the Gowanus Canal in Brooklyn, NY

**Recommendation for New York City Department of City Planning (DCP) and New Jersey municipal planning agencies:** Modify zoning to create more opportunities for safe direct access.

CHALLENGE 2: ZONING AND PERMITTING FOR LIVING SHORELINES

**Recommendation for DCP:** Create a floor area exemption for living shorelines in the upcoming Zoning for Coastal Flood Resiliency.

**Recommendation for DCP and New York State Department of Environmental Conservation (NYSDEC):** Simplify the permitting process for living shorelines.

**Case Study:** Maryland Department of the Environment’s Tidal Wetland Regulations for Living Shorelines

CHALLENGE 3: ENFORCEMENT

**Recommendation for New Jersey Department of Environmental Protection (NJDEP):** Adopt rules for Public Access Law that allow for better, more timely enforcement of public access.

**Case Study:** Enforcing public access along the Hudson River Waterfront Walkway

**Recommendation for New Jersey State Assembly and State Senate:** Pass the Liberty State Park Protection Act without amendments.

WHY CAN’T WE PAY TO CREATE ACCESS WHERE IT’S NEEDED MOST?
BARRIERS TO FUNDING AND STEWARDSHIP

CHALLENGE 1: FUNDING MECHANISMS

**Case Study:** Fighting for capital and maintenance funding in high need areas – New Yorkers for Parks’ Play Fair campaign
Recommendation for New York City Mayor and Council: Create a permanent (baselined) budget for park staff, prioritizing subsidies for high need areas.

Recommendation for New York City Mayor and Council: Codify the Community Parks Initiative to better serve capital projects in high need areas as identified by the New York and New Jersey Harbor & Estuary Program (HEP).

Recommendation for Governor and New York State Legislature: Increase funding for the New York State Environmental Protection Fund/Hudson River Estuary Program.

Recommendation for New York State Legislature and voters: Support the Restore Mother Nature Bond Act and ensure a fair share for urban shorelines.

WHY AREN’T OUR IDEAS FOR ACCESS BEING HEARD?
BARRIERS TO DIVERSITY AND ENGAGEMENT

CHALLENGE 1: ORGANIZATIONAL DIVERSITY, EQUITY, AND INCLUSION

Recommendation for New York City Department of Education, New York State Education Department, and New Jersey State Assembly: Improve waterfront education in public school curricula and workforce development opportunities.

Recommendation for Access Task Force Members: Commit to diversity, equity, and inclusion in a meaningful way.

Case Study: Row New York’s social justice framework for improving internal diversity

CHALLENGE 2: MEANINGFUL PUBLIC PARTICIPATION

Recommendation for City agencies and the New York City Council and a future Charter revision: Establish metrics and best practices for pre-ULURP stakeholder engagement.

Case Study: Make the Road NYC is Building the Power of Immigrant and Working-Class Communities

Case Study: Creating agency-wide best practices for community engagement - Department of Housing and Preservation’s Neighborhood Planning Playbook

CONCLUSION

ACKNOWLEDGMENTS

REFERENCES
In the New York and New Jersey Harbor, the ability for people to access the water has improved dramatically over the last several decades, but not for everyone. While 37 percent of our region’s waterfronts are publicly accessible, only nine percent of the waterfront in the 12 neighborhoods with the highest need can be accessed. These underserved communities are disproportionately lower- and moderate-income communities of color. Equity of public access remains a challenge and should be a first priority for those working to improve waterfront access in our region.

The many benefits of waterfront access—specifically, the ability to touch the water—are not only a tremendous asset for waterfront communities, but a fundamental right of all people known as the Public Trust Doctrine. Our waterways, often called the “sixth borough,” offer physical, recreational, and economic benefits to the region. At a time when our region’s waterfronts are rapidly developing amidst the rising challenges of climate change, a strong civic voice is needed to ensure that investments in waterfront amenities, development, and resilience are made equitably without contributing to displacement, and prioritizing those communities that are underserved.

**Background**

In March 2019, the Waterfront Alliance convened a waterfront Access Task Force in partnership with the New York and New Jersey Harbor & Estuary Program (HEP) to build consensus on priorities for improving the quality and equitable distribution of waterfront access. These priorities will inform key forthcoming legislation and policies in New York City and New Jersey. Building from HEP’s research identifying the 12 areas of higher need (referred to as “higher need areas” throughout this document), the goal of the Access Task Force has been to address both the physical and social barriers that could be driving inequitable access throughout the New York and New Jersey region.

Despite the progress we’ve made over the last few decades,

1) Why can’t we touch the water?
2) Why can’t we pay to create access where it’s needed most?
3) Why aren’t our ideas for access being heard?

To answer these questions, the Task Force sought to better understand barriers to physical access (relating to policy tools), barriers to funding and stewardship (relating to policy processes), and barriers to engagement and diversity (relating to policy processes and practices).
The following document provides recommendations to guide key forthcoming policies, including New Jersey’s Public Access Rule (2019), New York City’s Comprehensive Waterfront Plan Update (2020), as well as the implementation of HEP’s 2017-2022 Action Agenda. The recommendations also provide input for city, state, and federal funding consideration, as well as a roadmap for improved community engagement in the land use approval process in New York City, and for municipal public access planning in New Jersey.

**Key Terms**

*Policy tools* refer to specific instruments the government uses to enforce laws. For example, zoning is a tool that planning authorities use to limit the use of land and building size, shape, height, and setbacks. Another example of a policy tool is a permit, which authorizes an entity to pursue a specific activity. For example, a developer who wishes to create a living shoreline in a waterfront park must receive a permit from an environmental permitting agency.

*Policy processes* refer to procedures undertaken by government to implement a law or initiative. For example, in New York City, the city undertakes the Uniform Land Use Review Procedure (ULURP) whenever a change to zoning is proposed. These processes are important because they inform the outcomes of the laws, and sometimes involve the public (in the case of ULURP).

*Practice* refers to the methods or ways that we all work as individuals, organizations, and government agencies to achieve our goals. For a stewardship organization, this might mean the way the staff engages with students—from languages spoken, to word choice and tone, or specific activities used to advance learning. For government agencies, this might mean the way representatives conduct public meetings—from languages spoken, to accommodations for childcare or transportation, to framing of issues and means of encouraging people’s opinions. It is important to note that policy processes are different than practice, and that practice can be much more subjective and challenging to improve.

**CALL TO ACTION**

These recommendations serve as an evolving platform for organizations and individuals who care about waterfront access to take leadership and contribute to the goals of the task force. Several of our recommendations relate to pressing legislation or initiatives that need your support!

**Here’s how to take action if you care about:**

- **Healthy ecosystems and resilient shorelines**—to add incentives for living shoreline creation or restoration within the New York City Department of City Planning’s forthcoming Zoning for Coastal Flood Resiliency, which is currently in public review (see *Barriers to physical access, Challenge 2*)
  - **Timeline:** In public review 2020
  - **Contact:** Waterfront Alliance (Sarah Dougherty, sdougherty@waterfrontalliance.org)

- **Preserving precious waterfront parkland at Liberty State Park, New Jersey**—to learn how to encourage the New Jersey Legislature to pass the Liberty State Park Protection Act without an amendment to privatize Liberty State Park’s Caven Point natural area in any way, such as allowing it to be leased by the Liberty National Golf Course (see *Barriers to physical access, Challenge 3*)
  - **Timeline:** Bill reintroduced January 2020: Assembly bill A2189 and Senate bill S1449
  - **Contact:** Sign the petition by going to www.folsp.org (click on the “LSP Protection Act” banner)

- **Funding for stewardship in underserved waterfronts**—to increase Environmental Protection Fund allocations for New York’s Harbor and Estuary Program (see *Barriers to funding, Challenge 1*)
  - **Timeline:** Annual budget set by April 1, 2021
  - **Contact:** New York—New Jersey Harbor and Estuary Program (Rob Pirani, rob@hudsonriver.org)

- **Diverse racial and economic representation in waterfront access organizations**—Access Task Force members should financially and institutionally commit to long-term diversity, equity, and inclusion (DEI) efforts (see *Barriers to diversity, Challenge 1*)
  - **Timeline:** Ongoing
  - **Point Person:** Access Task Force Members
**Challenge 1: Zoning for direct access and programming**

In 1993, the New York City Department of City Planning (DCP) created waterfront zoning (ZR 62-00), which significantly increased the quantity of public waterfront walkways throughout the city. This zoning requires most new waterfront development to provide at least 15 to 20 percent of the lot area for public access. Since then, more than 1.25 million square feet of Waterfront Public Access Areas have been constructed, with an additional 5.4 million square feet underway. In New Jersey, the establishment of state Coastal Zone Management (CZM) rules (in particular the Hudson River Waterfront Walkway Act 1988) paved the way for more public walkways along tidal waterways. Administered by the New Jersey Department of Environmental Protection (NJDEP), CZM rules are implemented by each of 231 municipalities through zoning initiatives, to varying degrees of stringency.

Despite this increase of waterfront public access, the ability to touch and safely enter the water remains scarce on public and private land alike. The lack of “direct access” to the water prevents the public from fully experiencing their rights to enjoy their waterfront. It is also a major barrier for programming, experiential education, and recreation, including human-powered boating, fishing, and stewardship.

**Recommendation for New York City Department of City Planning and New Jersey municipal planning agencies:**

*Modify zoning to create more opportunities for safe direct access.*

In New York City and New Jersey, waterfront zoning and municipal access plans should be created or modified to enhance safe, direct access to the water. As-of-right and modified zoning should strongly encourage direct access and require evidence where it is deemed not feasible. When public land at the shoreline is improved with a capital project, the government should be required to accommodate access to and from the water or provide justification why such access cannot be accommodated. Any seawall where the immediately adjacent water remains 10 feet deep or more at low tide should be prioritized for boating access, as silting, shallows, and rip rap preclude that option in many other areas. WEDG® (Waterfront Edge Design Guidelines) provides guidance for designing direct access features which are appropriate for the site’s unique conditions. Specific recommendations include:

- **Floating docks:** Low floating docks are primarily used by kayakers, whereas living shorelines and beaches are better suited for heavier human-powered boats. The dimensions of floating docks should be longer, rather than square, to allow for more boats. Ramps should be at least five feet wide, with slopes no greater than 60 degrees at low tide. Floating docks with three feet height over the water are best for local historic and educational vessels. Accommodating physically challenged users can be accomplished with a mechanical lift if needed, rather than an expensive, ADA-sloped extra-long ramp. For other design considerations, see WEDG.

- **Fencing design:** Fencing should allow boaters to safely enter and exit the water. Entry and exit points should be provided at least every 100 feet where fencing is required, and such fencing should be operable with one hand and hinged at the ladder point. Baltimore’s Inner Harbor is one good example of an urban waterfront where fencing is not required at vertical bulkheads, and permanent get-down ladders are provided approximately every 100 feet.

- **Seating:** Seating at the water’s edge should be accessible and views of the waterfront should not be blocked by fencing or other barriers.

- **Utilities:** At minimum, utilities such as electrical power and potable water should be provided where direct access is provided. Stewardship organizations rely on these utilities for programming. These utilities should be winterized with below frost valves, and flood resilient so that water is available to the public year-round.

- **Restrooms:** Where feasible, restrooms should be provided if the nearest public, freely available restroom is more than a quarter mile away from the site.

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5 NYC Department of City Planning. Waterfront Access Map. https://waterfrontaccess.planning.nyc.gov/about#10/40.7097/-73.9653
The neighborhood of Gowanus, Brooklyn, has unique opportunities and challenges for direct water access. Located on the formerly industrial Gowanus Canal and listed on the Environmental Protection Agency’s National Priorities List (Superfund), the community has advocated for improvements to water quality and environmental improvements in tandem with increased opportunities for waterfront access and stewardship. In January 2020, the EPA announced that construction of the eight-year remediation project is underway. Following remediation, the waterway is projected to have an 85 percent reduction in CSO discharge.

The Gowanus Dredgers Canoe Club is an organization that advocates for improved direct water access to encourage stewardship and recreational boating, as well as the provision of direct water access on all publicly accessible land. The Dredgers have illuminated several challenges for direct water access that have been codified by zoning within DCP’s Waterfront Access Plan for the Gowanus Waterfront. Waterfront Access Plans are issued by the DCP and allow for site-specific modifications to waterfront zoning.

The challenges outlined by the Dredgers include:
1) Accessibility of floating docks, specifically for physically challenged users and those living with disabilities
2) The requirement for installation of mesh waterfront fencing, which does not allow for boaters to be rescued in an emergency event
3) The height of waterfront bulkheads without floating docks or ladders, which does not allow for safe launch and use of boats
4) Railing designs that do not accommodate fishing pole holsters when cast and waiting for a bite and catch
5) The lack of shade structures at the shoreline dock areas and social seating with fixed tables and benches deter participants from waiting for a turn to kayak, canoe or row and enjoy the waterway.

DCP should take these challenges into consideration for modifying existing zoning and creating future Waterfront Access Plans.

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DCP should take these challenges into consideration for modifying existing zoning and creating future Waterfront Access Plans.
With more than 7,000 miles of shoreline and 60 percent of its counties within the 100-year floodplain, Maryland is extremely vulnerable to the impacts of climate change and sea level rise. To address these risks, Maryland is one of two states (the other being New Jersey) to assume the Section 404 program for wetland management under the Clean Water Act. Over the last several decades, Maryland has adopted regulations and incentives to promote living shorelines. Since 1971, state loans have protected more than 200,000 linear feet of shoreline and restored over 3.7 million square feet of marsh.

In New York City, zoning and permitting create barriers for direct access and living shorelines. This is particularly true in high-density areas, where most developers are reluctant to trade buildable lot area for living shorelines, which take up more space than vertical bulkheads. As a workaround, some developers seek waivers to allow shoreline restoration and provide a plan for how they will implement and monitor the living shoreline. The Department of the Environment only issues waivers if the project is sited within certain state-designated areas, or if the site is not deemed suitable for living shorelines due to erosion, wave action, water depth, or other conditions.

In 2008, Maryland passed a Living Shoreline Protection Act which strengthened existing regulations by requiring living shorelines for new construction, unless sufficient justification is provided, and a waiver is obtained. Before any shoreline project begins, property owners must apply for a Tidal Wetlands License and provide a plan for how they will implement and monitor the living shoreline. The Department of the Environment only issues waivers if the project is sited within certain state-designated areas, or if the site is not deemed suitable for living shorelines due to erosion, wave action, water depth, or other conditions.

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8. Ibid.
efforts to count towards the minimum shore public walkway width of 40 feet. DCP currently issues waivers for these efforts, but the conditions for obtaining such a waiver are not well defined. These “outside the box” efforts can also add significant costs for staff time, legal representation, or consultant fees.

Another challenge is that federal and state regulators largely prohibit filling in-water to create a more gradual slope for direct access and habitat restoration. There are many benefits of restoring sloping shorelines for access, resilience, and habitat\textsuperscript{10}. Currently, designers are generally able to provide shoreline slope by obtaining these permits from New York State Department of Environmental Conservation (NYSDEC) or NJDEP, or by agreeing to offset new fill but cutting into the equivalent amount of waterfront public access area\textsuperscript{11}. Similar to cutting in-land for living shorelines, the latter is often a challenge for smaller, higher-density sites.

Recommendation for New York City Department of City Planning: Create a floor area exemption for living shorelines in the upcoming Zoning for Coastal Flood Resiliency.

DCP’s forthcoming Zoning for Coastal Flood Resiliency will require new construction and significant retrofits to meet the city’s updated flood resiliency standards. These standards primarily address the building, not landscaping measures that help reduce the impacts of flooding and sea level rise\textsuperscript{12}. DCP should consider adding a height allowance for projects that create living shorelines within the 1\% annual chance floodplain. This height allowance, or floor area exemption, should be proportional to the amount of lot area lost to the living shoreline. This proposed addition aligns with Goal 2 of the proposed zoning changes: “Support long-term resilient design of all building types by offering flexibility in the zoning framework,” and can be added to the following proposed change to underlying zoning:

Floor area regulations would exempt floor area to encourage new and existing buildings to meet or exceed flood-resistant construction standards, while ensuring quality ground-floors that are kept at street level.

Floor area would be exempted if:
- The ground-floor of new and existing buildings is wet-floodproofed
- The first 30 feet of ground floors of new and existing buildings in all commercial districts along primary streets is dry-floodproofed, located at grade, and with a floor-to-ceiling height of at least 13 feet
- **Proposed addition:** A living shoreline (i.e. comprised of either wetlands, living breakwaters, or other planted habitat)\textsuperscript{13} is added along at least 20 percent (but not less than 50 feet) of the shoreline edge.

Recommendation for New York City Department of City Planning and New York State Department of Environmental Conservation: Simplify the permitting process for living shorelines.

Currently, New Jersey issues General Permit 24 for living shoreline creation, restoration, or enhancement\textsuperscript{14}. Other models for simplified state permitting and best practices for the design and monitoring of shoreline restoration efforts\textsuperscript{15}, including Maryland’s Tidal Wetland Regulations for Living Shorelines, also exist. Creating an equivalent permit in New York could incentivize developers by reducing the amount of time and money it currently takes to negotiate permits with NYSDEC and the United States Army Corps of Engineers (USACE).

Challenge 3: Enforcement

The 1972 Coastal Zone Management Act made states responsible for ensuring public access along tidal waterways. Implementation of Coastal Zone Management (CZM) laws varies from state to state. Whereas waterfront zoning has established an enforcement mechanism in New York City, New Jersey implements public access through several state-level laws administered by NJDEP. These laws are upheld through municipal planning authorities, which are responsible for passing ordinances that uphold CZM requirements. Municipalities are also encouraged to create state-approved Municipal Public Access Plans, but only 53 of 231 municipalities have applied, and only six Municipal Public Access Plans have been approved\textsuperscript{16}. This is partly due to a lack of incentives. Currently, municipalities with approved Municipal Public Access Plans are only eligible for NJDEP beach

\textsuperscript{10} National Ocean Service. 2015
\textsuperscript{12} One exception is the proposed change to permitted obstruction rules that would allow a wider-range of site-scale protection measures to be installed, such as flood barriers, retaining walls, raised yards, berms, and floodgates. For more information, see New York City Department of City Planning. (2019). “Zoning for Coastal Flood Resiliency.” Pages 28-33.
\textsuperscript{13} A living shoreline can be defined as “a protected and stabilized shoreline that is made of natural materials such as plants, sand, or rock. Living shorelines use plants or other natural elements to stabilize estuarine coasts, bays, or tributaries.” For more information, see NOAA, “What Is a Living Shoreline?” https://oceanservice.noaa.gov/facts/living-shoreline.html
\textsuperscript{14} One exception is the proposed change to permitted obstruction rules that would allow a wider-range of site-scale protection measures to be installed, such as flood barriers, retaining walls, raised yards, berms, and floodgates. For more information, see New York City Department of City Planning. (2019). “Zoning for Coastal Flood Resiliency.” Pages 28-33.
\textsuperscript{15} The Waterfront Alliance’s Waterfront Edge Design Guidelines (WEDG) provides evidence-based best practices for resilient edge design.
Over the past 25 years, the Hudson River waterfront between the Bayonne and George Washington Bridges has evolved from an industrial wasteland, where public access was prohibited and dangerous, to a residential gold coast with some of the highest property values in the state. During that time, the Hudson River Waterfront Conservancy (HRWC) worked with the NJDEP to oversee the construction and maintenance of a waterfront walkway along the 18.6 miles of Hudson River waterfront. More than 80 percent of the walkway’s construction is complete, serving as both a daily transportation artery for the public as well as a recreational asset.

However, several properties along continue to refuse public access to the waterfront by maintaining a private, fenced-in waterfront property, open only to residents of the private community. These properties include:
- Liberty Harbor, Jersey City
- Weehawken Park, Weehawken
- Riverside Residential, North Bergen
- Quanta Superfund Site, Edgewater
- Hess Oil Tank Farm, Edgewater
- Admiral’s Walk Condominiums, Edgewater

HRWC affirms that these private enclaves are in clear violation of the Public Trust Doctrine. With new public access legislation signed into law by New Jersey Governor Murphy, the Conservancy is renewing its focus to open these remaining few properties along the Hudson River to the public, tying in with the state’s Green Acres program that protects open space, and coordinating with the NJDEP as well as with local elected officials in the municipalities.

The Conservancy is also discussing with NJDEP how to address new developments that are replacing older structures along the Hudson waterfront, since easements run in perpetuity. The goal is for a completed walkway, regardless of extended time frames for new second generation developments being planned, permitted, and built.

NJDEP has the responsibility to enforce public access along the walkway, and to create the governing rules by year-end 2020. HRWC is working together with NJDEP to preserve and protect the Hudson River Walkway for now and for future generations.
replenishment funding”. Lacking funds is particularly challenging in smaller, less urban municipalities, where beach replenishment funds are inadequate or irrelevant to local needs.

**Recommendation for New Jersey Department of Environmental Protection:** Adopt rules for Public Access Law that allow for better, more timely enforcement of public access.

NJDEP should adopt rules that allow enforcement for developed properties in violation of the Public Access Law where no permit is requested. NJDEP has the responsibility to enforce public access along the Hudson River Waterfront Walkway (and all other tidal waterways).

For the Hudson River Waterfront Walkway, NJDEP should define Public Access Law rules for undeveloped waterfront properties that lay fallow for years. The Hudson River Walkway Conservancy has the goal of establishing a public walkway for the 18.6 miles from the Bayonne Bridge to the George Washington Bridge as quickly as possible. This should include both addressing existing gaps where the walkway has never been built as well as making improvements where new second-generation waterfront developments now being planned, permitted, and built.

One solution for achieving these goals would be to create a Business Development District (BID) for the walkway. NJDEP would convey its easement to the walkway to the BID, and members would assume control over its management. The BID would include all property owners abutting the walkway, and assume full responsibility for its maintenance, operations, and liability. The BID would be financed through state and county funding, as well as fees assessed for BID members. The BID would also be eligible for state and federal grants.

**Recommendation for New Jersey State Assembly and State Senate:** Pass the Liberty State Park Protection Act without amendments.

Located in Jersey City, Liberty State Park is a 1,200-acre open space (600 of land and 600 of water) park offering quality-of-life benefits for urban residents and some of the best views of the Upper Bay—the Statue of Liberty and Ellis Island—on the waterfront. A new bill, the Liberty State Protection Act (A2189), would protect this public land from future large-scale development, with its four-decade history of grassroots battles against privatization. It is critical that this bill be passed by the Assembly and Senate without any amendments that would impinge upon the park. Specifically, the bill should not be passed with an amendment to privatize Liberty State Park’s Caven Point natural area in any way, such as allowing it to be leased by the Liberty National Golf Course.

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**Challenge 1: Funding mechanisms**

Since the establishment of waterfront zoning in New York City, and public access legislation in New Jersey, private development has shouldered an increasing amount of the cost for creating and restoring waterfront access. In NYC alone, 35 acres of waterfront public access has been created through private development, with an additional 22 Waterfront Public Access Areas underway.

Shifting the burden of capital investment to private developers has certainly expanded waterfront access, and has created waterfront gems like Hunters Point South, Domino Sugar, and the Hudson River Waterfront Walkway. But new waterfront areas funded by private investment like these are not the norm, and their benefits are not equitably felt. Whether waterfront development occurs as-of-right or in recently rezoned areas (typically where industrial land is rezoned to higher-density residential), the bottom line for developers usually leads to no direct access to the water. And while public-private partnerships like conservancies and alliances play a critical role in maintaining parks citywide, even partnering with smaller, underfunded parks to provide resources, their focus (and support) remains in well-funded parks in wealthier waterfront areas.

This is especially true when considering how public agencies are still largely responsible for maintaining waterfront access on private land. In New York City, developers and site managers can enter maintenance agreements with the Department of Parks and Recreation (DPR) to maintain the site in perpetuity—funding the costs of maintenance, but not DPR personnel. The Department of Parks and Recreation already faces major budgetary constraints which affect its ability to serve HEP high need areas. It also faces challenges in current funding mechanisms for maintenance and capital funding. These challenges are not only an equity issue—they’re also a climate change concern. The increasing impacts of daily tidal flooding and harsher storms will put even more strain on the public resources needed to adaptively manage waterfront infrastructure and keep communities safe.

In addition to public-private investment, community-led stewardship, programming and partnerships can improve and enliven access to the waterfront and form the basis of rich education labs for youth. Boating programs, citizen science, habitat restoration, shoreline cleanups, fishing and other on-water and shoreline activities get the public to the water and on the water. They create public awareness of the value, current scientific understanding, and management challenges of the Estuary—including climate resiliency. More funding is needed to improve the capacity of local stewardship and programming groups, particularly in HEP high need areas. Stewardship makes access more equitable by bringing people in high need areas to access areas (either in their neighborhoods or beyond). In New York City, a contractor model would allow DPR to contract with these stewardship organizations to provide maintenance in these high need areas.

**Recommendation for New York City Mayor and Council:**

*Create a permanent (baselined) budget for park staff, prioritizing subsidies for high need areas.*

Building from New Yorkers for Parks’ Play Fair campaign, New York City should implement a permanent budget for parks staff, including maintenance, urban park rangers, and Parks Enforcement Patrol. New Yorkers for Parks is working with DPR in 2020 to identify high need areas where maintenance and operations staff is needed most. Additionally, this budget could be used to contract with public and private service providers for stewardship and maintenance of citywide parks. The Department of Homeless Services currently uses this model.
to provide support services. A contracting model increases the overall budget as subsidiaries can raise their own funds in addition to DPR funding.

**Recommendation for New York City Mayor and Council:**
Codify the Community Parks Initiative to better serve capital projects in HEP high need areas.

The de Blasio administration’s Community Parks Initiative invests capital funding in the areas of highest need. The Community Parks Initiative allows DPR to invest strategically in these underserved areas, but this is a challenge as the department does not have a dedicated discretionary budget to create new parks, including waterfront access. Building from New Yorkers for Parks’ efforts to highlight these issues, New York City should codify the Community Parks Initiative. This will require the City Council to adopt legislation that would create a designated capital budget for investing in parks, which in turn would improve waterfront access in high need areas.

**Recommendation for New York State Legislature and voters:**
Increase funding for the New York State Environmental Protection Fund/ Hudson River Estuary Program.

New York State’s Environmental Protection Fund (EPF) is a source of funding for capital projects and program funds that protect the environment and enhance communities. Increased EPF funding dedicated to New York Harbor would help support these construction and stewardship efforts, but would require an act of state legislation. Alternatively, expanding the funding already offered by the Hudson River Estuary Program (HREP) for public access, education and community stewardship grants, and by the Department of State for waterfront revitalization projects also would provide support.

Building the capacity of the nonprofit and community-based organizations that undertake this work, and increasing their access to well-designed public waterfronts, is a vital strategy especially in neighborhoods where existing public...
access is scarce, where there are limited financial resources, and/or where physical and environmental barriers add importance to every possible opportunity for community engagement. It is worth noting that these community-led programs differ from other privately led efforts to provide for the maintenance of public spaces. To be sure, there are basic infrastructure and management needs that have to be met before community groups can successfully provide additional stewardship and programming activities. But shoreline and in-water programs have distinct needs – including addressing safety, liability, and water quality issues – that are important to consider on their own. Given the looming impacts of sea level rise and other climate change related issues, these programs can be important touch points for public engagement campaigns.

**Recommendation for New York State Legislature and voters:**

Support the Restore Mother Nature Bond Act and ensure a fair share for urban shorelines.

In January 2020, Governor Cuomo proposed a $3 billion bond act for wetland restoration and nature-based flood risk reduction around the state, investment in fish hatcheries, management of invasive species, expanding artificial reefs, and shellfish restoration on Long Island. While the proposal includes a commitment to 50 percent of freshwater wetland investments going toward urban areas, no such commitments are made for oysters and other habitat restoration. These funds should have fair share allocation for downstate and should include funding for post-implementation monitoring of projects. The bond act must be approved by both the state senate and assembly, and then decided by voters via ballot measure.

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Challenge 1: Organizational diversity, equity, and inclusion

There are hundreds of organizations working to advance waterfront access across our region—many of which have diverse leadership and constituencies. Diversity not only makes access advocacy organizations stronger; it is also an important part of our missions. We have a shared understanding that waterfronts should be experienced and shaped by all—regardless of race, gender, culture, socio-economic status, or abilities. In practice, however, our access advocacy organizations are not always aligned or aware of opportunities for collaboration. For example, human-powered boating advocates may not always collaborate with affordable housing advocates, despite their shared goals of creating opportunities for more people to access and experience the waterfront.

The Task Force identified organizational diversity as a challenge for many of its member organizations, which may inhibit efforts to better collaborate with diverse stakeholders to promote more equitable waterfront access. This challenge should be addressed by both internal efforts to improve organizational diversity and promote a proactive culture of inclusion and equity, as well as external efforts to provide more opportunities for young people to engage in waterfront education.

Recommendation for New York City Department of Education, New York State Education Department, and New Jersey State Assembly: Improve waterfront education in public school curricula and workforce development opportunities.

Education departments across the country now recognize environmental education and prioritize science, technology, engineering, and math (STEM) skills under the Every Student Succeeds Act of 2015\(^2\). But to ensure no child is left inside, we have to meet the challenge of establishing useful places and programs on the waterfront for meaningful, hands on learning.

The New Jersey State Assembly recently introduced a Senate Bill NJ A192 to establish a four-year “New Jersey STEM Scholars Grant Pilot Program”\(^2\). Funding would be administered by the Commissioner of Education on a competitive basis to improve existing STEM curriculum, including providing more opportunities for project-based learning, afterschool programs, and out-of-school opportunities (such as swimming lessons). The Task Force supports the enactment of this bill and its inclusion of waterfront STEM issues in grant supported activities, as well as funding available for waterfront education partners.

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In New York, State Senators Andrew Gounardes and Julia Salazar have introduced Senate Bill S7341 to establish a model environmental curriculum that includes climate change for all New York State public schools. Experiential, or real world, learning is well-recognized as maximizing student motivation and retention.

Further refining this bill for the curriculum to include locally appropriate outdoor data collection, field work, or labs in parks and public open spaces would elevate both education and direct access on the waterfront. Funding should also be provided for waterfront education partners focused on stewardship and STEM.

Both New York and New Jersey Departments of Education should ensure that grant funding is available to partner with the many organizations that offer waterfront education with connections to job skills and workforce development, such as the Waterfront Alliance’s Estuary Explorers program, the Billion Oyster Project, Rocking the Boat, PortSide NewYork, and others.

More than 83 percent of the students taking part in Row New York’s programs are people of color. This is especially pertinent given the dearth of non-white participants in the sport of rowing. Row New York students are 43 percent Latinx, 17 percent Black, and 17 percent White, and 23 percent identifying as Asian, Native American, Middle Eastern or Other. With such student diversity, Row New York decided to embed DEI more fully into its mission by creating a Social Justice Framework for improving the diversity of its staff and board. In addition to developing this framework, Row New York has already begun implementing listening-based DEI efforts during regular work hours for its staff, including:

Creating a Student Leadership Team, where students are invited to monthly dinners to discuss DEI issues with Row New York staff. Hiring external consultants to facilitate a DEI Council that facilitates all-staff anti-racism training, book clubs, and movie screenings for staff.

Encouraging access to senior staff to allow junior staff the opportunity to discuss DEI challenges through brown-bag lunches or one-on-ones.

Establishing an Adaptive Advisory Committee, comprised of external advisors from the Mayor’s Office for People with Disabilities, members of Row New York’s para competitive team, and a foundation leader who funds programs for people with disabilities, to ensure that programming is inclusive for participants living with physical and/or cognitive disabilities.

Recruiting a more diverse board and senior staff by securing a diverse pool of applicants for staff roles and engaging parents of our student-athletes and other members of our community who can reflect the rich diversity of our city.

**Recommendation for Access Task Force members:** Commit to diversity, equity, and inclusion in a meaningful way.

Defining goals for diversity, equity, and inclusion (DEI) can be challenging, but it is also an opportunity for Task Force members and other waterfront organizations to revamp their principles and programmatic effectiveness. DEI methods are part of an evolving national conversation with varying approaches and understandings of best practices. Recognizing that Task Force members’ organizations may be at different stages in their DEI initiatives, we agreed that the best path forward would be to individually commit to actions that advance these aims, and to

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use the Task Force network as a platform for learning from other organizations who have made progress on this front.

**Challenge 2: Meaningful public participation**

Diverse public input is critical for shaping decisions about waterfront access. In New York City and New Jersey, existing processes and practices are insufficient for ensuring efficient and effective community engagement.

In New York City, most development in New York City is as-of-right, meaning it adheres to local zoning requirements for the way a site is used and designed. These projects are not legally required to solicit any public input on the design or uses, specifically on the waterfront access areas. However, since the Bloomberg Administration, a growing number of waterfront neighborhoods have been required to undertake zoning changes that require a public process known as the Uniform Land Use Review Procedure (ULURP).

There are many critiques of the ULURP process. From the waterfront access perspective, the primary problem is that the public can only weigh in on land use determination, but not the design. Even so, the community’s vote, brokered by a small, often unrepresentative sample of community board members, is non-binding. The community board’s vote also cannot legally stipulate design or programming requirements. Instead, DCP typically works with zoning applicants (i.e. a city agency or private developers) to create place-based modifications to zoning known as Waterfront Access Plans. During this process, major design decisions are determined and finalized before the plan is certified for ULURP. DCP and the zoning applicants have the discretion to solicit public design input before ULURP but are not required to do so.

In New Jersey, public input is not required for most waterfront access decision-making; Municipal Public Access Plans are an exception. However, only six municipalities have adopted Municipal Public Access Plans to date, and the requirements described by NJDEP are weak. For example, the NJDEP website states that municipalities must “seek public comment on the application by posting the proposed Municipal Public Access Plan on the Department’s website; notifying by email individuals

Make the Road New York provides services, education, and outreach to immigrant and working-class communities. The organization mobilizes these communities to participate in the ULURP process to advocate for positive outcomes that affect working class neighborhoods. Make the Road supplements public processes by providing critical language translation, raises awareness, and organizes proactive participation in public meetings. These best practices are particularly important given the barriers these communities may face in providing input for waterfront-decision making, such as lacking resources for child-care, the location of public meetings, managing work schedules, and understanding potential impacts.

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who have requested notice of applications for approval of Municipal Public Access Plans; and publishing notice in the DEP Bulletin.”

Recommendation for City agencies and the New York City Council and a future Charter revision: Establish metrics and best practices for pre-ULURP stakeholder engagement.

To shape more equitable, informed, and successful waterfront access projects, the New York City Council should establish pre-ULURP engagement requirements for public and private ULURP applicants. Additionally, City agencies should establish best practices for community engagement that would include guidelines on who is engaged, how outreach is conducted, and how the community is informed on stakeholder input and outcomes.

• **Who is engaged?** A demographic analysis of the community district in question should be conducted to understand baseline needs and inform the outreach approach to make sure that representation at community meetings is not limited to white, affluent attendees or those who often dominate every meeting. There should be minimum requirements for how many people are engaged, particularly within HEP high need areas and/or lower-income communities of color to ensure diverse and equitable participation.

• **How should stakeholders be engaged?** At minimum, public and private ULURP applicants should ensure language accessibility for all languages spoken within the community district. Additionally, applicants should be required to provide multiple opportunities for both in-person and remote participation to increase opportunities for input. Best practice examples are given in the case study below.

• **What is the outcome?** ULURP applicants should provide a standardized, public report with concept designs and an explanation of how diverse public input influenced the design of the project to the community board before the ULURP application is submitted. The public should have an opportunity to respond to this report before the application is finalized, so that more granular design and programmatic elements are incorporated into the design. This input should be integrated unless sufficient justification is given.

CASE STUDY: CREATING AGENCY-WIDE BEST PRACTICES FOR COMMUNITY ENGAGEMENT – DEPARTMENT OF HOUSING AND PRESERVATION’S NEIGHBORHOOD PLANNING PLAYBOOK

*SOURCE: NYC DEPARTMENT OF HOUSING DEVELOPMENT AND PRESERVATION*

When the de Blasio administration launched its plan to create more affordable housing in New York City, Housing New York: A Ten-Year, Five Borough Plan, it commissioned GOODstudio and the Gehl Institute to work with city agencies, including HPD and DCP, to create a playbook of best practices for community engagement and change management. The result, the Neighborhood Planning Playbook, provides a framework for City agencies to more effectively partner with communities to plan and implement policies. City agencies should continue to use these best practices, and partner with/provide resources for organizations like Make the Road New York to better engage environmental justice communities in decisions affecting waterfront access.
CONCLUSION

Although our region faces many challenges in creating more equitable waterfront access, there are many more opportunities. Opportunities for creating more resilient, vibrant, and accessible shorelines for recreation and habitat; opportunities for City agencies to focus funding and build stewardship capacity in the areas that need it most; and opportunities to commit to diversifying and strengthening our advocacy efforts for the public trust. In particular, we hope that the New York City Department of City Planning and New Jersey Department of Environmental Protection consider both the physical and social barriers to equitable access illuminated here. For readers of this document, including policymakers and the public, we welcome your input and collaboration in advancing these goals in the months ahead.
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