





BQE EIS Hot Topics Webinar



Corridor Vision
Safety, Equity and Resiliency

Eric Adams, Mayor | Ydanis Rodriguez, Commissioner





Environmental Review Webinar

May 2, 2023

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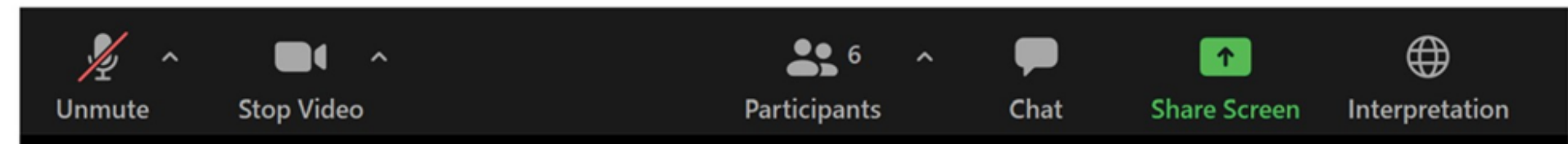
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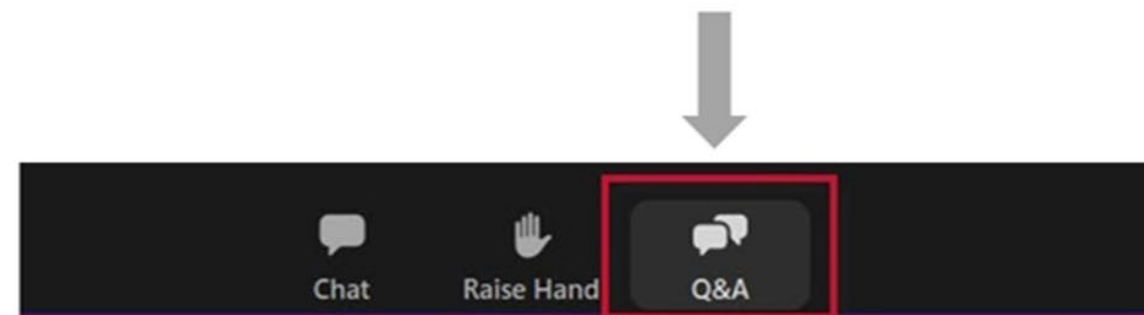
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Questions & Answers

- Please place questions about the project overall or tonight's presentation in the Q+A section of the Zoom



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This administration is focused on pursuing a long-term fix for the city-owned portion of the BQE in Brooklyn, including the triple cantilever – highlighted here in dark blue (#4) – while taking a bold, corridor-wide approach to address the entire structure and reconnect communities throughout Brooklyn divided by this highway.

BQE Vision Overview



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Project Focus & Engagement Approach



Urgency & Resiliency

Take action as necessary to ensure that City section remains safe; prioritize sustainable design



Equity

Invest in communities along the full BQE corridor, not just higher income City section.



Fiscal Responsibility

Pursue federal grants; make needed repairs; focus investments on greatest impact.



Stakeholder Investment

Work with elected officials and communities to develop BQE vision and move projects forward.

Community Engagement will inform Mayor Adams' & NYC DOT's decisions about future investments.



Inclusive



Transparent



Consistent



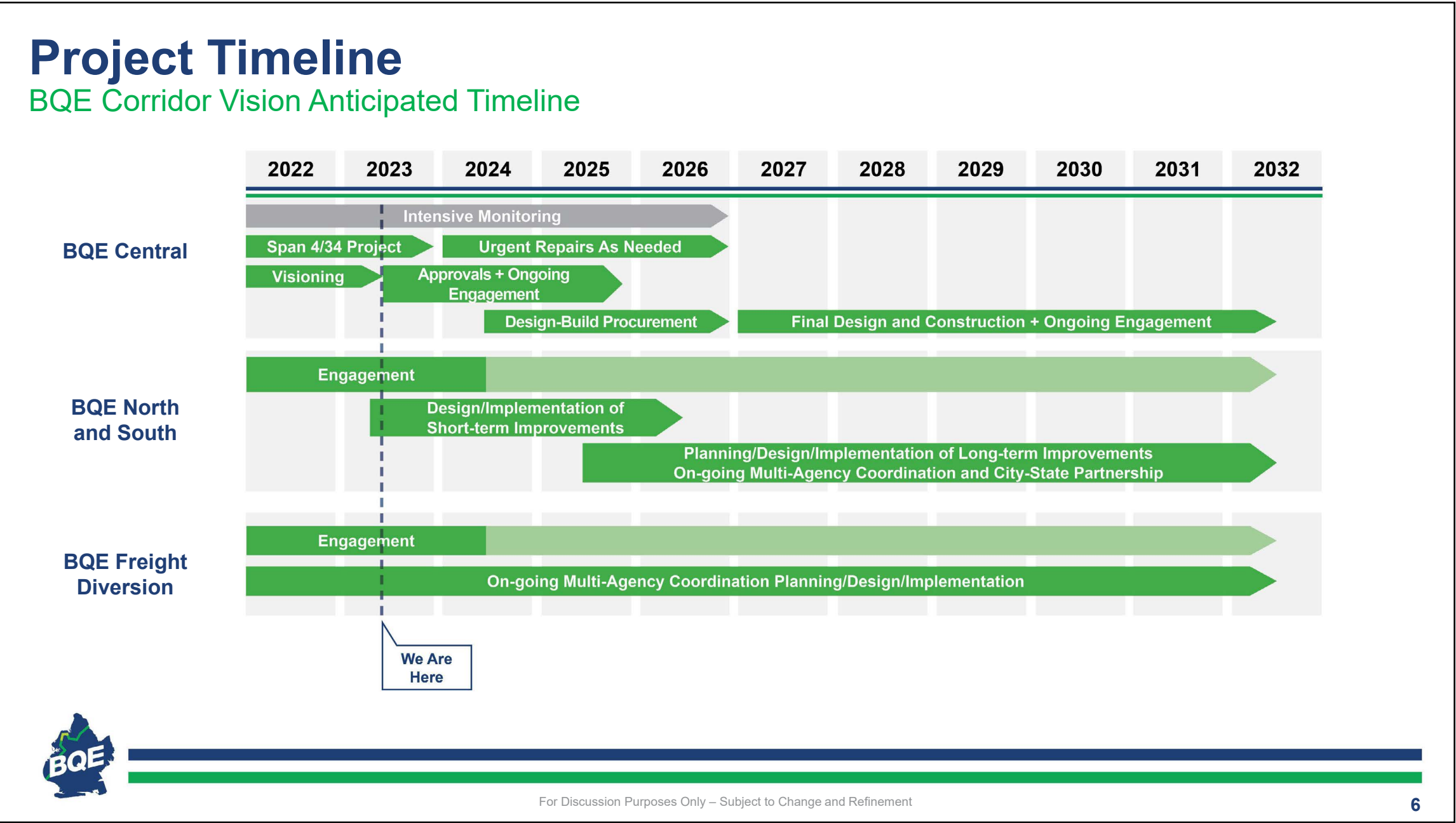
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Who's Involved?



Community Visioning Council

... Guides the Engagement Process

Representatives from elected official offices, industry, small business organizations, civic and tenant associations, environmental justice, and transportation advocates



Community Partners

... Help Lead Grassroots Engagement

Engagement resources for community-based organizations, with meaningful community ties, demonstrated experience in mobilizing their constituencies, and specialty in multilingual capacity



Topical Working Groups

... Facilitate Focused Decisions

Subject Matter Experts facilitate discussion around critical issues such as traffic, transportation, and logistics; open space, connectivity, and public realm; environmental justice, accessibility, and equity; and land use and economic development

Local, State, & Federal Agencies



Department of
Transportation



U.S. Department
of Transportation
Federal Highway
Administration



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- Chris Calvert – Chris is the environmental lead for the consultant team.
- Jim Finegan – is the deputy environmental lead.
- Jeff Carpenter – Jeff is the project manager for the design team.
- Kevin Edwards – Kevin is an expert in air quality and climate change.
- Christian Thompson – Christian is an expert in noise and vibration.
- Claudia Cooney – Claudia is an expert on historic and cultural resources, including Section 106 of the National Historic Preservation Act.
- Jeff Meyers – Jeff (not pictured) is an expert in traffic analysis.

Presenters and Subject Matter Experts



Chris Calvert
Environmental Process, Socioeconomic
Considerations, & Environmental Justice



Jim Finegan
Environmental Process



Jeff Carpenter
Design & Engineering



Kevin Edwards
Air Quality and Climate
Change



Christian Thompson
Noise and Vibration



Claudia Cooney
Historic & Cultural Resources



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NEPA is a federal law that requires federal agencies to consider the effects of their policies and programs on the built and natural environment. As stated in the legislation, the purpose of NEPA is: A national policy to encourage productive and enjoyable harmony between people and the environment; to promote efforts to prevent or eliminate damage to the environment and biosphere and stimulate health and welfare; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

Throughout the 1960's and 1970's, Congress passed laws to limit the effects of new development and protect important built and natural resources. In 1969, Congress NEPA to establish a federal policy to consider the effects of federal undertakings on the environment. NEPA was signed into law by President Nixon on January 1, 1970.

What is the National Environmental Policy Act (NEPA)?

A national policy to encourage productive and enjoyable harmony between people and the environment; to promote efforts to prevent or eliminate damage to the environment and biosphere and stimulate health and welfare; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

Notable environmental catastrophes and rapid development in the 1960s and 1970s cause concern that American progress had an environmental cost.



1969
US Congress passes NEPA.



1962
Rachel Carson's *Silent Spring* prompts public awareness in environmental issues.



1960s
In many American cities, series of protests, termed the "highway revolts", occur in response to the bulldozing of many communities and ecosystems during the construction of the Interstate Highway System.



1969
On June 22, an oil slick causes the Cuyahoga River to catch fire.



1970
President Nixon signs NEPA into law on January 1st 1970.



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NEPA:

- Directed federal agencies to consider the environmental effects of their decisions;
- Established a process for agencies to document the environmental effects of their decisions; and
- Established a Council on Environmental Quality under the Office of the President to “coordinate the federal government’s efforts to improve, preserve, and protect America’s public health and environment.”

What is NEPA?



Sets forth a national policy to create and maintain harmony between the human and natural environment



Requires federal agencies to evaluate the potential impacts of the projects, programs, and activities on the environment



Establishes a Council on Environmental Quality to oversee the process (part of Executive Branch)



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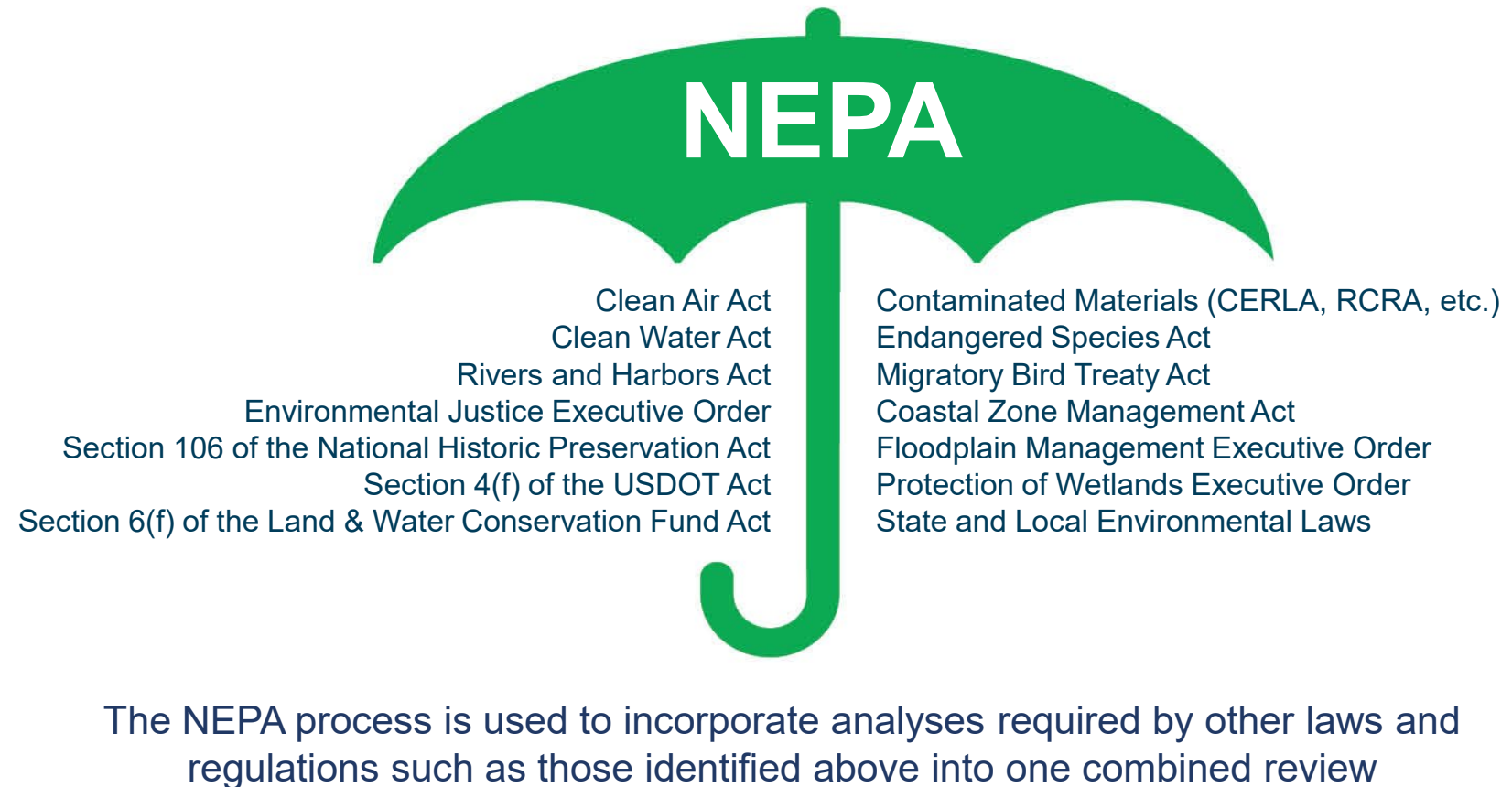


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NEPA is referred to as an “umbrella” statute because it encourages agencies to incorporate other environmental and historic preservation requirements into one analysis for an efficient decision-making process. The slide shows federal laws that can be complied with through completion of the NEPA process. For BQE Central, the NEPA process will address multiple regulations, including:

- Section 106 of the National Historic Preservation Act
- Clean Air Act
- Endangered Species Act
- Section 4(f) of the USDOT Act, which offers special protection of parklands and historic sites when implementing a transportation project.
- Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” and related orders from USDOT and FHWA.

What is NEPA?



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The NEPA umbrella includes federal laws, rules, and regulations. There are multiple federal agencies that have oversight responsibilities for ensuring the regulatory requirements are met or that permits are issued. NEPA includes provisions to ensure that these agencies participate in the process so the analysis and findings can meet their needs and that their expertise is considered.

- The Lead agency has the primary responsibility for guiding a project through NEPA. It is typically the agency that is funding the project or must oversee the primary permit or approval
- For BQE Central, we anticipate that the Federal Highway Administration, FHWA, will be the federal lead agency.
- The NYC DOT is the Project Sponsor, or the agency that will receive federal funds and build the project.
- The NYS DOT will also be closely involved in this project working in collaboration with FHWA and NYC DOT.

What is NEPA?

Federal agencies must conduct NEPA before issuing approvals, funding, or permits for a proposed undertaking



Lead agency is the federal agency most responsible for the project or decision



Project sponsor is the entity seeking federal funding/approvals and will build the project



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- A Cooperating Agency has designated authority for an approval under the NEPA umbrella or special expertise that is relevant to the lead agency's NEPA decision.
- A Participating Agency typically has a specific interest in or expertise relevant to a project, but they do not have designated authority for project approvals under the NEPA umbrella.
- This slide notes examples of agencies that might serve as cooperating or participating agencies for BQE Central.

What is NEPA?

Federal agencies must conduct NEPA before issuing approvals, funding, or permits for a proposed undertaking



US Army Corps
of Engineers®



Other agencies with actions may be invited as **cooperating agencies**



NYC
Environmental
Protection



Agencies with a specific interest in or expertise relevant to a project may be invited as **participating agencies**



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NEPA regulations define three basic types or classes of NEPA documents—Categorical Exclusions, Environmental Assessment or EA, and Environmental Impact Statement or EIS.

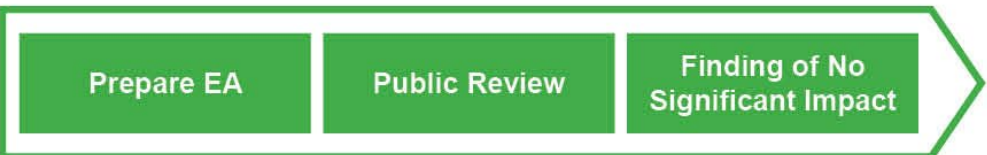
- Federal agencies that frequently conduct NEPA have a list of **categorical exclusions** in their statutes. These are projects or actions that are unlikely to have a significant impact on the environment and are typically routine or minor actions. The agency must identify the specific categorical exclusion that applies to the project and provide any additional documentation needed to demonstrate that it will not adversely impact the environment.
- An **Environmental Assessment or EA** is prepared when it is uncertain whether a project would result in a significant impact on the built and natural environment. If an agency determines, based on the findings of the EA, that a project will not significantly impact the environment, it will issue a Finding of No Significant Impact, and the project can move forward. If an agency determines that a project would significantly impact the built or natural environment, then it must prepare an Environmental Impact Statement.

Classes of Action / Type of NEPA Documentation

Categorical Exclusion: Type of Project Found to Have No Significant Impacts



Environmental Assessment (EA): No Significant Impacts or Uncertain if Significant Impacts



Environmental Impact Statement (EIS): Major Action, Significant Impacts, or Public Controversy



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- An **Environmental Impact Statement or EIS** is the most robust level of environmental review and is prepared for actions that are likely to result in significant impacts on the built and/or natural environment. These are typically complex projects involving multiple years of construction and have substantial public investment.

Classes of Action / Type of NEPA Documentation

Categorical Exclusion: Type of Project Found to Have No Significant Impacts



Environmental Assessment (EA): No Significant Impacts or Uncertain if Significant Impacts



Environmental Impact Statement (EIS): Major Action, Significant Impacts, or Public Controversy



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The NEPA process must include a comprehensive review of the relevant social, economic, and environmental effects of an action.

- NEPA requires agencies to consider alternatives that can meet the identified purpose and need for the project, which are referred to as “reasonable alternatives.” We have been and continue to look at reasonable alternatives for BQE Central.
- When a project could adversely impact the built or natural environment, the lead agency must consider measures to avoid, minimize, or mitigate these impacts and disclose these measures in its NEPA findings. It is important to understand that NEPA does not require agencies to eliminate all adverse impacts of a project, but rather to disclose impacts and consider mitigation measures.
- As part of the NEPA process, the lead agency must seek input from other agencies with an interest in, or expertise that is relevant to, the project.
- NEPA regulations identify opportunities for the involvement of the public in the preparation of the EIS.
- Finally, and very importantly, NEPA is a disclosure process. This means that decisions must be fully documented, and the lead agency must consider the full NEPA record in making its selection of a Preferred Alternative for a project.

Essential Elements of NEPA Decision Making



Assessment of the social, economic, and environmental impacts of a proposed action or project



Interagency participation: coordination and consultation



Evaluation of a reasonable number of alternatives that meet the purpose and need for the project and are technically and economically feasible



Public involvement including opportunities to participate and comment

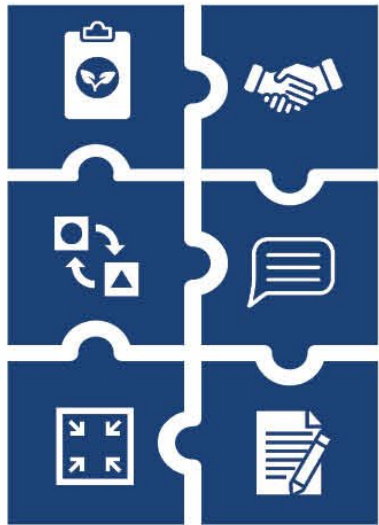


Consideration of appropriate impact mitigation: avoidance, minimization and compensation.



Documentation and disclosure of potential impacts and appropriate mitigation measures

NEPA Decision Making



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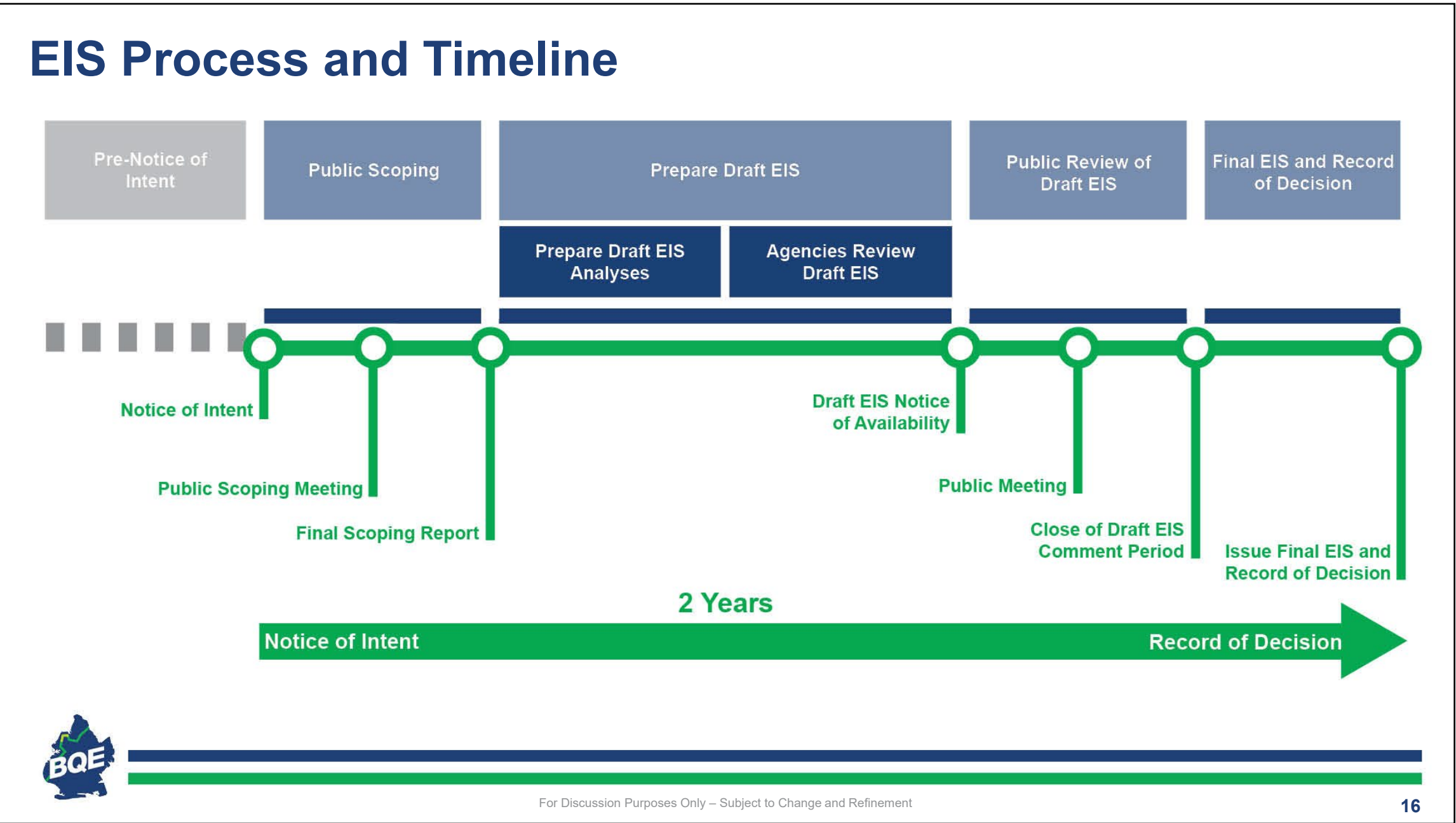
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The preparation of an EIS officially begins with the publication of a **Notice of Intent** that announces the project in the Federal Register. The lead agency is responsible for publishing the Notice of Intent.

- However, work is done before issuing the Notice of Intent. We call this the pre-NOI phase, which we are currently in for BQE Central. During the **pre-NOI phase**, the project sponsor will provide information and studies to the lead agency to ensure that the project team is ready to enter NEPA and can meet mandated schedule timeframes.

After the Notice of Intent is published, the lead agency must conduct **public scoping**.

- As specified by NEPA regulations, public scoping is a period “to engage State, local and tribal governments and the public in the early identification of concerns, potential impacts, relevant effects of past actions and possible alternative actions.”
- The lead agency, project sponsor, and the design and environmental teams will consider all the feedback they receive from the public and agencies as they prepare and review the Draft EIS.



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Preparation of the **Draft EIS** is typically the step in the process with the longest duration. It involves developing all the relevant technical studies needed to identify the potential effects of a project on the built and natural environment.

- Once the lead agency is confident that any issues are resolved, it will approve the public release of the Draft EIS by publishing a Notice of Availability of the EIS.

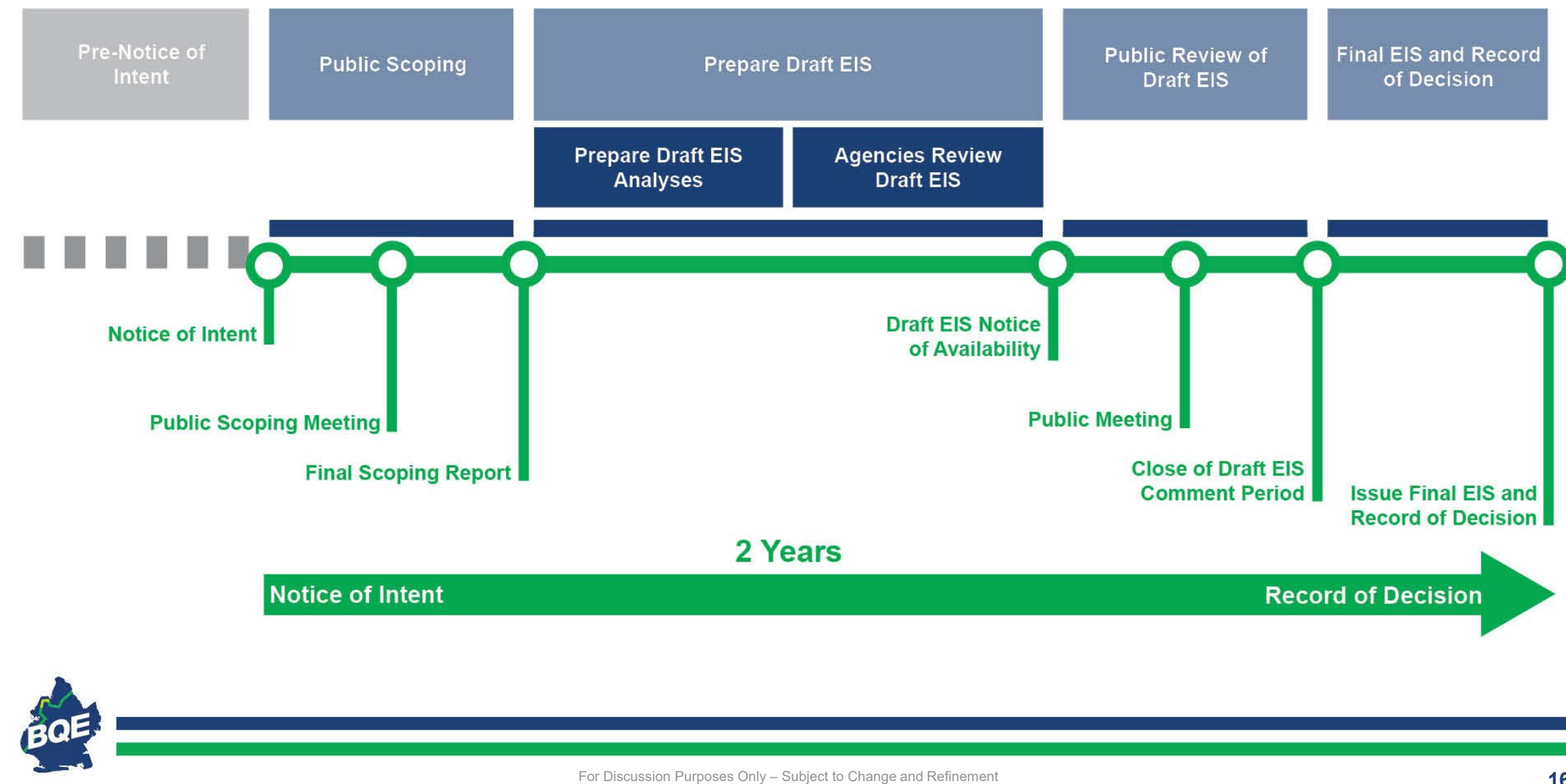
The **Notice of Availability of the Draft EIS** begins a formal public review period.

- The lead agency must give the public at least 45 days to read the document and provide comments through formal channels of communication.

Following the close of the public comment period, the lead agency and project sponsor, including its team of consultants, will **organize and respond to the comments** received on the Draft EIS.

- In accordance with NEPA regulations, “all substantive comments must be considered, either individually or collectively, to help decisionmakers make informed decisions.”
- If necessary, the lead agency will request that the project sponsor and its consultants prepare additional analyses to respond to agency and public comments. The comments, responses, and new analysis, if any, are incorporated into a **Final EIS**.

EIS Process and Timeline



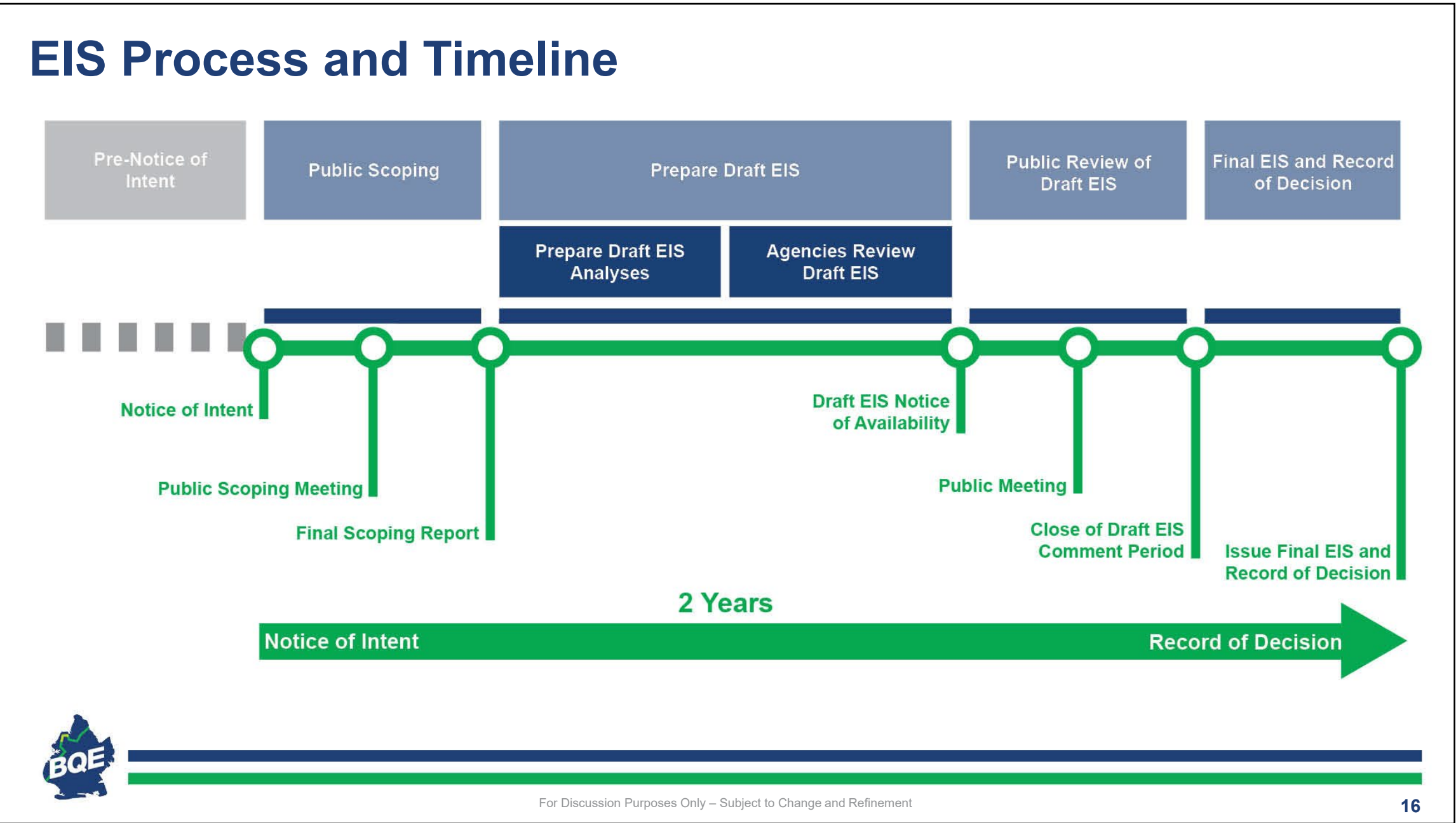
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In accordance with recent NEPA regulations, FHWA is encouraged to publish its NEPA findings alongside the **Final EIS**, which is known as a combined FEIS/ROD.

- The ROD is the agency's **Record of Decision** on the project. In the ROD, FHWA will officially select the Preferred Alternative for the Project and identify any necessary mitigation commitments to address adverse impacts of the Project.
- The ROD is the final step in the NEPA process. Once the ROD is issued, the various agencies can issue the necessary approvals and the project sponsor can move forward with the Project.



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Public engagement is critical to the NEPA process. At a minimum:

- The lead agency and project sponsor must seek public input on the scope of the EIS and alternatives under consideration during the public scoping phase.
- It must also seek public review of the Draft EIS, which must include a public hearing.

These public engagement opportunities are the minimum required for a NEPA EIS, but NYC DOT plans to do much more outreach so the public can remain informed and have meaningful opportunity to contribute to project development.

Published documents will be made available on the Project's website and at libraries. All public materials are also required to be made available upon request.

Public Engagement

Public review is required by NEPA, including public engagement during scoping and one public hearing for Draft EIS.

For BQE Central, NYC DOT will go above and beyond these requirements and will host multiple public meetings and open houses, in addition to the Draft EIS hearing.



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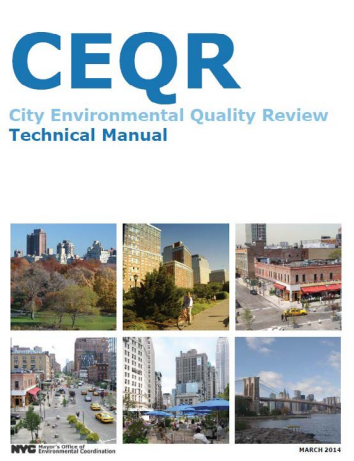
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The City of New York will provide funding for construction of BQE Central, and the project will require approvals by various City agencies, the City Planning Commission, and the City Council. Therefore, NYC DOT must comply with City Environmental Quality Review (CEQR). The CEQR process is similar to NEPA in terms of its intent. However, certain steps are different, and it has specific guidance that agencies must follow. If a NEPA EIS is being prepared for a Project, CEQR allows City agencies to adopt the findings of the NEPA EIS so long as they are sufficient to make CEQR findings. NYC DOT intends to coordinate the CEQR and NEPA processes for BQE Central.

City Environmental Quality Review (CEQR)

City's process for determining what effect, if any, a discretionary action approved, funded, or undertaken by a City agency may have upon the environment.

When a NEPA EIS is prepared, NYC DOT has no obligation to prepare an additional EIS under CEQR, provided the NEPA EIS is sufficient to make CEQR findings.



NYC Mayor's Office of
Environmental
Coordination



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Establishing a sound project purpose and need is essential for NEPA. It establishes why the agency is proposing to undertake a project.

- The needs are identified conditions or deficiencies that spur the agency's decision to move forward with the project.
- The purpose is a brief statement of the justification for a project.
- The objectives are measurable outcomes that an alternative must meet to be considered reasonable. Objectives relate directly to the purpose and need of a project, and reasonable alternatives for a project should meet all of the project objectives.

The purpose and need drives the process to consider alternatives, as well as for in-depth analysis, and ultimate selection of a Preferred Alternative. Without a well-defined, well-established, and well-justified purpose and need, it will be difficult to determine which alternatives are reasonable, prudent, and practicable.

Needs, Purpose, and Objectives



Needs

Deficiencies and other factors that the project must address

Purpose

A brief statement of the aim or intent of a project

Objectives

Outcomes and metrics that reasonable alternatives must achieve



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The identification, consideration, and analysis of alternatives are key to the NEPA process and the goal of balanced decision-making. An “alternative” refers to each reasonable and distinct concept being considered in the NEPA process.

Agencies must:

- Consider a reasonable number of alternatives;
- Include a no build alternative, in which a project is not undertaken.
- Discuss each reasonable alternative considered in detail, including the proposed action, so that reviewers may evaluate their comparative merits.
- Briefly discuss the reasons that any alternatives were eliminated from detailed study.
- Identify the project sponsor’s preferred alternative or alternatives, if one or more exists, in the Draft EIS.

Ultimately, after thorough analyses identified during the scoping phase and subsequently prepared and presented in the Draft EIS, and with consideration of public input, the lead agency will select a Preferred Alternative in the Final EIS and Record of Decision.

Developing and Evaluating Alternatives

NEPA requires:

- Identification of a **reasonable number of alternatives**
- **Reasonable alternatives** must meet the Project's purpose and need
- Must evaluate **reasonable alternatives that might reduce or avoid impacts**
- Inclusion of a **no build or no action** alternative
- Justification of why the **Preferred Alternative** was selected



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The EIS will include a comprehensive analysis of the social, economic, and environmental effects of the Project's alternatives. The categories of analysis most relevant for BQE Central include are shown on this slide.

EIS Topics



Social Considerations



Economic Considerations



Natural Resources



Historic and Cultural Resources



Parklands



Visual Resources



Environmental Justice



Traffic



Air Quality



Climate Change



Noise



Contaminated Materials



Construction Effects



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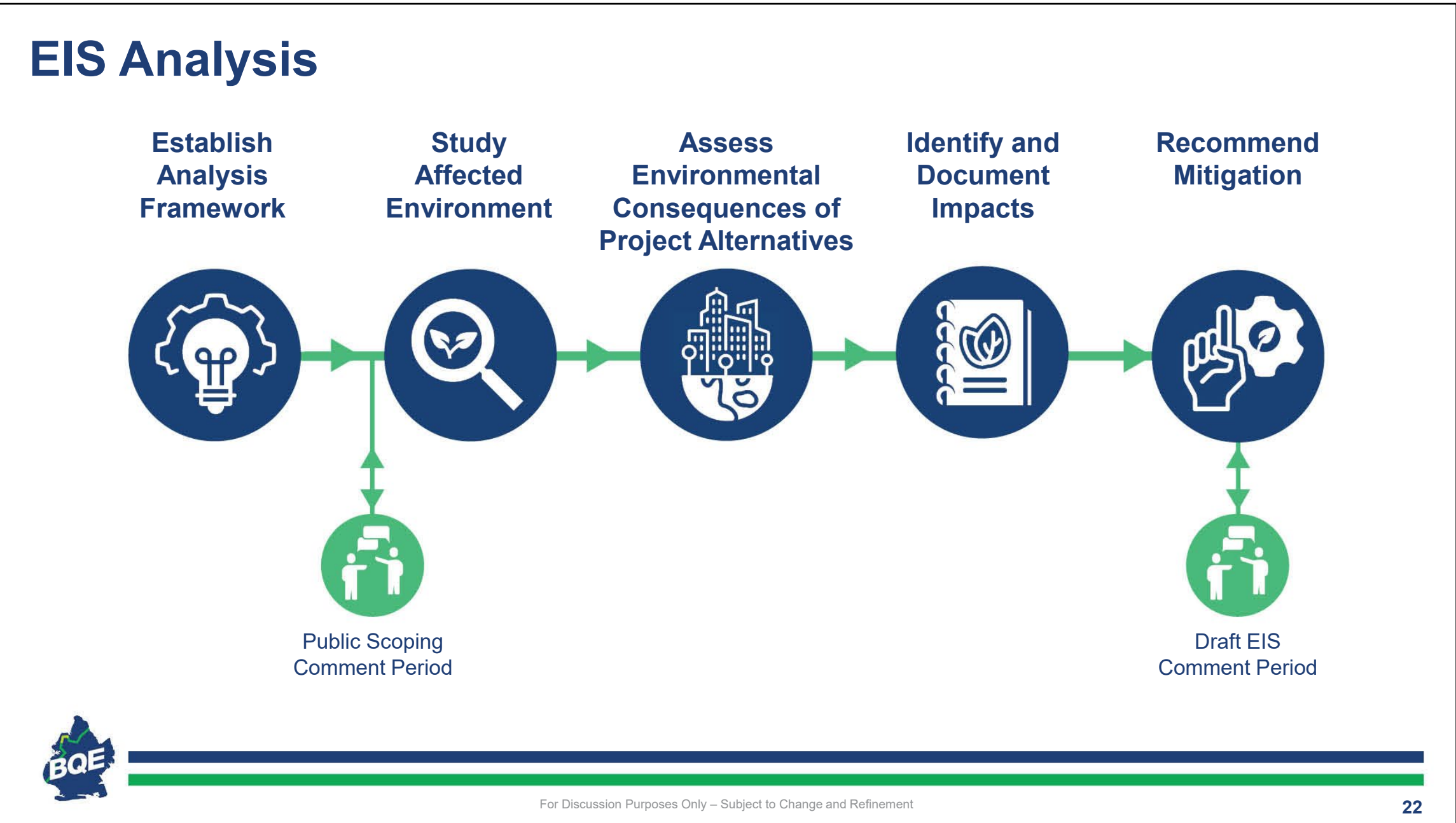
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We will undertake a consistent approach to each of the technical studies in the EIS.

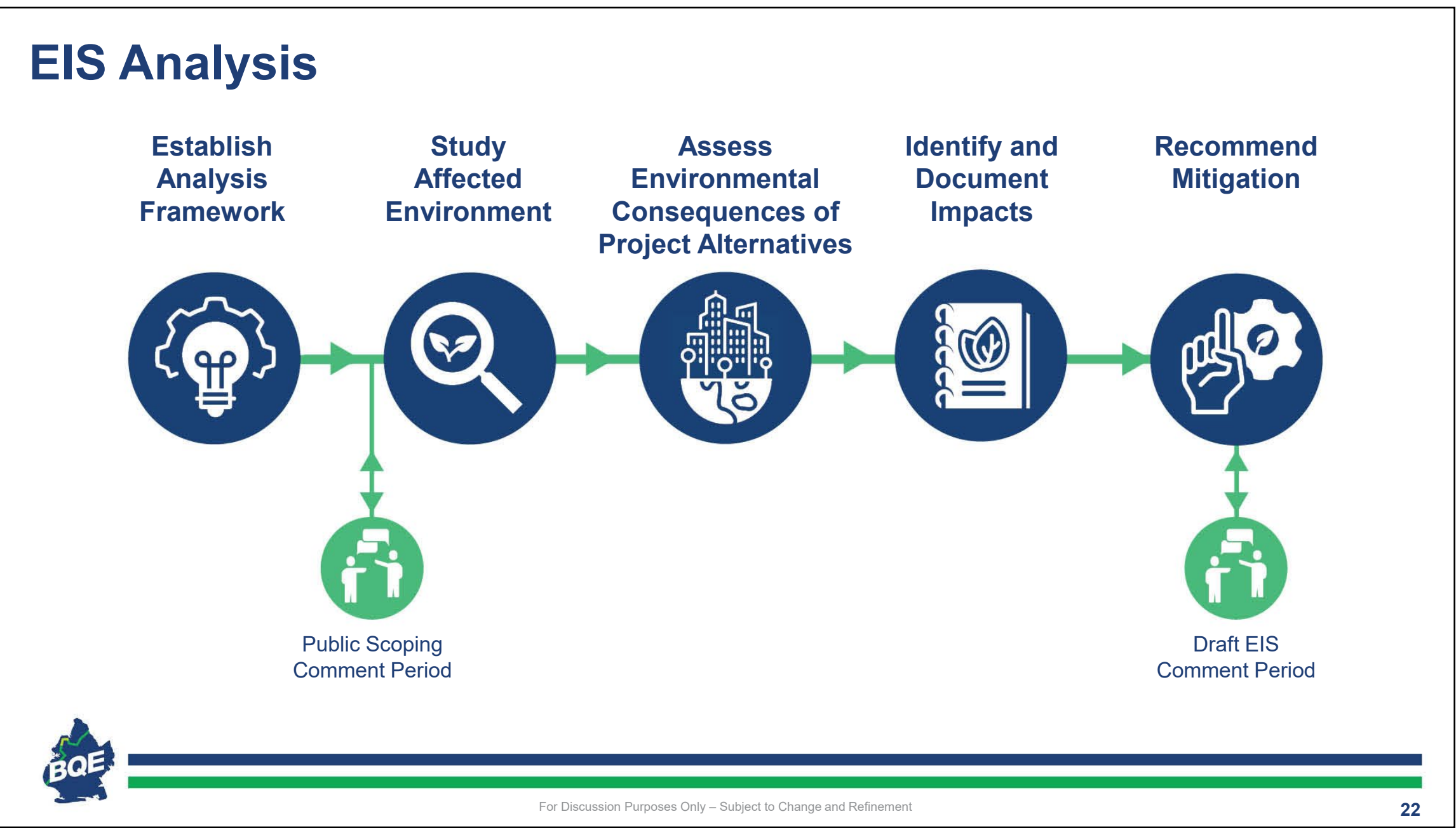
- This process will start with setting up an analysis framework. The analysis framework must address any regulatory requirements that must be met for a particular study, accepted methodology for studying potential effects, and a study area for the analysis.
- For each topic area, the EIS will document existing conditions in the study area, which is referred to as the affected environment. It will also document projected future conditions in the project's future analysis year, also known as the build year or estimated time of completion.
- Next the EIS will document the potential effects of the reasonable alternatives on the affected environment. NEPA regulations call this the environmental consequences of the project.
- Using criteria identified in the analysis framework, the EIS will identify any potential adverse effects of the alternative on the affected environment.



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- When adverse effects are identified, the EIS must disclose measures to mitigate the potential effects to the extent practicable or disclose that the adverse effect cannot be mitigated. The Draft EIS discloses mitigation measures, and the public can comment on them during public review period. The lead agency or project sponsor may refine mitigation measures in the Final EIS based on the public comments.



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At the end of this process, the lead agency must consider and respond to the substantive comments received during the public review period, including comments submitted in writing and comments provided during the oral testimony at the public hearing. If necessary, the lead agency will request that the project sponsor and its consultants prepare additional analyses to respond to agency and public comments. The comments, responses, and new analyses, if any, are incorporated into a Final EIS. Once FHWA, is satisfied that the Final EIS is complete, it will prepare and issue its environmental decision, known as the Record of Decision or ROD. The ROD concludes the NEPA process. The ROD will identify the Preferred Alternative as the Selected Alternative, and the describe the reasons for that decision, summarize the identified environmental impacts and any mitigation measures that will be incorporated in the project, and document compliance with special regulatory requirements relevant to the project. Following the ROD, the various agencies may issue the necessary project approvals, and the project sponsor may proceed with design and construction. The project sponsor must also begin the process of implementing mitigation measures determined to be necessary.

Environmental Decision

Final Environmental Impact Statement (FEIS):

- Upon close of the Draft EIS comment period, consider all substantive comments and prepare responses
- Revise Draft EIS as necessary in response to public and agency comments; and formally identify and select a preferred alternative
- Lead agency issues NEPA decision:

RECORD OF DECISION



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Thank You!

Upcoming Meetings and Workshops

Spring Atlantic Avenue Workshop

Visit www.nyc.gov/bqe for updates or to share additional feedback.



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