# Chapter 24: Unavoidable Adverse Impacts

## A. INTRODUCTION

Following the 2014 *City Environmental Quality Review (CEQR) Technical Manual*, this chapter summarizes unavoidable significant adverse impacts that may result from the proposed actions. Unavoidable significant adverse impacts are those that would occur if a proposed project or action is implemented regardless of the mitigation employed, or if mitigation is impossible.

As described in Chapter 21, "Mitigation," the proposed actions would result in significant adverse impacts with respect to publicly funded child care facilities, open space, shadows, transportation, operational noise (during Hudson Tunnel construction), and construction-period transportation and noise.[1] To the extent practicable, mitigation has been proposed for these identified significant adverse impacts. Transportation impacts can be fully mitigated (see Chapter 21, "Mitigation"). However, in some instances, no practicable mitigation has been identified to fully mitigate significant adverse impacts, and there are no reasonable alternatives to the proposed actions that would meet the proposed actions' purpose and need, eliminate potential impacts, and not cause other or similar significant adverse impacts. In other cases, mitigation has been proposed, but absent a commitment to implement the mitigation, the impacts may not be eliminated.

## B. PUBLICLY FUNDED CHILD CARE FACILITIES

As discussed in Chapter 5, "Community Facilities," existing child care facilities have a total capacity of 213 slots and an enrollment of 178 children (83.6 percent utilization). Based on the *CEQR Technical Manual* guidance, the proposed actions are estimated to introduce an increment of up to 248 affordable housing units at or below 80 percent Area Median Income (AMI) which would result in approximately 29 children under the age of six who would be eligible for publicly funded child care programs. This would increase the demand for child care facilities in the 2-mile study area to 395 slots. This would represent a deficit of 182 slots because there is only capacity of 213 slots. Child care facilities would be at 185.4 percent utilization, which represents an increase in the utilization rate of 13.6 percentage points over the No Action condition. Child care facilities in the study area would operate over capacity, and the increase in the utilization rate would be over five percentage points. Therefore, the proposed projects would result in a significant adverse impact on child care facilities.

Possible mitigation measures for this potential significant adverse impact will be developed in consultation with Administration of Children's Services (ACS). Under the *CEQR Technical Manual*, mitigation measures for a significant child care impact may include provision of

[1] The indirect effects analysis on public elementary and intermediate schools may need to be revised if new data is released following certification and, should that occur, there is a possibility that a schools impact may be identified in the Final Environmental Impact Statement (FEIS). In that event, the FEIS will consider potential mitigation measures.

suitable space on-site for a child care facility, provision of a suitable location off-site and within a reasonable distance (at a rate affordable to ACS providers), or funding or making program or physical improvements to support additional capacity. Absent the implementation of such mitigation measures, the proposed actions could have an unmitigated significant adverse impact on publicly funded child care facilities.

## C. OPEN SPACE

The proposed actions would result in a significant adverse open space impact due to the increased user population.

As described in Chapter 6, "Open Space," with the proposed actions, the decreases in total, active, and passive open space ratios would be less than 5.5 percent. With respect to the reductions in open space within the residential study area, the total and active open space ratios would remain below the City's guideline ratios of 2.5 acres and 2.0 acres per 1,000 residents, respectively, in the With Action condition. The total residential study area open space ratio would decrease by 5.41 percent to 1.206 acres per 1,000 residents; the active residential study area open space ratio would decline by 5.47 percent to 0.259 acres per 1,000 residents; and the passive residential study area open space ratio would decline by 5.39 percent to 0.947 acres per 1,000 residents—less than half of a percentage point above the CEQR threshold. According to the *CEQR Technical Manual*, an action may result in a significant adverse impact if it would reduce the open space ratio by more than 5 percent in areas currently below the City's median community district open space ratio of 1.5 acres per 1,000 residents. Qualitative factors that may be taken into consideration include new improvements to Hudson River Park enabled by the proposed actions, new recreational amenities in the proposed buildings and existing large, linear open spaces that connect to the north and the south of the study area. Nonetheless, the proposed actions would result in a significant adverse open space impact due to the increased user population.

Potential mitigation measures for the identified significant adverse open space impacts are currently being explored by the private applicants in consultation with the lead agency, DCP, and the New York City Department of Parks and Recreation (NYC Parks) and will be refined between the DEIS and the FEIS. The mitigation measures will reflect the nature and scope of the open space impacts, taking into account the quantitative and qualitative assessments in Chapter 6, "Open Space." The *CEQR Technical Manual* lists potential mitigation measures for open space impacts. These measures may include, but are not limited to, creating new open space within the study area; funding for improvements, renovation, or maintenance at existing local parks and/or playgrounds; or improving open spaces to increase their utility or capacity to meet identified open space needs in the area, such as through the provision of additional active open space facilities. One of the mitigation measures being considered is improvements to Clement Clark Moore playground located close to the southern edge of the open space study area. If feasible mitigation consistent with the nature and extent of the impact is identified, the impacts would be considered partially mitigated. As the significant adverse impact on open space would not be fully mitigated, the proposed actions would result in an unavoidable adverse impact on open space.

## D. SHADOWS

Chapter 7, "Shadows," shows that the proposed actions would result in significant adverse shadow impacts to vegetation on portions of the High Line on the March 21/ September 21 analysis day. At these times, project-generated shadow would fall on two portions of the High

Line north of the Project Area. These areas would receive less than four to six hours of direct sunlight in part due to the proposed buildings' shadows. This could potentially affect the health of sunlight-sensitive vegetation in the affected areas that are not shade tolerant and require a minimum of four to six hours of sunlight.

Potential mitigation measures for shadow impacts to vegetation would generally include replacement of sunlight sensitive vegetation with shade tolerant vegetation. There is currently a construction bridge for the Eastern Rail Yards development over the portion of the High Line east of Eleventh Avenue. Since this bridge already appears to have affected the vegetation, it is anticipated that the vegetation under the construction bridge will need to be replaced when the bridge is removed. The replacement vegetation could include shade tolerant species appropriate to this urban location. Replacement with shade tolerant species would avoid the potential shadows impact in this area. For the portion of the High Line west of Eleventh Avenue that is likely to be affected by shadows due to the proposed actions, mitigation measures would include regular inspection and replanting with more shade tolerant species if necessary due to shadow impacts of the proposed projects. Potential mitigation will be explored between DEIS and FEIS in consultation with NYC Parks, Friends of the High Line, and DCP. Absent the implementation of the mitigation measures outlined above, the proposed actions would have an unmitigated shadows significant adverse impact on portions of the High Line vegetation.

## E. NOISE

As described in Chapter 17, "Noise," construction activities for the Hudson Tunnel Project would take place on the western portion of the project block immediately west of the Project Area between 2019 and 2026. In addition, a portion of Lot 12 on project site A may be used for construction staging. The Hudson Tunnel DEIS identifies construction $L_{eq(1)}$ noise levels of 97 dBA at project sites A and B during the loudest period of construction (i.e., 12 months of pile driving). However, based on the conceptual construction schedule presented in the Hudson Tunnel DEIS, these activities would occur before the proposed projects would be completed and occupied. Therefore, the Hudson Tunnel DEIS concludes that there would be no significant adverse construction noise impact on the proposed projects as per the *CEQR Technical Manual* construction noise criteria.

In the event the proposed projects are completed and occupied during Hudson Tunnel construction when pile driving is still occurring, construction of the Hudson Tunnel Project would be producing noise levels of 97 dBA $L_{eq(8)}$ at the proposed projects' façades. The Hudson Tunnel DEIS assumed there would be no variation in construction noise levels throughout the work day. Therefore, 97 dBA is also assumed to be the worst-case peak hour construction noise levels in terms of $L_{eq(1)}$. However, the proposed projects will be designed to provide window/wall attenuation such that if pile driving for the Hudson Tunnel Project occurs when the units are occupied, interior noise levels would be in the mid-60s dBA. This would be up to approximately 20 dBA higher than the 45 dBA threshold recommended for residential use according to CEQR noise exposure guidelines. If this occurs, there would be an unmitigated significant adverse noise impact for up to approximately 12 months. This significant adverse noise impact would be temporary as it is due to construction of the Hudson Tunnel Project.

For this temporary condition, no practicable noise mitigation measures have been identified beyond the proposed attenuation because it is uncertain that the Hudson Tunnel construction schedule would occur while the project buildings are occupied and, if they are occupied, once construction of the Hudson Tunnel Project is complete, the interior noise levels would be

expected to be below the 45 dBA threshold recommended for residential use according to CEQR noise exposure guidelines.

## F. CONSTRUCTION

### NOISE

There are no feasible and practical measures to mitigate the construction noise impacts predicted to occur at 534 West 30th Street, residences near Eleventh Avenue and West 29th Street and portions of the High Line directly across West 30th Street from the construction work areas. The residences identified already have insulated glass windows and alternate means of ventilation allowing for the maintenance of a closed-window condition (i.e., air conditioning). Therefore, further receptor controls at these residences would not be effective in substantially reducing noise levels at the residences. There would also be no feasible or practicable mitigation options at the High Line that would be effective in reducing the construction noise level increments to below the *CEQR Technical Manual* impact criteria or that would reduce the duration of those exceedances to less than two years. Construction noise mitigation options for the proposed actions, including quieter equipment and noise barriers, would not significantly lower the cumulative construction noise levels at these receptors during times that construction of the proposed actions would overlap with construction of these other nearby projects. Therefore, no construction noise mitigation measures are proposed beyond those already identified in the "Noise Reduction Measures" section in Chapter 20, "Construction," and these construction period impacts would be unmitigated. ✷