

**Boundary Review of the Chelsea Creek Designated Port Area
East Boston, MA**

**Executive Office of Energy and Environmental Affairs
Office of Coastal Zone Management
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I. INTRODUCTION

In 1972, Congress passed the Coastal Zone Management Act (CZMA), which establishes a national policy to “preserve, protect, develop, and where possible, to restore or enhance, the resources of the nation’s coastal zone for this and succeeding generations” and to “encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone...” [16 U.S.C. 1452, Sec. 303(1) and (2)]. In the CZMA, Congress made declarations of national policy elements and encouraged states to develop management programs enforceable under state law to address these interests.

The Commonwealth established the Massachusetts Office of Coastal Zone Management (CZM) and developed its coastal zone management program, which was approved by the National Oceanic and Atmospheric Administration in 1978. The program plan, as amended, contains the coastal policies and underlying state statutory and regulatory authorities, which articulate Massachusetts’ priorities for protection and management, habitat, ocean resources, ports and harbors, protected areas, public access, and water quality.

One of these interests established by Congress in the CZMA is the promotion of economic uses of coastal resources, including the priority consideration being given to coastal-dependent uses” and processes for the siting and preservation of port, transportation, and other commercial and industrial development “in or adjacent to areas where such development already exists.” The Designated Port Area (DPA) policy was established in 1978 within the Massachusetts Coastal Zone Management Plan after extensive consultation with state agencies, elected officials, municipal planners, non-government organizations, and representatives from the business community, local citizens, and others. The two central principles of the DPA policy are to (1) promote water-dependent industries as an important sector of the state’s economy and (2) prevent the loss of areas that have certain key characteristics that make them particularly well suited to water-dependent industrial uses. The premise for this strategy is that it is sound public policy to maximize use of areas currently suited for water-dependent industrial uses and avoid the conversion of these areas to incompatible residential, commercial, and recreational uses, so that future marine industrial uses will not have to develop new areas for such use. The impact and expense of developing new marine industrial locations—including dredging, bulkheading, building docks, development of transportation, power, and water infrastructure—are very high in terms of both economic and environmental costs, and such proposals are met with major concerns and opposition.

Under the Designation of Port Areas regulations at 301 CMR 25.00, CZM is responsible for mapping, interpreting, and periodic review of DPA boundaries. The purpose of the DPA boundary review process is to determine whether a DPA boundary should remain as it is currently established or whether it should be modified to more appropriately protect and promote the goals of DPA policy. DPA boundaries are reviewed in accordance with the procedures set forth in the Designation of Port Area regulations at 301 CMR 25.00.

II. THE DPA PROGRAM

DPAs are geographic areas of particular state, regional, and national significance with respect to the promotion of commercial fishing, shipping, and other vessel-related activities associated with water-borne commerce, and of manufacturing, processing, and production activities reliant upon marine

transportation or the withdrawal or discharge of large volumes of water. These water-dependent industrial uses vary in scale and intensity but share similar needs for infrastructure with three essential components: (1) a waterway and associated waterfront that has been developed for some form of commercial navigation or other direct utilization of the water; (2) backland space that is conducive in both physical configuration and use character to the siting of industrial facilities and operations; and (3) land-based transportation and public utility services appropriate for general industrial purposes.

This combination of industrial attributes is found in a very limited and diminishing portion of the coastal zone, and particularly few areas are of sufficient contiguous extent to invite concentrations of related businesses and/or large-scale facilities. Because economic, environmental, and social factors now virtually preclude further development of such an intensive nature, these marine industrial coastal areas are protected to assure that the long-term needs of these water-dependent industries are accommodated. Therefore, state policy seeks to prevent these areas from becoming irretrievably committed to, or otherwise significantly impaired by, non-industrial or non-water dependent types of development which could be sited elsewhere. Accordingly, state policy: (i) encourages water-dependent industrial use within DPAs; and (ii) limits or prohibits other uses on tidelands subject to the jurisdiction of laws and regulations, limits or prohibits other uses except for compatible public access and certain industrial, commercial, and transportation activities that can occur without significant detriment to the capacity of DPAs to accommodate water-dependent industrial use in the future.

After the establishment of the DPA policy and the physical boundaries of the DPAs in 1978, the legal framework was further developed through a succession of regulatory measures. In 1979, the Department of Environmental Protection (DEP) incorporated DPA rules into its Waterways regulations under M.G.L. Chapter 91, with provisions to protect water-dependent industrial uses on the water-side areas of DPAs. In 1984, the legislature expanded the Chapter 91 licensing authority to include filled tidelands, and DPA jurisdiction was extended to include upland areas. In 1994, the Designation of Port Area regulations at 301 CMR 25.00 were promulgated to set forth the procedure for establishing and modifying DPA boundaries.

III. CHELSEA DPA BOUNDARY REVIEW PROCESS

Coincident with the initial development of the Commonwealth's DPA policy, the physical boundary for the Chelsea Creek DPA in Chelsea, East Boston, and Revere, was established in 1978 (Figure 1). After the establishment of the physical boundaries of the state DPAs, the legal framework was further developed through a succession of regulatory measures. In 1979, the Department of Environmental Protection (DEP) incorporated DPA rules into its Waterways regulations under M.G.L. Chapter 91, with provisions to protect water-dependent industrial uses on the water-side areas of DPAs. In 1984, the legislature expanded the Chapter 91 licensing authority to include filled tidelands, and DPA jurisdiction was extended to include upland areas. In 1994, the Designation of Port Area regulations at 301 CMR 25.00 were promulgated to set forth the procedure for establishing and modifying DPA boundaries. Since the Chelsea Creek DPA boundary was originally established in 1978, and the underlying regulatory framework developed subsequently, there has been one review of the boundary using the designation standards found at 301 CMR 25.04 resulting in a modification to the boundary in 2016. However, the previous review in 2016 included only the portion of the Chelsea Creek DPA located in the City of Chelsea. It did not include a review of any portion of the Chelsea Creek DPA located in East Boston or Revere. The current review is considering only the land area of the Chelsea

Creek DPA in East Boston from the Chelsea Street Bridge to the Revere municipal border, as depicted in Figure 1. This review does not include any portion of the Chelsea Creek DPA waters.

In March 2021, in accordance with 301 CMR 25.03, a group of property owners submitted a request to CZM to review specific parcels of the Chelsea Creek DPA boundary in East Boston. Notice of the request was published in the April 7, 2021 *Environmental Monitor*. CZM evaluated the request and in May 2021 accepted the request and determined that an expansion of the scope of the review to include the entire land area between the Chelsea Creek Bridge and the Revere border was warranted. In consultation with the property owners and other stakeholders, CZM issued a notice of intent to review this portion of the Chelsea Creek DPA boundary in September 2021, with notices in the *Environmental Monitor* on September 22, the *Boston Globe* on September 23, and *El Mundo* on September 23, 2021. CZM accepted public comment for thirty days and held a virtual public hearing on October 13, 2021 to solicit public comment. The six-month consultation period began on October 22, 2021 and included stakeholder engagement with DEP, Massachusetts Department of Transportation (MassDOT), Massachusetts Bay Transportation Authority (MBTA), property owners, City of Boston, Massachusetts Port Authority (Massport), a water-dependent industrial user group in the Chelsea Creek DPA, and local neighborhood associations.

To inform the DPA boundary review process, CZM conducted the consultation process required by 301 CMR 25.03(4). This process involved reviewing comments submitted to CZM and meeting with property owners, City officials, state agency partners, and interested constituents. CZM also conducted site visits and reviews of available plans, permits, and licenses applicable to the DPA review area. Throughout the course of the review, CZM received information and input from DPA property owners, the public, local organizations, the City of Boston, and several state agencies. CZM considered all available information and comments in the context of the policy and regulatory framework that guides the review. Many commenters provided substantive information regarding history, uses, constraints, and other features of the existing DPA which was particularly useful in the assessment.

Notice of this designation report, a public hearing, and a 30-day public comment period will be included in the June 6, 2022 edition of the *Environmental Monitor*, published in a local newspaper of general circulation and distributed to those identified in 301 CMR 25.06(5). A final decision will be issued pursuant to 301 CMR 25.03(4) and (5) within 60 days of the close of the public comment period.

IV. CHELSEA CREEK DPA

East Boston, which was incorporated into the City of Boston in 1822, has evolved through the filling around five islands. In the 1800s, East Boston became one of the leading ports and shipbuilding areas of the United States because of its shipbuilding and servicing industries along its waterfront. During World War II, the area along Chelsea Creek in East Boston that is the focus of this boundary review was built out as a fuel depot annex for the Boston (then Charlestown) Naval Shipyard and connected by pipeline to a fuel pier extending into Boston Harbor. A significant portion of this stretch of land consisted of fuel tanks, and the fuel was delivered in tankers via Chelsea Creek at a previously existing pier. Today, most petroleum products for the region still arrive in tankers via Chelsea Creek, with active petroleum sites located on either end of the boundary review area. The former naval fuel depot annex tanks, which were located within the review area, were dismantled over time. The land was converted to other industrial uses such as freight warehousing and trucking, which are still the primary uses in this area along with automobile repair, car rental facilities, storage, and parking.

The portion of the Chelsea Creek DPA in East Boston subject to the current review includes an historic railroad right of way under control of MassDOT and the MBTA that runs from approximately Curtis Street in the south along the entire waterfront of the review area, extending to the Global Revere terminal beyond the boundary with Revere in the north. Based upon discussions with stakeholders, the railway in this location has not been active since the early 1970's. The shoreline for the extent of the review area has been stabilized with a riprap slope or a solid bulkhead. Both the railway right of way and portions of the riprap slope have become overgrown with vegetation in many areas. The entire review area lies directly adjacent to the DPA waters of the Chelsea Creek DPA, including the 37 foot-deep Federal Navigation project. The waters of the Chelsea Creek DPA are not subject to this boundary review and are presumed to meet the standards for continued inclusion in the DPA boundary.

V. PLANNING UNITS FOR BOUNDARY REVIEW

CZM establishes DPA boundaries in accordance with regulatory criteria governing the suitability of contiguous lands and waters to accommodate water-dependent industrial use, as appropriate to the harbor in question. The Designation of Port Area regulations at 301 CMR 25.00 define water-dependent industrial use to mean any use found to be such in accordance with the Chapter 91 Waterways regulations at 310 CMR 9.12(2)(b). As a general rule, CZM applies DPA boundary review criteria within the context of groups of parcels that form coherent planning units, rather than to individual project sites or other properties under common ownership or control. DPA-related attributes vary across different parcels, such that the combined characteristics of associated parcels in the same general vicinity are not reflected accurately in the characteristics of any single property. For this reason, it is important that geographic areas proposed to be included in (or removed from) a DPA be sized and configured in a manner that allows consideration of all relevant factors affecting overall suitability to accommodate water-dependent industrial use. In this review, CZM defined three planning units within the DPA boundary review area, forming coherent areas with groups of parcels that are delineated by shared physical, geographical, and land use characteristics, as described and detailed below and shown in Figure 2.

Physical and functional characteristics are such that water-dependent industrial and non-water dependent industrial uses may be inter-mixed or co-occur within a DPA. In determining whether to classify an area as water-dependent industrial, CZM considered the primary use of a planning unit to be that use to which a majority of that area is dedicated. The Chapter 91 Waterways regulations affirm this principle, recognizing that water-dependent industrial uses are permitted to include licensable accessory and supporting commercial and industrial uses that co-occur and are compatible with water-dependent industrial uses. Accessory uses include parking facilities, access and interior roadways, administrative offices, and marine-oriented retail facilities. Supporting uses are industrial or commercial uses that provide direct economic or operational support for the water-dependent industrial use in the DPA and must be compatible with activities characteristic of a working waterfront and its backlands.

North Planning Unit

The North planning unit comprises approximately 35.64 acres of land within the DPA, of which approximately 16.04 acres are subject to Chapter 91 jurisdiction. The planning unit is bounded by the Revere border to the north; Chelsea Creek to the west; the south side of Boardman Street to the south;

and Route 1A/McClellan Highway to the east. Parcels within the North planning unit are occupied by industrial users, including freight trucking, as well as commercial uses, including Hertz car rental. The North planning unit includes a building at 480 McClellan owned by Massport and licensed as a water-dependent industrial (WDI) freight forwarding and warehousing facility with WDI accessory use offices and some non-WDI offices on upper floors. In addition to these parcels, the North planning unit includes a portion of the MBTA abandoned railroad corridor which is now vacant land. The MBTA property is linear in shape and continues outside of the planning unit to both the north and south. This MBTA property is located between 440 & 480 McClellan and the Hertz property, and an elevated road easement connects the Hertz parcel at Boardman street. The shoreline is characterized by stabilized riprap adjacent to the waters of the Chelsea Creek DPA. The Hertz property has direct access via Boardman Street to Route 1A/McClellan Highway.

Central Planning Unit

The Central planning unit comprises approximately 22.69 acres of land within the DPA, of which approximately 18.11 acres are subject to Chapter 91 jurisdiction. The planning unit is bounded by the south side of Boardman Street to the north; Chelsea Creek to the west; and Route 1A/McClellan Highway to the south and east. Six contiguous parcels within the Central planning unit are owned by Cargo Ventures and occupied by primarily industrial users, including freight trucking, as well as some commercial uses, such as park and ride services for Logan Airport. The Central planning unit also includes an Avis car rental facility, a marijuana dispensary, and an automotive repair shop. In addition to these parcels, the Central planning unit includes a portion of the vacant land within the MBTA property along the shoreline and an unimproved, but predominantly stabilized riprap shoreline adjacent to the waters of the Chelsea Creek DPA. Access to the Central planning unit is via Boardman Street to the north, and a right of way access roadway connects most parcels directly to Route 1A/McClellan Highway. Two properties in the southern end of this planning unit have individual points of access/egress to Route 1A.

South Planning Unit

The South planning unit comprises approximately 15.85 acres of DPA land, of which approximately 2.81 acres are within Chapter 91 jurisdiction. The planning unit is bounded by Chelsea Creek to the west and northwest; Chelsea Street to the southwest; Curtis Street to the south; and Route 1A/McClellan Highway to the east, all of which are within the Chelsea Creek DPA. This smaller planning unit includes a mix of ownership and uses. The CubeSmart storage facility occupies a large area of the planning unit near Route 1A/McClellan Highway, flanked by two linear parcels controlled by MassDOT and MBTA. Cargo Ventures owns two parcels in this planning unit, including a freight trucking and warehouse facility, and the currently vacant decommissioned sewer pump station building located directly on the shoreline adjacent to the Chelsea Street Bridge. Also present in this planning unit is the Caruso sewer pump station and a Sunoco above-ground storage tank facility. There is direct access to and from this planning unit from Route 1A/McClellan Highway and Chelsea Street. The shoreline to the adjacent Chelsea Creek DPA waters is stabilized with a bulkhead and riprap.

VI. CZM REVIEW

Pursuant to 301 CMR 25.00, CZM employs a two-step review process when evaluating planning units for inclusion within a DPA boundary. The first step involves assessing whether planning units meet the eligibility for review criteria according to 301 CMR 25.03(2). These criteria include whether any

area within a DPA: 1) has been subject to a designation decision within the previous five years; 2) contained active water-dependent industrial use throughout the previous five years; 3) was requested for exclusion from review by the City or other municipal body; and 4) is entirely bounded by existing DPA lands and/or waters. If a planning unit meets any of these criteria, that area is not eligible for further review and the second step of the review process is not applied. For those ineligible planning units, the DPA boundary does not change. If a planning unit is not disqualified from review by any of these criteria, it is eligible for review and proceeds to the second step of the review process.

The second step of the review process entails evaluating planning units with respect to their compliance with the designation standards for waters (301 CMR 25.04(1)) and for lands (301 CMR 25.04(2)). Because the DPA waters of the Chelsea Creek DPA are not included in this boundary review, all DPA waters are assumed to meet the criteria for suitability for inclusion in the DPA for the purposes of this review.

The designation standards for lands include four criteria governing physical suitability to accommodate water-dependent industrial use pursuant to 301 CMR 25.04(2). The four physical suitability criteria require that a planning unit 1) include a substantially developed shoreline which creates a functional connection to a waterway; 2) lie in close proximity to road or rail links and water and sewer facilities; 3) exhibit a topography that is conducive to industrial use; and 4) exhibit a use character that is predominantly industrial in nature or reasonably capable of becoming so. As with the designation standards for water, a planning unit must exhibit all four criteria to remain in or be included within the DPA. If a planning unit exhibits all four of the physical suitability criteria, the DPA boundary does not change in that area. Alternatively, in the case of areas reviewed that are currently outside a DPA boundary but that exhibit all four of the physical suitability criteria, the DPA boundary would change to include the area. If a planning unit lacks one or more of the physical suitability criteria, it is removed from the DPA.

VII. ELIGIBILITY REVIEW

Based on the eligibility for review standards at 301 CMR 25.03(2)(a) through (d), certain areas within the DPA are not eligible for review if they meet any of the four criteria.

For the first criterion, CZM has determined that no portion of the Chelsea Creek DPA subject to this boundary review has been the subject of a designation decision under 301 CMR 25.03(5) within the previous five years. Therefore, the three planning units within the DPA area under review (Figure 2) are eligible for review based on 301 CMR 25.03(2)(a).

The criterion at 301 CMR 25.03(2)(b) states that any area that consisted primarily of water-dependent industrial use throughout the last five years is not eligible for review. As indicated in the regulations, in applying 301 CMR 25.03(2)(b), CZM considered the primary use within a given area to be the use to which a majority of the planning unit is dedicated. For this criterion, CZM considered first, whether water-dependent industrial use had occurred throughout the previous five years; and second, whether the water-dependent industrial use, if present, was the primary use for a given planning unit. Based on the review, although all planning units have uses that are licensed as either WDI uses or temporary uses within a DPA, the majority of the area for each unit is currently in non-water dependent industrial use. As a result, all planning units meet the criterion for eligibility for review pursuant to 301 CMR 25.03(2)(b).

Pursuant to 301 CMR 25.03(2)(c), areas recommended for exclusion by the City or municipal body shall not be eligible for review. No areas were recommended for exclusion by the City of Boston. Therefore, the three planning units within the Chelsea Creek DPA are eligible for review based upon 301 CMR 25.03(2)(c).

Any area within a DPA that is entirely bounded by existing DPA lands or waters is ineligible for review pursuant to 301 CMR 25.03(2)(d). This criterion is intended to avoid conflict that could result from incompatible uses being developed in the middle of an otherwise substantially water-dependent industrial use area. This scenario could arise if a portion of the DPA that is otherwise completely surrounded by DPA lands is removed from the DPA. Because the DPA boundary review includes the roads within and surrounding the DPA, no such isolated area is under review, and this scenario is avoided. Therefore, all planning units within the DPA are eligible for review based upon the criterion at 301 CMR 25.03(2)(d).

The North, Central, and South planning units meet all eligibility criteria for review and are therefore subject to the designation criteria and analysis for inclusion in the East Boston DPA described below.

VIII. DESIGNATION CRITERIA AND ANALYSIS

The DPA regulations require that an area of land reviewed under 301 CMR 25.00 shall be included or remain in a DPA if and only if CZM finds that the area is in substantial conformance with each of the four criteria governing suitability to accommodate water-dependent industrial use at 301 CMR 25.04(2)(a) through (d). Similarly, the DPA regulations require that an area of water reviewed under 301 CMR 25.00 shall be included or remain in a DPA if and only if CZM finds that the area is in substantial conformance with each of the four criteria governing suitability to accommodate water-dependent industrial use at 301 CMR 25.04(1)(a) and (b). The following contains a synopsis of CZM's analysis and findings of each planning unit's conformance with the criteria for land in 301 CMR 25.04. The next section of this report concludes with a summary of the planning units' conformance and CZM's recommendation for continued inclusion in the DPA.

North Planning Unit

Pursuant to 301 CMR 25.04(2)(a), any area to remain in the DPA under this boundary review must include, or be contiguous with other DPA lands that include, a shoreline that has been substantially developed with piers, wharves, bulkheads, or other structures that establish a functional connection with a DPA water area. The shoreline of the review area runs adjacent to the DPA waters of the Chelsea Creek DPA, which are not included in this boundary review and are therefore presumed to meet the criteria for continued inclusion in the DPA boundary. The shoreline of the North planning unit consists of a riprap embankment in various states of repair, overgrown in many locations by vegetation, but armored, predominantly stabilized, and backed by placed fill. These characteristics establish a functional connection with the DPA waters of Chelsea Creek. In their request for a DPA boundary review, the requesting landowners state that there is no access to the shoreline or the DPA waters for the parcels that border Route 1A/McClellan Highway in this planning unit because the railroad right of way prevents such access and no such access can be granted. However, the existing Hertz facility located at a higher elevation than the right of way has an elevated overpass and access easement over the MBTA property, via Boardman Street, which creates a functional connection from the more inland portions of the North Planning Unit to the shoreline. Though the North planning unit has not generally been utilized for water-dependent industrial uses since the mid-1960's, the

shoreline is sufficiently filled, stabilized, and developed such that the infrastructure to provide a connection between land and water can be reasonably established with the adjacent DPA waters of Chelsea Creek. Therefore, CZM finds that the North planning unit meets the criterion for a substantially developed shoreline that provides a functional connection with DPA water area at 301 CMR 25.04(2)(a).

The second criterion for determining suitability of a land area for industrial use, pursuant to 301 CMR 25.04(2)(b), is that the land must lie in reasonable proximity to: an established road or rail link that leads to a major trunk or arterial route; and water and sewer facilities that are capable of supporting general industrial use. This planning unit has direct access via the intersection at Boardman Street, which serves the entire planning unit, to Route 1A/McClellan Highway. Route 1A/McClellan Highway is a major route leading into and out of Boston and currently serves a large volume of industrial and commercial traffic, including the existing industrial freight traffic within this planning unit. In addition, information provided by stakeholders during the consultation period for this review supports the existence of adequate utility services that support general industrial use. Based on this analysis, CZM determines that the North planning unit meets the criterion of 301 CMR 25.04(2)(b).

To accommodate water-dependent industrial use, the land area must also exhibit a topography that is generally conducive to industrial use or is reasonably capable of becoming so (301 CMR 25.04(2)(c)). While portions of Route 1A/McClellan Highway are approximately 10-15 feet higher in elevation than the abutting land area in this planning unit, particularly in the area adjacent to the Orient Heights neighborhood, there is currently adequate access and egress off Boardman Street for this unit to service industrial uses, including existing industrial freight trucking. Further, the general topography of the planning unit is primarily flat enough to support current industrial uses. The topographic change associated with the MBTA property is bridged by the overpass at Boardman Street to provide access to the Hertz site, which is also predominantly flat or gently sloping. Further, these topographic changes appear minor enough to be reasonably addressed through site design. Therefore, CZM concludes that the topography of the North planning unit is generally conducive to industrial use and therefore meets the criterion of 301 CMR 25.04(2)(c).

Finally, to remain within the DPA boundary, the land area must also exhibit a use character that is predominately industrial or is reasonably capable of becoming so because it does not contain a dense concentration of: non-industrial buildings that cannot be removed or converted, with relative ease, to industrial use; or residential, commercial, recreational, or other uses that would unavoidably be destabilized if commingled with industrial activity (301 CMR 25.04(2)(d)). The current land use character of the North planning unit is primarily industrial warehousing and trucking uses with some office and commercial uses, such as the Hertz car rental. While this area includes several structures, there is not a dense concentration, and most of the site is dedicated to at-grade paved parking areas. The property at 480 McClellan Highway is currently licensed as a water-dependent industrial warehouse with trucking, as well as some water-dependent industrial accessory offices and non-water dependent office uses on upper floors. There are no dense areas of non-industrial buildings that could not be converted with relative ease to industrial uses, or any residential, commercial, or recreational uses that would become destabilized if commingled with industrial activity, as there is currently extensive industrial activity within the planning unit. While there are residential areas on the other side of Route 1A/McClellan Highway, the regulations refer to the land use character of the area within the

DPA, not the area around it. As a result, CZM finds that the North planning unit meets the use character criterion as required by 301 CMR 25.04(2)(d).

Central Planning Unit

Pursuant to 301 CMR 25.04(2)(a), any area to remain in the DPA under this boundary review must include, or be contiguous with other DPA lands that include, a shoreline that has been substantially developed with piers, wharves, bulkheads, or other structures that establish a functional connection with a DPA water area. The shoreline consists of a riprap embankment in various states of repair, overgrown in some locations by vegetation, but predominantly stabilized, and backed by fill placed in this location. In addition, over time areas adjacent to the shoreline that were historically dredged have shoaled in and now contain tidal flats which extend between the shoreline and the federal navigation channel within the Chelsea Creek. The MBTA property extends along the western edge of the Central planning unit between Chelsea Creek and the more inland parcels along Route 1A/McClellan Highway. The MBTA property in the Central planning unit is located at the same grade as the adjacent upland parcels unlike the North Planning unit where the right of way is located at a lower elevation such that it can be crossed. In the Central planning unit, the railroad right of way prevents access to the shoreline without an at or below grade crossing and an easement. All of the parcels in the Central planning unit are separated from the DPA waters of Chelsea Creek by the MBTA owned at-grade railroad right of way property, which prevents them from having a direct functional connection to the water. Based on the presence of the MBTA property, CZM finds that the Central planning unit does not meet the criterion for a substantially developed shoreline that provides a functional connection with DPA water area at 301 CMR 25.04(2)(a).

The second criterion for determining suitability of a land area for industrial use, pursuant to 301 CMR 25.04(2)(b), is that the land must lie in reasonable proximity to: an established road or rail link that leads to a major trunk or arterial route; and water and sewer facilities that are capable of supporting general industrial use. This planning unit has direct access to the adjacent Route 1A/McClellan Highway, which is a major route leading into and out of Boston and currently serves a large volume of industrial and commercial traffic, including the existing industrial freight traffic within this planning unit. In addition, all information provided by stakeholders during the consultation period for this review supports the existence of adequate utility services that support general industrial use. Based on this analysis, CZM determines that the Central planning unit meets the criterion of 301 CMR 25.04(2)(b).

To accommodate water-dependent industrial use, the land area must also exhibit a topography that is generally conducive to industrial use or is reasonably capable of becoming so (301 CMR 25.04(2)(c)). The general topography of the planning unit is primarily flat and currently supports primarily industrial uses, and some commercial uses such as park and ride facilities and car rentals that consist primarily of flat, open parking areas that could reasonably be capable of supporting industrial uses. Therefore, CZM concludes that the topography of the Central planning unit is generally conducive to industrial use and therefore meets the criterion of 301 CMR 25.04(2)(c).

Finally, to remain within the DPA boundary, the land area must also exhibit a use character that is predominately industrial or is reasonably capable of becoming so because it does not contain a dense concentration of: non-industrial buildings that cannot be removed or converted, with relative ease, to industrial use; or residential, commercial, recreational, or other uses that would unavoidably be destabilized if commingled with industrial activity (301 CMR 25.04(2)(d)). The land use character of

the Central planning unit is currently primarily industrial warehousing and trucking uses with some commercial uses, though some of the commercial uses, such as automobile repair, may be considered industrial in nature. There are no dense areas of non-industrial buildings that could not be converted with relative ease to industrial uses, or any residential, commercial, or recreational uses that would become destabilized if commingled with industrial activity, as there is currently extensive industrial activity within the planning unit. While there are residential areas on the other side of Route 1A/McClellan Highway, the regulations refer to the land use character of the area within the DPA, not the area around it. As a result, CZM finds that the Central planning unit meets the use character criterion as required by 301 CMR 25.04(2)(d).

South Planning Unit

Pursuant to 301 CMR 25.04(2)(a), any area to remain in or be included in the DPA under this boundary review must include, or be contiguous with other DPA lands that include, a shoreline that has been substantially developed with piers, wharves, bulkheads, or other structures that establish a functional connection with a DPA water area. Though the South planning unit does not support any water-dependent industrial uses currently, the shoreline is developed with bulkheads, riprap, and a former industrial building. Therefore, CZM finds that the South planning unit is functionally connected to waters within the Chelsea Creek DPA and meets the criterion for a substantially developed shoreline that provides a functional connection with DPA water area at 301 CMR 25.04(2)(a).

The second criterion for determining suitability of a land area for industrial use, pursuant to 301 CMR 25.04(2)(b) is that the land must lie in reasonable proximity to: an established road or rail link that leads to a major trunk or arterial route; and water and sewer facilities that can support general industrial use. The access to and through the planning unit includes an accessway directly to Route 1A/McClellan Highway, and several accessways along Chelsea Street that can accommodate truck traffic, as demonstrated by the existing industrial uses within the area. Additionally, all information submitted supports the availability of utility services that support general industrial use. Based on this analysis, CZM determines that the South planning unit meets the criterion of 301 CMR 25.04(2)(b).

To accommodate water-dependent industrial use, the land area must also exhibit a topography that is generally conducive to industrial use or is reasonably capable of becoming so (301 CMR 25.04(2)(c)). The South planning unit generally consists of low-lying, flat and graded topography and is heavily developed and mostly paved. Therefore, CZM concludes that the topography of the South planning unit is generally conducive to industrial use, and therefore meets the criterion of 301 CMR 25.04(2)(c).

Finally, to remain within the DPA boundary, the land area must also exhibit a use character that is predominately industrial or is reasonably capable of becoming so because it does not contain a dense concentration of: non-industrial buildings that cannot be removed or converted, with relative ease, to industrial use; or residential, commercial, recreational, or other uses that would unavoidably be destabilized if commingled with industrial activity (301 CMR 25.04(2)(d)). Though the South planning unit does have some commercial use in the form of the CubeSmart storage facility, the majority of this area is currently in industrial use, such as freight warehousing, trucking, or dedicated to utility purposes. The former pump station building, though currently vacant, was previously an industrial use, could be reused for an industrial purpose, and would not be destabilized by commingling with industrial activity. Even the storage facility, which currently shares the planning unit with existing industrial uses, is not subject to destabilization from the adjacent uses. As a result, CZM finds that the South planning unit meets the use character criterion as required by 301 CMR 25.04(2)(d).

DPA Water Areas

The designation standards for waters pursuant to 301 CMR 25.04(1)(a) include two criteria governing suitability to accommodate water-dependent industrial use. The designation standards for waters require that the water area 1) must include or be contiguous with other DPA waters that include both a navigable channel with a design depth of at least 20 feet deep and a substantially developed shoreline which creates a functional connection to a land area meeting the standards of 301 CMR 25.04(2); and 2) must be of a configuration, size, and location appropriate for direct utilization of the water. Waters must exhibit both criteria to remain in the DPA. Because the DPA waters of the Chelsea Creek DPA are not included in this boundary review, all DPA waters are assumed to meet the criteria for suitability for inclusion in the DPA for the purposes of this review.

IX. CONCLUSIONS AND RECOMMENDATIONS

The DPA regulations direct that an area of land or water reviewed under 301 CMR 25.00 shall be included or remain in a DPA if and only if CZM finds that the area is in substantial conformance with all of the criteria governing suitability to accommodate water-dependent industrial use, as appropriate to the harbor in question.

The North and South planning units are eligible for review and CZM's analysis determined that these planning units are in substantial conformance with the suitability criteria. In addition, because the Chelsea Creek DPA water area adjacent to these planning units is not under review and therefore is presumed to meet the designation standards for water, CZM concludes that the North and South planning units should remain in the Chelsea Creek DPA.

The Central planning unit is eligible for review and CZM's analysis determined that while the planning unit meets some of the suitability criteria, namely a topography conducive to industrial use, proximity to established road/rail links and water/sewer facilities, and a use character that is predominantly industrial, it does not possess a substantially developed shoreline that creates a functional connection to DPA waters. This review found that direct access to the shoreline and the DPA waters is restricted due to the MBTA at-grade railroad right of way property. The unimproved shoreline and shoaled in tidal flats contribute to challenges for water-dependent industrial use on this planning unit, but the presence of the railroad right of way prevents this planning unit from having a functional connection to the water. As a result, CZM concludes that the Central planning unit, as well the adjacent section of Route 1A/McClellan Highway, should be removed from the Chelsea Creek DPA.

With the removal of the Central planning unit, the total land area of the Chelsea Creek DPA subject to this review decreases from 509.7 acres to 487 acres. Pursuant to this review, a revised Chelsea Creek DPA boundary reflecting the findings of this Boundary Review Report is shown on the map, Figure 2.

X. FIGURES

Figures referenced in the report are included in the following pages.

Figure 1 – Current Chelsea Creek DPA boundary map

Figure 2 – Planning units within Chelsea Creek DPA boundary review

Figure 3 – Planning units within Chelsea Creek DPA boundary review (enlarged)

Figure 4 – Proposed Chelsea Creek DPA boundary map

Figure 1 – Current Chelsea Creek DPA boundary map

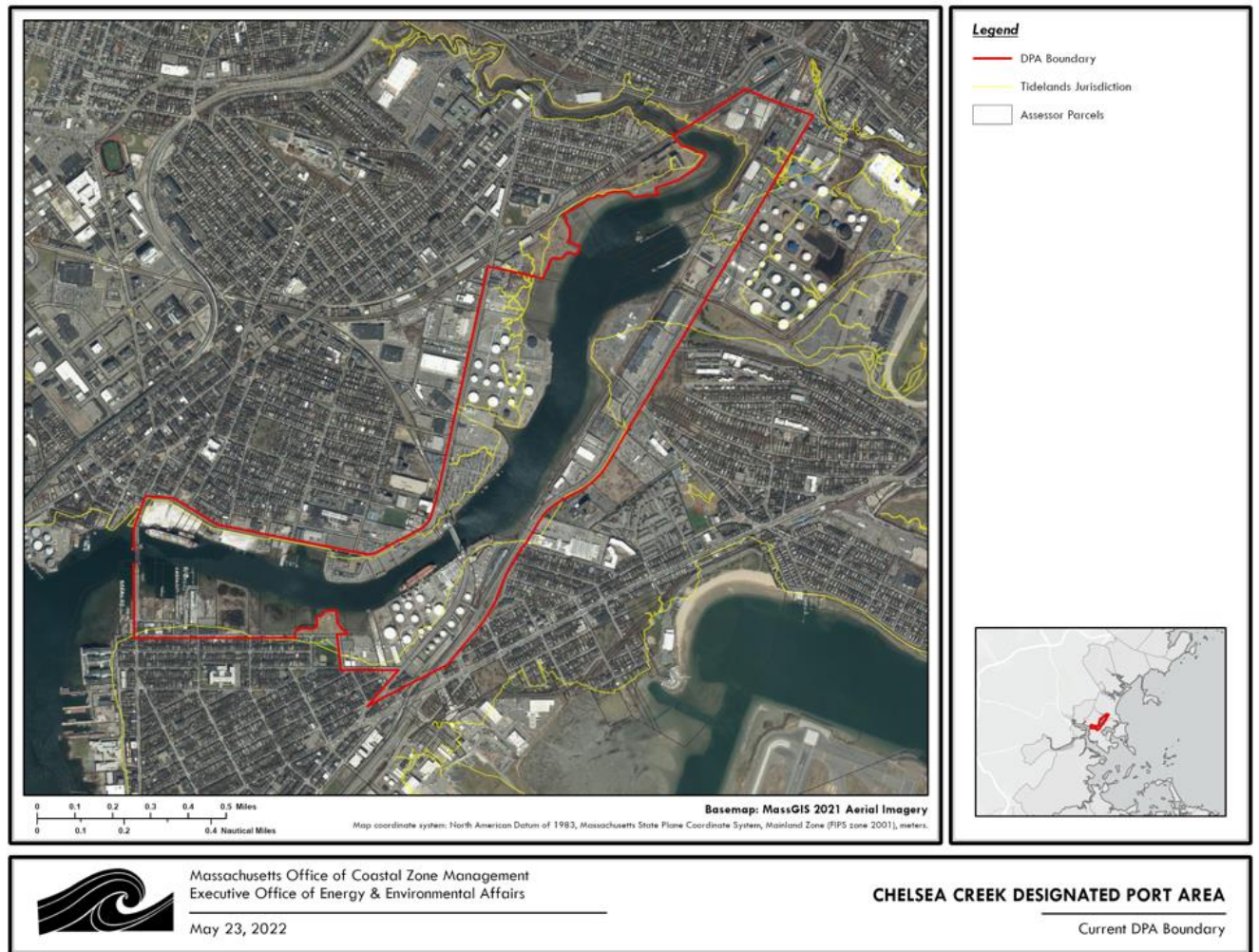


Figure 2 – Planning units within Chelsea Creek DPA boundary review

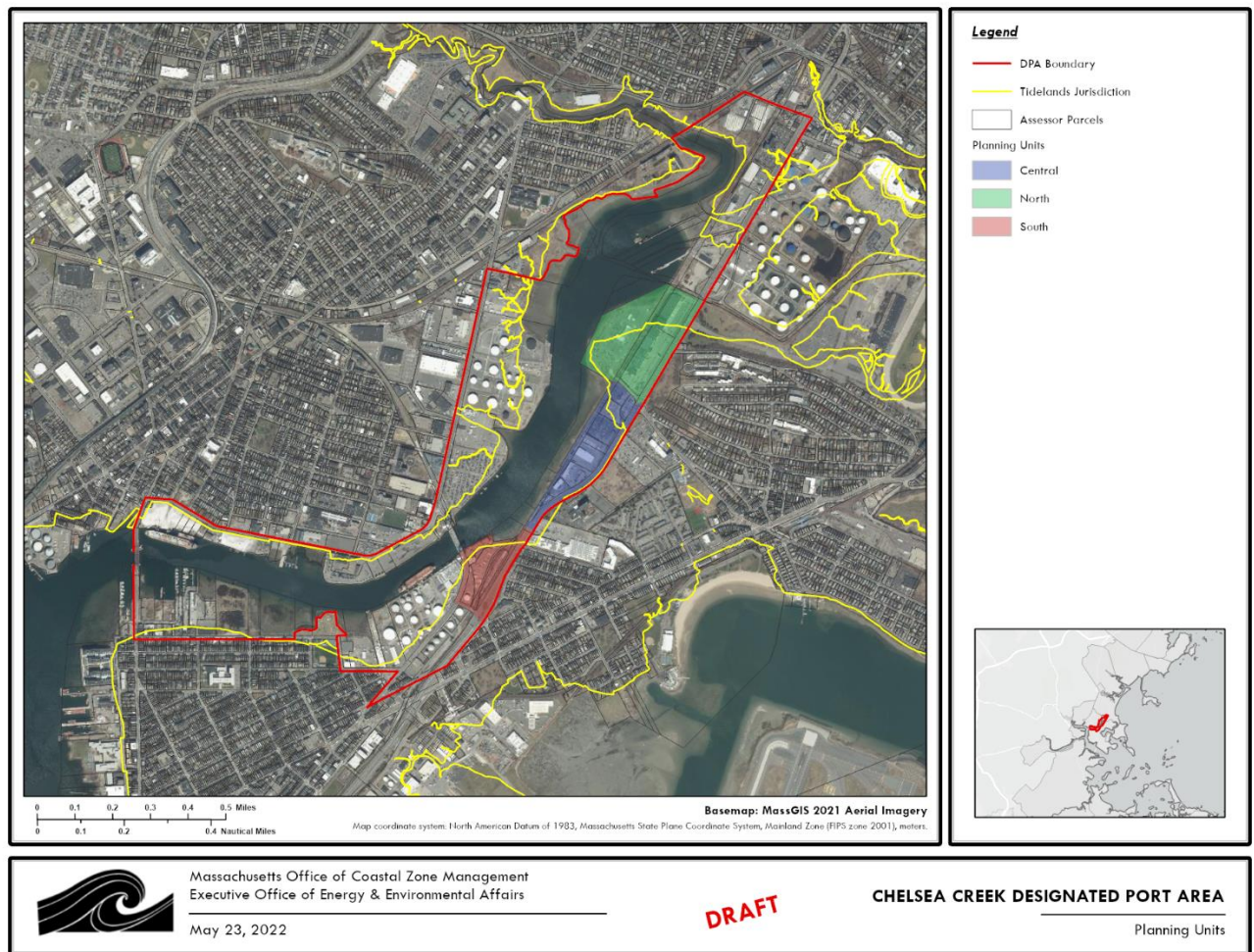


Figure 3 – Planning units within Chelsea Creek DPA boundary review (enlarged)

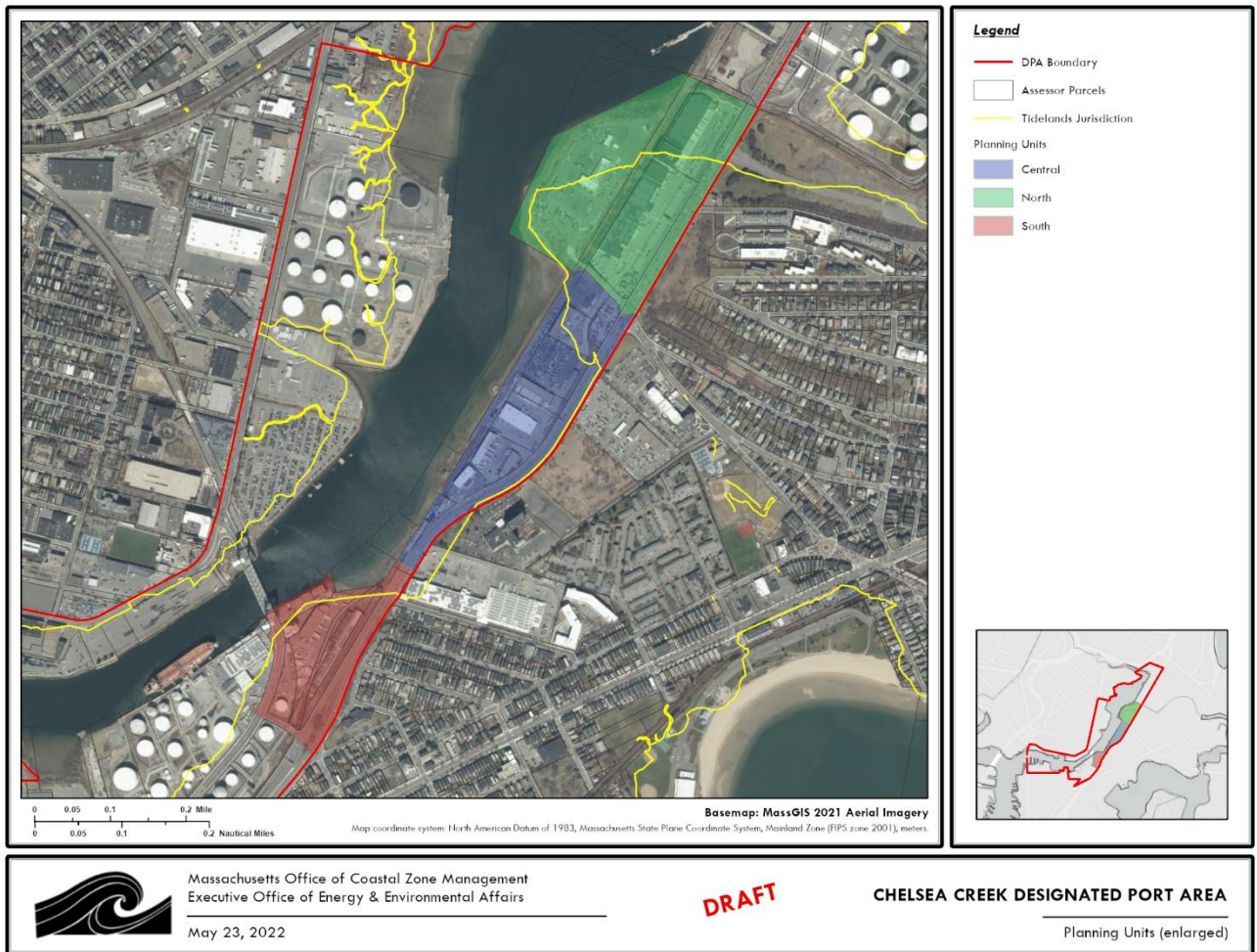


Figure 4 – Proposed Chelsea Creek DPA boundary map

