

**DECISION ON THE CITY OF CHELSEA'S
REQUEST FOR APPROVAL
OF THE
CHELSEA CREEK MUNICIPAL HARBOR PLAN
AND DESIGNATED PORT AREA MASTER PLAN
PURSUANT TO 301 CMR 23.00**

April 1, 2022

**Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
Kathleen A. Theoharides, Secretary**

I. INTRODUCTION

Today, as Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs (EEA), I am approving, subject to the conditions noted below, the City of Chelsea's ("City") Chelsea Creek Municipal Harbor Plan and Designated Port Area Master Plan ("Plan") submitted in March 2021 with supplemental information submitted in January 2022. This Decision presents an overview of the content of the Plan including the supplemental information submitted on January 31, 2022, and findings on how it complies with the standards for approval set forth in the Municipal Harbor Planning regulations at 301 CMR 23.00. The Plan is a comprehensive planning document that encapsulates historic and current conditions of public access, land use, and transportation; the climate vulnerability of the harbor planning area to the impacts of climate change; and an economic analysis of current and future industrial growth within the DPA. While beneficial context for framing the goals and strategies of the Plan, much of this content is beyond the regulatory scope of an MHP approval. As a result, this Decision focuses on the portions of the Plan that directly affect the planning and use of the harbor planning area, specifically Chapters 7 and 8 of the Plan and the supplemental information submitted.

The geographic scope of the Plan includes 25 parcels generally extending from the Andrew McCardle Bridge upstream to the MBTA commuter rail crossing of the Mill Creek at the municipal boundary with the City of Revere, inclusive of DPA lands and waters within the City of Chelsea's municipal limits. The area includes the 22 parcels on the Chelsea side of the Chelsea Creek DPA, as well as three parcels adjacent to the commuter rail line that were excluded from the DPA as a result of the Chelsea Creek DPA boundary review in 2016 (Figure 1). The Plan builds on prior planning initiatives for the area, including the Chelsea Waterfront Visioning Plan (2016), Designing Coastal Community Infrastructure for Climate Change (2017) and the City of Chelsea's Community Resilience Building Summary of Findings (2018).

A group of 13 City-appointed community members and stakeholders guided plan development as the Harbor Planning Group. The Harbor Planning Group represented a variety of interests including the environment, the local community, industry, and the City. As part of the planning process and critical source of public engagement, the City hosted three public meetings to provide information about the harbor planning process and gather public input. These meetings, which included both English and Spanish content, were announced through press releases, posted on the city's website, and listed on the project website hosted by the Metropolitan Area Planning Council (MAPC). The project website also provided handouts and presentations from the meetings, as well as

meeting summaries to provide additional mechanisms for public engagement and dissemination of information throughout the public process.

The Plan identifies strategies and guidelines to enhance public access, increase the density of quality living-wage jobs for Chelsea residents, preserve the industrial and commercial character of the waterfront and adjacent areas, and encourage water-dependent industrial uses and other opportunities that contribute to the local tax base. The Plan provides a summary and detailed description of proposed substitutions of minimum use standards and numerical requirements, as well as an amplification of the discretionary language of the Chapter 91 Waterways (“Waterways”) (310 CMR 9.00) regulations, with a justification for the requests and supporting information to demonstrate compliance with the approval standards for each. The proposed substitutions and amplification, and the alternative site coverage ratio included as part of the DPA Master Plan, are primarily focused on ensuring that the public benefits identified in the planning process are implemented appropriately. Specifically, the Plan proposes one substitute provision to specific Chapter 91 standards and an alternative site coverage ratio for one specific site within the planning area at 111 Eastern Avenue, one substitute provision to a Chapter 91 standard applicable to the entire harbor planning area, and one amplification of discretionary language in Chapter 91 to provide licensing guidance to the Massachusetts Department of Environmental Protection (DEP) for parcels located within the DPA portion of the harbor planning area. The area within the DPA comprises approximately 89.54 acres, of which approximately 39.12 acres are subject to Chapter 91 jurisdiction (Figure 2). My approval of the Plan, with the terms and conditions contained herein, does not, and should not be construed to serve as an authorization or approval of any specific project. As described below, redevelopment projects proposed within the planning area will be subject to required federal, state, and local regulatory processes, as applicable.

Pursuant to the review procedures at 301 CMR 23.00, in March 2018, the City submitted a Request for a Notice to Proceed, and, following a 30-day public comment period, the Office of Coastal Zone Management (CZM) issued a Notice to Proceed on June 11, 2018. From 2018 to 2019, the City convened three public meetings and seven harbor planning group meetings to inform the development of the Plan. Due to the COVID-19 pandemic, the City requested and received two six-month extensions of the two-year submission deadline, resulting in a submission deadline of June 11, 2021. On March 11, 2021, the City submitted the Plan to EEA. CZM published a notice of public hearing and 30-day opportunity to comment in the *Environmental Monitor* dated March 24, 2021. Oral testimony was accepted at a virtual hearing on April 15, 2021. I received eight individual comment

letters during the comment period, which closed on April 30, 2021. Comments received included those from water-dependent industrial users, Boston Harbor advocacy groups, and other local stakeholders. Generally, comments agreed on the need for a cohesive planning approach and framework to support the City's goals and guide the balanced development of the Chelsea waterfront with the continued industrial use of the Chelsea Creek waterway. Specific topics highlighted in the comments raised the desire to reduce potential conflict between water-dependent industrial operations on the waterfront and waterway and new non-water-dependent uses; to include public access to the waterfront and leisure/recreational vessel navigation; to more clearly outline the process for identifying specific offsets and public benefits as parcels in the planning area are developed; and to outline specific infrastructure investments needed to enhance the capacity of the DPA to continue to support water-dependent industrial uses. The consultation period, which included four extensions, ended on January 31, 2022. The Municipal Harbor Planning review and consultation process, led by EEA and CZM, included consultation among CZM, the DEP, the City, and stakeholders. Supplemental information refining the substitute provisions, offsets, and amplifications was submitted by the City on January 31, 2022, and noticed in the *Environmental Monitor* dated February 9, 2022. While not required by the regulations, the supplemental information was made available for a 39-day public comment period to provide for additional public and stakeholder review and input. During the public comment period for the supplemental information, I received one additional comment letter from GreenRoots which expressed support for the goals, objectives, and priorities of the Plan, including increasing public access while maintaining water-dependent industrial uses that support both the DPA and the rest of the City, increasing coastal resiliency efforts throughout the DPA and harbor planning area, and expressing a need for more information about how the proposed Waterfront Improvement Fund (WIF) will be managed and opportunities for public engagement in this process. Comments were carefully considered in the review and analysis of the Plan and discussion of these comments is contained in the analysis section of this Decision.

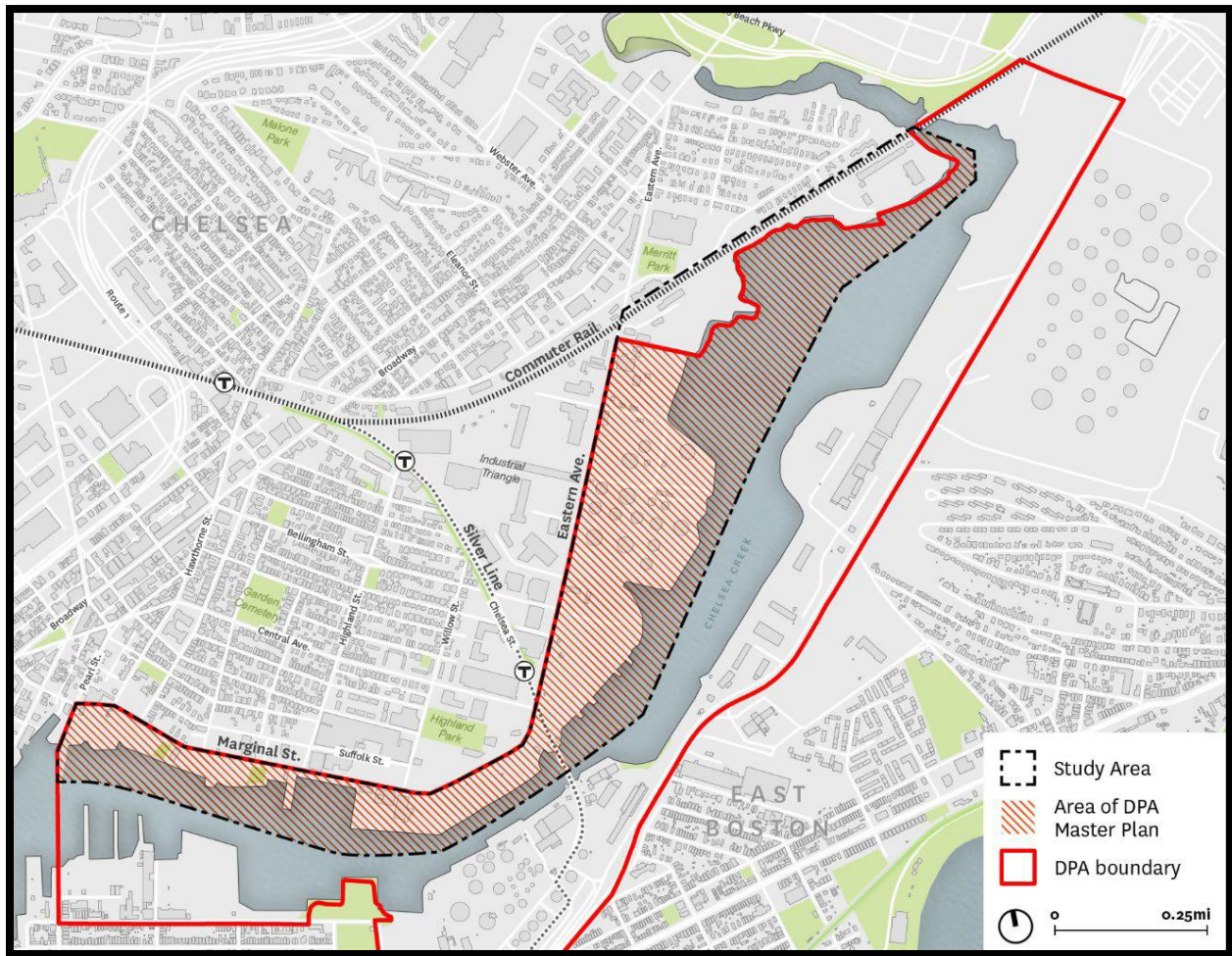


Figure 1. Chelsea Creek Municipal Harbor Plan and Designated Port Area Master Plan Area

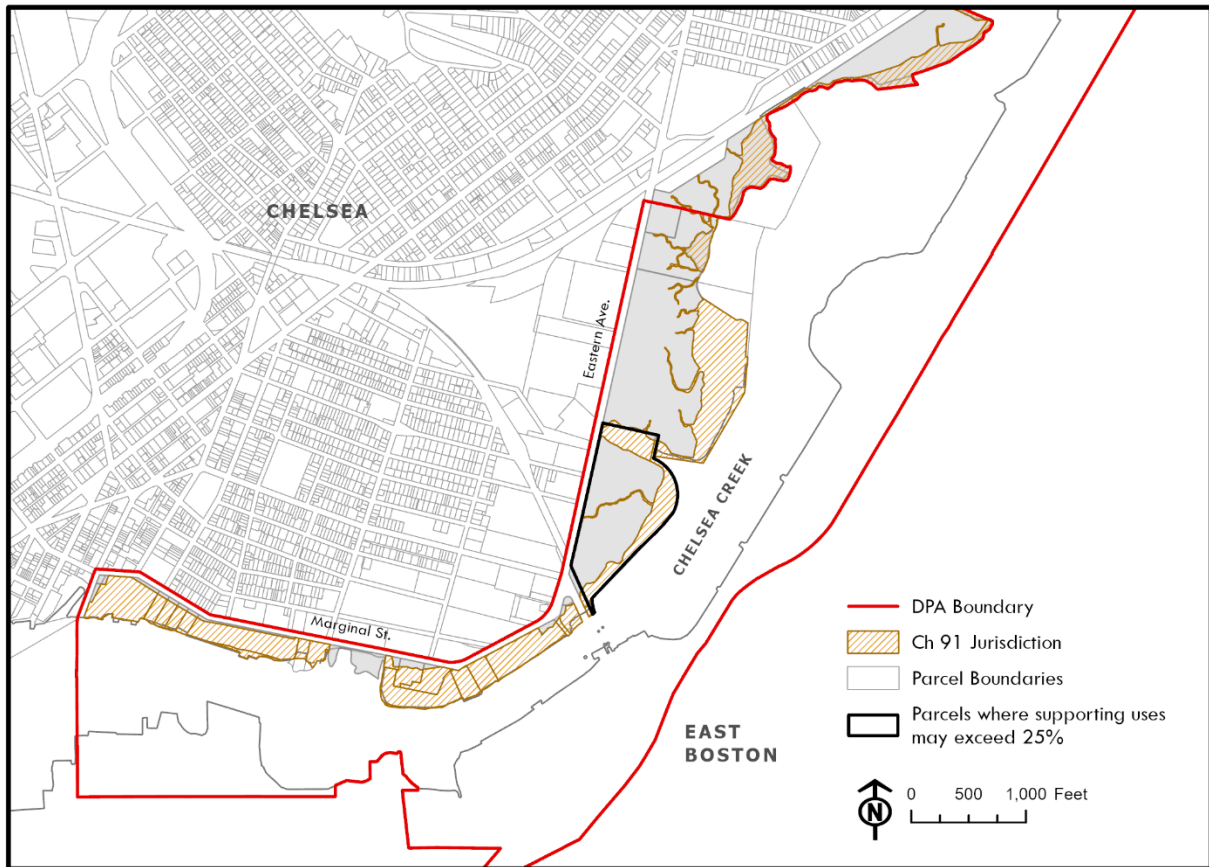


Figure 2. Land subject to Chapter 91 Jurisdiction in Chelsea, MA

II. PLAN CONTENT

The harbor planning area extends along the Chelsea Creek from the Andrew McArdle Bridge upstream to the MBTA commuter rail crossing of the Mill Creek at the municipal boundary with the City of Revere, inclusive of DPA lands and waters within the City of Chelsea's municipal limits. Upland, the harbor planning area is bound by Pearl Street, Marginal Street, Eastern Avenue and the MBTA Railroad right-of-way. The planning area captures a region of cultural, historic, and economic significance, including the first naval engagement and second military confrontation of the American Revolutionary War. Notably, the area supports water-dependent industrial uses that are critical to both the local and regional economy and public safety, including Gulf Oil and Eastern Minerals, and it presents opportunities for future water-dependent industrial growth and new non-water-dependent industrial uses alike.

The overall goal of the Plan is to continue the City's role as a driver of the local and regional economy while simultaneously increasing opportunity for recreation and cultural uses by residents of nearby neighborhoods. Specifically, the Plan identifies policies and strategies designed to 1) create and maintain physical and visual public access within the harbor planning area that promotes recreation, relaxation, engagement with the waterfront, and economic development; 2) develop, support, and maintain public programming that creates economic and cultural opportunities for the community in a way that is compatible with water-dependent industrial uses; 3) encourage uses in the harbor planning area that will create living-wage, local jobs and support the local economy and municipal tax base; 4) ensure that the City's land use regulations effectively promote the policies of this plan and align with the relevant provisions of MGL Chapter 91, the Public Waterfront Act; 5) increase opportunities for users of all modes and all abilities for improved transportation to, from, and through the Chelsea Creek waterfront; 6) ensure that waterfront infrastructure is safe and adequate to accommodate existing and anticipated uses, and ensure that infrastructure improvements address predicted sea level rise and storm surge scenarios based on the best available science; 7) minimize economic, social, and environmental impacts of anthropogenic climate-change-related flooding; 8) encourage waterfront uses in a manner consistent with all state and federal environmental regulations, promote the remediation of contaminated sites, and expand progress in realizing the promise of the Clean Water Act of swimmable and fishable waters; and, 9) provide the City, property owners, developers, and businesses with sufficient flexibility and clarity to successfully redevelop and enhance employment and business opportunities within the Designated Port Area. More specifically with regards to the City's goals for the DPA within the harbor planning area, the Plan, as detailed in Chapter 8 and

supplemental materials, includes a DPA Master Plan that fully endorses water-dependent industrial uses in the DPA and proposes guidance for improving community access to the waterfront in ways compatible with industrial uses. Goals identified in the DPA Master Plan include:

- Goal 1: Maintain and support existing water-dependent industrial uses and encourage new and expanded uses in suitable locations.
- Goal 2: Provide flexibility in permitting and licensing of commercial and industrial Supporting DPA Uses to encourage their siting in areas where they will not introduce incompatibilities in areas of predominantly marine industrial use.
- Goal 3: Encourage and manage, through the City's Zoning Ordinance, the use of DPA land area outside of Chapter 91 jurisdictional land (flowed and filled tidelands) for commercial and industrial development for purposes of expanding the City's economy, tax base, and job opportunities.
- Goal 4: Promote increased public access to Chelsea Creek by:
 - a) Incorporating requirements into the permitting and licensing of all development and redevelopment in the DPA to contribute to increasing or improving public access.
 - b) Designing and locating perpendicular and point access to the waterfront to serve Chelsea neighborhoods. Where appropriate, perpendicular access will be along the public right-of-way or the shorefront and point access will be along property lines.
 - c) Improving publicly owned property to enhance access from City neighborhoods to the waterfront.

As presented, the Plan outlines general planning principles and development goals for properties located in the DPA. Properties located in the DPA shall allow for the development of

- Water-dependent industrial uses and accessory uses thereto on filled tidelands, pile-supported structures, and upland areas.
- Non-water-dependent commercial and industrial uses as Supporting DPA Uses on filled tidelands in an amount not to exceed 25 percent of the area of filled tidelands within the DPA. Allowable Supporting DPA Uses are outlined in Appendix L of the Plan.
- Commercial and industrial uses on portions of properties outside of Chapter 91 jurisdiction within the DPA, sited and designed so as not to conflict with, preempt, or discourage water-dependent industrial activity or public use and enjoyment of the water-dependent use zone where appropriate.

The DPA Master Plan proposes to achieve these goals by promoting, preserving, and ensuring the active use of the waterfront of each property; engaging existing businesses to expand local investments, jobs, and operations and attract new maritime businesses to the DPA; strengthen the economic viability of water-dependent industrial uses through economic and operational support from compatible uses; promote support for and education of water-dependent industrial uses by providing public access to the waterfront when possible and opportunities to engage with these uses. Specific strategies identified include:

- Promoting, preserving, and ensuring the active use of the shorefront of each property. The shorefront shall either be accessible to water-dependent industrial users or to the public by point access points or walkways, as appropriate.
- Working with owners of existing water-dependent industrial businesses to expand investments, jobs, and operations and to attract new maritime uses to the waterfront.
- Encouraging Supporting DPA Uses and related commercial uses that strengthen the economic viability of waterfront property and its ability to maintain important shore-side and water-side infrastructure.
- Providing flexibility in the amount, distribution, and locations of commercial Supporting DPA Uses to encourage reinvestment in waterfront property and in both public and private infrastructure.
- Promoting active public access in specific areas to enable community members improved access to the waterfront in ways that will build community support for and neither limit nor interfere with water-dependent industrial operations.
- Recommending revisions to both the City zoning ordinance and specific substitutions and amplifications pursuant to Chapter 91.
- Establishment of a Waterfront Improvement Fund (“WIF”) to support water-dependent industrial use within the DPA. The WIF will serve as a means by which an allowable commercial or industrial use can provide direct economic support to water-dependent industrial users in order to qualify as a Supporting DPA Use for Chapter 91 licensing purposes.

In the last few years, the City, with financial and technical support from CZM, EEA, and other state agencies, has made important strides to better understand how climate change will affect the City by identifying the potential impacts of climate change on the City, outlining mitigation goals, and

incorporating adaptation opportunities into City planning. The Plan specifically seeks to reduce the vulnerability of the DPA and the upland areas to coastal, riverine, and stormwater flooding and has proposed specific strategies to coordinate and facilitate interventions that will enhance the resilience of the DPA and the City over time.

In the context of these overarching planning goals and principles, the City proposes substitute provisions and offsetting measures. Through the local process, the City developed the Plan including substitute provisions and offsetting mitigation measures in a framework that the City determined to be the most appropriate for the Chelsea waterfront. The Plan seeks a site-specific substitute provision for Chapter 91 standards relating to building height at 111 Eastern Avenue, as well as an alternative site coverage ratio, with offsetting measures, applicable to that site as part of the DPA Master Plan. Additionally, the Plan seeks a planning area-wide substitute provision for Water Dependent Use Zone (WDUZ) and a planning area-wide amplification requiring that shore protection structures are designed to meet future sea level rise conditions for the life of the project.

As a general approach, the Municipal Harbor Plan process is meant to take a broad view that incorporates local goals and objectives for a harbor and translates them into a plan and implementable strategy for a specific region of the harbor in question. Depending on municipal priorities, timing of proposed developments, geographic constraints, and other factors, the process manifests itself in different ways, focusing on different areas and extents for the plans—from an entire harbor to a district or neighborhood and, in some cases, a smaller subset of parcels. The plans also vary in their scopes, sometimes laying out detailed development standards and other times looking to establish general building maximums to allow for flexibility in future developments.

III. STANDARDS FOR APPROVAL

As noted previously, my approval today is bounded by the authority and standards as contained in 301 CMR 23.00 et seq. (Review and Approval of Municipal Harbor Plans) and is applicable only to those elements of the Chapter 91 Waterways regulations that are specifically noted in this Decision. This Decision does not supersede separate regulatory review requirements for any activity. As presented below, my analysis of the City's Plan pursuant to the Chapter 91 regulations differs from that proposed by the City specifically related to the alternative site coverage ratio and the amplification for shore protection structures but remains consistent in the intent and the ultimate outcome to meet the City's goals and objectives.

A. Consistency with CZM Program Policies and Management Principles

The federally-approved CZM Program Plan establishes 20 enforceable program policies and nine management principles which embody coastal policy for the Commonwealth of Massachusetts. The following is a brief summary of the Policies and Management Principles applicable to the Plan:

- Coastal Hazards Policy #3 – Ensure that state and federally funded public works projects proposed for location within the coastal zone will:
 - Not exacerbate existing hazards or damage natural buffers or other natural resources.
 - Be reasonably safe from flood and erosion-related damage.
 - Not promote growth and development in hazard-prone or buffer areas, especially in velocity zones and Areas of Critical Environmental Concern.
 - Not be used on Coastal Barrier Resource Units for new or substantial reconstruction of structures in a manner inconsistent with the Coastal Barrier Resource/Improvement Acts.
- Energy Policy #1 - For coastally dependent energy facilities, assess siting in alternative coastal locations. For non-coastally dependent energy facilities, assess siting in areas outside of the coastal zone. Weigh the environmental and safety impacts of locating proposed energy facilities at alternative sites.
- Growth Management Policy #1 – Encourage sustainable development that is consistent with state, regional, and local plans and supports the quality and character of the community.
- Growth Management Policy #2 - Ensure that state and federally funded infrastructure projects in the coastal zone primarily serve existing developed areas, assigning highest priority to projects that meet the needs of urban and community development centers.
- Growth Management Policy #3 – Encourage the revitalization and enhancement of existing development centers in the coastal zone through technical assistance and financial support for residential, commercial, and industrial development.
- Habitat Policy #1 – Protect coastal, estuarine, and marine habitats—including salt marshes, shellfish beds, submerged aquatic vegetation, dunes, beaches, barrier beaches, banks, salt ponds, eelgrass beds, tidal flats, rocky shores, bays, sounds, and other ocean habitats—and coastal freshwater streams, ponds, and wetlands to preserve critical wildlife habitat and other important functions and services including nutrient and sediment attenuation, wave and storm damage protection, and landform movement and processes.

- Ports and Harbors Policy #1 - Ensure that dredging and disposal of dredged material minimize adverse effects on water quality, physical processes, marine productivity, and public health and take full advantage of opportunities for beneficial re-use.
- Ports and Harbors Policy #2 - Obtain the widest possible public benefit from channel dredging and ensure that Designated Port Areas and developed harbors are given highest priority in the allocation of resources.
- Ports and Harbors Policy #3 – Preserve and enhance the capacity of Designated Port Areas to accommodate water-dependent industrial uses and prevent the exclusion of such uses from tidelands and any other DPA lands over which an EEA agency exerts control by virtue of ownership or other legal authority.
- Ports and Harbors Policy #4 – For development on tidelands and other coastal waterways, preserve and enhance the immediate waterfront for vessel-related activities that require sufficient space and suitable facilities along the water’s edge for operational purposes.
- Ports and Harbors Policy #5 – Encourage, through technical and financial assistance, expansion of water-dependent uses in designated ports and developed harbors, redevelopment of urban waterfronts, and expansion of visual access.
- Public Access Policy #1 – Ensure that development (both water-dependent or nonwater-dependent) of coastal sites subject to state waterways regulation will promote general public use and enjoyment of the water’s edge, to an extent commensurate with the Commonwealth’s interests in flowed and filled tidelands under the Public Trust Doctrine.
- Public Access Policy #2 – Improve public access to existing coastal recreation facilities and alleviate auto traffic and parking problems through improvements in public transportation and trail links (land- or water-based) to other nearby facilities. Increase capacity of existing recreation areas by facilitating multiple use and by improving management, maintenance, and public support facilities. Ensure that the adverse impacts of developments proposed near existing public access and recreation sites are minimized.
- Public Access Policy #3 – Expand existing recreation facilities and acquire and develop new public areas for coastal recreational activities, giving highest priority to regions of high need or limited site availability. Provide technical assistance to developers of both public and private recreation facilities and sites that increase public access to the shoreline to ensure that both transportation access and the recreation facilities are compatible with social and environmental characteristics of surrounding communities.

- Water Quality Policy #1 - Ensure that point-source discharges and withdrawals in or affecting the coastal zone do not compromise water quality standards and protect designated uses and other interests.

The Plan includes an assessment of how it is consistent with CZM Program Policies and Management Principles, and based on CZM's review, I conclude that it meets the intent of each relevant policy and, as required by 301 CMR 23.05(1), I find the Plan consistent with CZM policies.

B. Consistency with Tidelands Policy Objectives

As required by 301 CMR 23.05(2), I must also find that the Plan is consistent with state tidelands policy objectives and associated regulatory principles set forth in the Waterways regulations of DEP (310 CMR 9.00). As promulgated, the Waterways regulations provide a uniform statewide framework for regulating tidelands projects. MHPs and associated amendments provide cities and towns with an opportunity to propose modifications to these uniform standards through either the amplification of the discretionary requirements of the Waterways regulations and/or the adoption of provisions that, if approved, are intended to substitute for the minimum use limitations or numerical standards of 310 CMR 9.00 by DEP. The substitute provisions of MHPs can reflect local planning goals in decisions involving the complex balancing of public rights in and private uses of tidelands, and in effect, serve as the basis for a DEP waiver of specific use limitations and numerical standards affecting nonwater-dependent use projects, provided that other requirements are in place to mitigate, compensate, or otherwise offset adverse effects on water-related public interests.

The Plan contains guidance that will have a direct bearing on DEP licensing decisions within the harbor planning area. Included in this guidance are provisions that are intended to substitute for certain minimum use limitations and numerical standards in the regulations, each of which is subject to the approval criteria under 301 CMR 23.05(2), as explained below. It is anticipated, however, that DEP will review any specific project proposals submitted for licensure in accordance with all applicable regulations and standards, consistent with its Chapter 91 authority.

C. Evaluation of Requested Substitute Provisions

The general framework for evaluating all proposed substitute provisions to the Waterways requirements is established in the MHP regulations at 301 CMR 23.05(2)(c) and 301 CMR 23.05(2)(d). The regulations, in effect, set forth a two-part standard that must be applied individually to each

proposed substitution in order to ensure that the intent of the Waterways requirements with respect to public rights in tidelands is preserved.

First, in accordance with 301 CMR 23.05(2)(c), the Secretary must determine that the requested alternative requirement or limitation ensures that certain conditions have been met. These conditions differ based on the specific type of minimum use limitation or numerical standard proposed. The second standard, as specified in 301 CMR 23.05(2)(d), requires that the municipality demonstrate that a proposed substitute provision will promote, with comparable or greater effectiveness, the appropriate state tidelands policy objectives. For substitute provisions relative to the minimum use and numerical standards of 310 CMR 9.51(3)(a)–(e), the appropriate state tidelands policy objective requires that nonwater-dependent uses do not unreasonably diminish the capacity of tidelands to accommodate water-dependent uses. A municipality may propose alternative use limitations or numerical standards that are less restrictive than the Waterways requirements as applied in individual cases, provided that the plan includes other requirements that, considering the balance of effects on an area-wide basis, will mitigate, compensate for, or otherwise offset adverse effects on tidelands-related public interests.

Table 1 at the end of this section contains a summary of the substitute provisions and offsetting measures contained in the supplemental information filing, as subject to and modified by this Decision.

Building Height (310 CMR 9.51(3)(e)) – 111 Eastern Avenue

To approve any substitute provision to the height standard at 310 CMR 9.51(3)(e), I must first determine that the Plan specifies alternative height limits and other requirements that ensure that, in general, new or expanded buildings for nonwater-dependent use will be relatively modest in size, in order that wind, shadow, and other conditions of the ground-level environment will be conducive to water-dependent activity and public access associated therewith, as appropriate for the harbor planning area. The approval regulations focus on how a building's mass will be experienced at the pedestrian level and on public open spaces on the project site, especially along the waterfront and key pathways leading to the structure. Within this context, I must apply the “comparable or greater effectiveness” test to determine whether the proposed substitution and offsetting measure will meet the above objective. My determination relative to whether or not these provisions promote this tideland policy with comparable or greater effectiveness was conducted in accordance with the Municipal Harbor Plan regulatory guidance discussed in detail below.

Under the Waterways regulations, heights shall not exceed 55 feet (ft) within 100 ft of the shoreline, stepping up one foot for every two feet landward of the project shoreline. The Plan proposes a substitution of the Waterways requirements at 310 CMR 9.51(3)(e) that would allow non-water dependent buildings up to a uniform maximum building height of 80 ft on 111 Eastern Avenue within Chapter 91 jurisdiction. In the Plan, the City notes this proposed maximum building height is consistent with the City of Chelsea Port District zoning.

At 111 Eastern Avenue, the baseline Waterways regulations would permit a building ranging in height from 55 ft in height along the Chelsea Creek to 255 ft adjacent to Eastern Avenue. Alternatively, as proposed, the substitute provision for height would limit building height to a maximum of 80 ft across the site. Although this substitute provision may result in an increase in height along Chelsea Creek, the maximum allowable building height would be 175 ft less. Depending on specific build out scenarios, this reduction in maximum height will likely result in a reduction of total massing on the site, as compared with the massing of a building meeting the allowable heights under baseline Chapter 91 standards. Within the supplemental information, the City proposed a conceptual design utilizing the height substitution and calculated that the differential impact of the substitution on building massing may result in an allowable building mass reduction of approximately 40%. This or similar reduction in massing on the site will likely result in less wind, shadow, and light impacts and ensure the ground level environment is more conducive to water-dependent uses, activity, and public access. Further, a reduction in massing of non-water-dependent industrial uses on 111 Eastern Avenue may also reduce potential indirect adverse impacts to water-dependent industrial uses on the parcel, within the DPA waterway, and the DPA as a whole by restricting the magnitude of potential users and uses on the site. Taking into account the potential build-out scenarios on 111 Eastern Avenue, an 80 ft maximum building height is appropriate. For these reasons, I find the proposed height to be relatively and modest in size, as appropriate for the Chelsea waterfront.

Shadow studies are conducted to measure changes to the ground level conditions as a result of a proposed structure. Shadow impacts caused by increased building height, affecting the ground level environment, are mitigated with appropriate offsetting measures. Shadow studies (Appendix M in the supplemental information to the Plan), were conducted to assess how the shadow impacts of an 80 ft high structure on the northernmost portion of 111 Eastern Avenue would compare to the shadow cast by a structure consistent with baseline Chapter 91 standards in the same location. The shadow study was based on the solar orientation on October 23rd when open space is still actively used, and shadows are larger due to the position of the sun. The shadow study included in the Plan

for 111 Eastern Avenue indicates a net new shadow of 265 square feet (sf) of which 265 sf falls onto abutting land, 123 Eastern Ave, where Gulf Oil has a tank farm. While the shadow study showed an increase in net new shadow, the duration of the new shadow is largely limited to one or less hours, the amount of new shadow is relatively small, and new shadow impacts would not foreseeably negatively affect the operation of the adjacent water-dependent industrial use, the Gulf Oil tank farm.

In the Plan, the City proposed a combination of measures to collectively offset impacts from a maximum building height of 80 ft on 111 Eastern Avenue. Any applicant for a Chapter 91 license on 111 Eastern Avenue will be required to provide a shadow study, a pedestrian level wind impact analysis, and an evaluation of other conditions of the ground-level environment that may affect water-dependent industrial users as deemed appropriate by DEP to facilitate their determination of whether additional offsetting measures are required for a project during the licensing process. If DEP determines additional offsetting measures are required, these will be prescribed as part of the licensing process.

In reviewing the Plan and the supplemental information submitted during the consultation period, I find that while the proposed building height is greater than what would be allowed under the baseline Waterways requirements on the project site, the proposed offset adequately compensates for the proposed increase in height. Further the proposed offset also allows for additional offsetting measures to be required as determined by DEP through licensing. Additionally, as required by 310 CMR 9.36(5)(b)(1), any proposed structure for 111 Eastern must be able to be converted to water-dependent-industrial use with relative ease, if needed. Therefore, I approve this substitute provision and the corresponding offset measure subject to the conditions contained in the Statement of Approval below.

Water-Dependent Use Zone (310 CMR 9.51(3)(c))

To approve any substitute provision to the standard for Water-Dependent Use Zone (WDUZ) at 310 CMR 9.51(3)(c), I must first determine that the Plan specifies requirements that ensure new or expanded buildings for nonwater-dependent use are not constructed immediately adjacent to a project shoreline, in order that sufficient space along the water's edge will be devoted exclusively to water-dependent use and public access associated therewith as appropriate for the area. Second, within the context of the Plan, the City must demonstrate that the substitute provision will meet this objective with comparable or greater effectiveness. My determination relative to whether or not the proposed substitute provisions for the WDUZ promote this tideland policy with comparable or greater

effectiveness is conducted in accordance with the Municipal Harbor Plan regulatory guidance discussed in detail below.

The Plan proposes to allow a reconfiguration of a site's WDUZ provided that the reconfiguration maintains 25 feet in width along the entirety of the project shoreline and that the entirety of the WDUZ is adjacent to the project shoreline and within Chapter 91 jurisdiction. The Plan also indicates that under no circumstances will there be a net loss of WDUZ area as a result of reconfiguration. Any proposed use that seeks a reconfigured WDUZ must achieve a greater effectiveness in the use of the water's edge for water-dependent industrial use if within the DPA or water-dependent use outside of the DPA.

As an offsetting measure, the City is proposing that this substitution provision will be applied only to those project sites where the resultant reconfiguration achieves greater effectiveness in the use of the water's edge for water-dependent industrial use. Additionally, the reconfigured WDUZ must be adjacent to the waterfront and within Chapter 91 jurisdiction. In no case will a reconfigured WDUZ result in an area separated from the waterfront or in a net loss of WDUZ. Any reconfigured area of WDUZ shall be added on-site in Chapter 91 jurisdiction in an area of greater utility and value to water-dependent industrial uses.

While the Plan included a minimum WDUZ width of 25 feet wide and a stipulation that under no circumstances will there be a net loss of the WDUZ as a result of the reconfiguration, and the reconfigured WDUZ must achieve a greater effectiveness in use of the water's edge for water-dependent industrial use, including but not limited to, access and turnaround areas for trucks and water-dependent industrial users, as a condition of my approval, projects proposed for modification of the WDUZ under this provision shall be subject to the review and approval of DEP in meeting these offsetting measures, prior to the issuance of a Chapter 91 license.

As a result of my review, and with the referenced condition included in this Decision, I find that the proposed substitute provision has been sufficiently articulated and offset by limitations that achieve greater effectiveness of water-dependent use and ensure no net loss of WDUZ, so that the proposed substitute provision promotes the state's tidelands policy objective for guaranteeing that sufficient space along the water's edge will be devoted exclusively to water dependent industrial use as appropriate for Chelsea Creek. Therefore, I approve this substitute provision and the corresponding offset measure subject to the conditions contained in the Statement of Approval below.

Table 1. Summary of Substitute Provisions

Regulatory Provision	Chapter 91 Standard	Approved Substitution	Approved Offsetting Measure(s)
HEIGHT LIMITS: 310 CMR 9.51(3)(e)	New or expanded buildings for non-water- dependent use shall not exceed 55 feet in height if located over the water or within 100 feet of the high-water mark; for every foot beyond 100 feet from the shoreline, the height of the building can increase by 0.5 feet.	Applicable to 111 Eastern Avenue: Allow new or expanded buildings for nonwater-dependent use to be built to 80 ft in height within 100 feet of the shoreline.	The maximum height of any proposed structure on the project site shall be limited to 80 feet and result in decreased massing from what is allowed under the regulation. DEP will evaluate the need for additional offsetting measures during licensing.
WATER DEPENDENT USE ZONE: 310 CMR 9.51(3)(c)	New or expanded buildings for nonwater-dependent use, and parking facilities at or above grade for any use, shall not be located within a water-dependent use zone; except as provided below, the width of said zone shall be determined as follows: <ol style="list-style-type: none">1. along portions of a project shoreline other than the edges of piers and wharves, the zone extends for the lesser of 100 feet or 25% of the weighted average distance from the present high water mark to the landward lot line of the property, but no less than 25 feet; and2. along the ends of piers and wharves, the zone extends for the lesser of 100 feet or 25% of the distance from the edges in question to the base of the pier or wharf, but no less than 25 feet; and3. along all sides of piers and wharves, the zone extends for the lesser of 50 feet or 15% of the distance from the edges in question to the edges immediately opposite, but no less than ten feet.	Applicable planning area wide: The required WDUZ dimensions may be modified on any project site within the planning area as long as a minimum width of 25 feet is maintained along the project shoreline and as long as the modification results in no net loss of WDUZ area within Chapter 91 jurisdiction.	The reconfigured WDUZ shall result in no net loss of total WDUZ area and must be adjacent to the waterfront and within Chapter 91 jurisdiction and achieve a greater effectiveness in the use of the water's edge for water-dependent industrial use if within the DPA or water-dependent use outside of the DPA. This substitution does not alter the calculation for WDUZ on piers and wharfs.

D. Evaluation of Proposed Amplification Provision

The review and approval of MHP regulations at 301 CMR 23.05(2)(b) require a finding that any provision that amplifies a discretionary requirement of the Waterways regulations will complement the effect of the regulatory principle(s) underlying that requirement. Upon such a finding and approval of the MHP, DEP is committed to “adhere to the greatest reasonable extent” to the applicable guidance, pursuant to 310 CMR 9.34(2)(b)2. The Plan contains one proposed amplification. My determination of the relationship of these proposed local amplification provisions to Chapter 91 standards in accordance with the MHP regulatory guidance is discussed below. A summary of the proposed amplification provision for the 2022 Plan is provided below in Table 2.

Shore Protection Structures: (310 CMR 9.37(2)(b)(2) and (3))

The regulation at 310 CMR 9.37(2)(b)(2) states, “In the case of a project within a flood zone, the project shall comply with the following requirements...incorporate projected sea level rise during the design life of the buildings; at a minimum, such projections shall be based on historical rates of increase in sea level in New England coastal areas.” The regulation at 310 CMR 9.37(3) states the requirements any coastal or shoreline engineering structures must comply with under Chapter 91. The Plan proposes to amplify these provisions by requiring that any applicant for a Chapter 91 license shall submit documentation to DEP that any proposed coastal or shoreline engineering structures are designed to accommodate future sea level rise for the design life of any structures on the project site in accordance with the City’s standards, and shall not be configured or designed in a manner that could negatively affect the capacity of the DPA to support other water-dependent industrial uses.

Topics associated with climate change, resiliency, and sea level rise were identified as significant issues during the MHP planning process. With approximately 60 percent of the City’s municipal boundary bordering tidally-influenced waterways and associated low-lying areas, Chelsea is particularly vulnerable to coastal flooding. To address these issues the City has pursued various initiatives to begin planning for climate change including, but not limited to: the 2016 Climate Change Vulnerability Assessment with funding through CZM’s Coastal Resilience Grant Program and EEA’s Municipal Vulnerability Preparedness (MVP) planning process, the Resilient Mystic Collaborative, and the Metro Mayors Climate Preparedness Task Force. The City continues to partner with neighboring communities and seek funding to implement adaptation projects to address the known climate vulnerabilities and risks.

The proposed amplification will capitalize on the significant climate vulnerability assessment and adaptation efforts already completed and currently underway by the City, as described above, and would complement the Commonwealth's actions to promote climate and flood resiliency in vulnerable coastal locations. The proposed amplification will also support implementation of the City's goal of minimizing economic, social, and environmental impacts of climate-change-related flooding and encourage site and infrastructure improvements that mitigate and adapt to projected flooding and sea-level rise. This amplification will directly support DPA uses by reducing future flooding of vital truck routes and water-dependent industrial uses.

I find that the proposed amplification complements the underlying principle of the applicable Waterways regulations within the context of Plan goals. Given the focus the City has placed on assessing vulnerabilities to current and future sea levels and coastal storms and the importance of incorporating future climate conditions into planning initiatives, I approve the amplification as proposed and expand its applicability to the entire planning area including lands both within the DPA and outside the DPA.

Table 2. Summary of Amplification

Regulatory Provision	Chapter 91 Standard	Approved Amplification
COASTAL OR SHORELINE ENGINEERING STRUCTURES: 310 CMR 9.37(2)(b)(2) and (3)	<p>9.37(2)(b)(2) incorporate projected sea level rise during the design life of the buildings; at a minimum, such projections shall be based on historical rates of increase in sea level in New England coastal areas.</p> <p>9.37(3) Projects with coastal or shoreline engineering structures shall comply with several requirements relating to location, design, size, function, materials, impact on water and sediment flow, preference for non-structural alternatives where feasible, compatibility with abutting coastal or shoreline engineering structures, and minimizing adverse effects on the project site or adjacent or downcoast and downstream areas after construction of any coastal or shoreline engineering structure.</p>	<p>Applicable planning area wide:</p> <p>Coastal or shoreline engineering structures shall be designed to accommodate future sea level rise for the life of the structures on site and shall not negatively affect the capacity of the DPA to support water-dependent industrial uses.</p>

E. Public Access

One of the goals of the Plan is to promote increased public access to Chelsea Creek where appropriate and while avoiding conflicts with the water-dependent industrial uses of the DPA. This priority was also highlighted by Chelsea residents and stakeholder groups during public outreach for the Plan and within comments received. While the Plan does not propose substitutions or amplifications targeted at public access specifically, the City has identified several sites within the planning area for potential public access to the waterfront. The City also identifies opportunities to work with private property owners to support public access where possible. And beyond the scope of the Plan, the City has committed to supporting the community priority by adopting a Complete Streets Policy and is proposing several near-term activities to improve public access and better accommodate pedestrian, bike, and auto traffic. I encourage the City to coordinate with property owners and DEP on assessing and evaluating public access to the waterfront wherever it is safe and feasible under the regulations to promote access to the waterfront in a manner that does not impact existing or potential future water-dependent industrial uses and connects into the existing and proposed public access network beyond the geographic scope of the Plan.

F. Evaluation of DPA Master Plan

Because the Plan is intended to serve, in part, as a master plan for the DPA, the approval criteria at 301 CMR 23.05(2)(e) require a finding that the Plan preserves and enhances the capacity of the DPA to accommodate water-dependent industrial use and prevents substantial exclusion of such use by any other use eligible for licensing in the DPA pursuant to 310 CMR 9.32. Specifically, the Plan must:

1. ensure that extensive amounts of the total DPA area are reserved for water-dependent industrial uses and that commercial uses and associated accessory uses will not, as a general rule, occupy more than 25 percent of the total DPA land area;
2. set forth reasonable limits on commercial uses that would significantly discourage present or future water-dependent industrial uses and ensure that commercial uses mix compatibly and will not alter the predominantly maritime industrial character of the DPA;
3. identify industrial and commercial uses allowable under local zoning that will qualify as a supporting DPA use;
4. identify strategies for the ongoing promotion of water-dependent industrial use; and

5. satisfy additional criteria if proposing new recreational boating facilities with nine or fewer slips (not applicable to this Plan).

The portions of the planning area within the Chelsea Creek DPA consist of the entire watershed within the City's jurisdiction on Chelsea Creek, including flowed tidelands, and most of the adjacent land area and piers from the Andrew McArdle Bridge upstream to the MBTA rail crossing of Mill Creek. The DPA includes a salt terminal, distribution, and storage facility; oil transport and storage operation facilities; surface parking associated with rental car storage and airport pre-flight parking; assorted office and warehouse space with light industrial uses; the MBTA right-of-way; an abandoned railroad right-of-way which is owned by the Massachusetts Department of Transportation (MassDOT), and two vacant lots (south of the Chelsea Street Bridge) owned by the Commonwealth.

The DPA Master Plan endorses water-dependent industrial uses on an extensive amount of the DPA land area in close proximity to the water, provides guidance for improving community access to the waterfront in ways that may be compatible with maritime industrial uses, and presents a strategy for accommodating commercial and industrial Supporting DPA Uses and related adjacent development in ways that will protect and maximize the waterfront's economic development potential and job creation.

The proposed DPA Master Plan contains an alternative site coverage ratio for 111 Eastern Avenue, along with offsetting requirements. This alternative site coverage ratio and offsets have implications for DEP implementation of the Waterways regulations for projects proposing Supporting DPA Uses at this site and for the consistency of the DPA Master Plan with 301 CMR 23.05(2)(d)(1), requiring that, in general, not more than 25 percent of land area covered by a DPA master plan may be used for commercial or accessory uses.

Under the Waterways regulations, a Supporting DPA Use shall not occupy more than 25 percent of a Project Site excluding tidelands seaward of a project shoreline, unless otherwise provided for in a DPA Master Plan. Pursuant to 310 CMR 9.32(1)(b)(5), a DPA Master Plan may specify an alternative site coverage ratio for filled tidelands of a project site in a DPA. DEP will waive the 25 percent supporting use limit for a project that conforms to a DPA Master Plan with an alternative site coverage ratio, as long as the DPA Master Plan ensures that: a) said Supporting Uses are relatively condensed in footprint and compatible with existing water-dependent industrial uses on said pier; b) said Supporting Uses locations shall preserve and maintain the site's utility for existing and prospective water-dependent industrial uses; c) parking associated with a Supporting Use is limited to the footprint of existing licensed fill and is not located within a Water-dependent Use Zone (WDUZ); and d) the

use of tidelands for this purposes in a DPA shall also be governed by the provisions of 310 CMR 9.15(1)(d)1 and 310 CMR 9.36(5).

The City's DPA Master Plan contains an alternative site coverage ratio, such that projects conforming to the DPA Master Plan may qualify for a waiver of the numerical standard for supporting uses if the DPA Master Plan satisfies the four requirements set out at 310 CMR 9.32(1)(B)(5)a-d. DEP will determine whether a DPA Master Plan satisfies these requirements for waiver of the numerical standard. However, my decision to approve the DPA Master Plan includes consideration of these requirements in the context of my required finding under 301 CMR 23.05(2)(e)(1) that supporting uses will not, as a general rule, occupy more than 25 percent of the total DPA land area covered by the Master Plan.

As part of the City's DPA Master Plan, the City proposes to allow up to 35 percent of the filled tidelands outside of the WDUZ on 111 Eastern Avenue to be used for Supporting DPA Uses. As the City notes, these Supporting Uses can be non-water-dependent industrial or commercial uses that are not precluded by state regulations and also are permitted by the City's zoning code. In the supplemental information, the City included a list of potentially allowable Supporting DPA Uses in the planning area (Appendix L in the Plan). Additionally, any Supporting Uses on this site must meet the definition of Supporting DPA Use at 310 CMR 9.02 and must comply with the requirements at 310 CMR 9.32(b)(5)a-d and all other relevant provisions at 310 CMR 9.00.

Any Supporting DPA Uses at 111 Eastern Avenue must be relatively condensed in footprint and compatible with the existing water-dependent industrial uses on the project site. The location of any Supporting Uses shall preserve and maintain the site's utility for existing and prospective water-dependent industrial users. Additionally, any parking associated with a Supporting DPA Use must be limited to existing licensed fill. Neither the Supporting DPA Use, nor any parking associated with it may be located within the WDUZ. As the City proposes, none of the Supporting DPA Uses on 111 Eastern Avenue may be located in the WDUZ.

As an offsetting measure, for any area of a Supporting DPA use in excess of 25 percent of the project site within Chapter 91 jurisdiction on 111 Eastern Avenue, the Supporting DPA Use must provide direct operational or economic support to an extent that compensates for the reduced amount of tidelands on the project site that will be available for water-dependent industrial use during the term of the license not only adequately, but to a greater extent, operationally or at a premium rate economically, to be determined during the Chapter 91 licensing process. The operational or economic support shall directly support water-dependent industrial uses on the site or elsewhere in the DPA.

Economic contribution amounts will be determined by DEP during the Chapter 91 licensing process; will compensate for the area no longer available for water dependent industrial uses; and will take into account the specific proposed Supporting DPA use, potential impact to water-dependent industrial uses on the site or in the DPA generally, the current economic and operational needs of water-dependent industrial uses on 111 Eastern Avenue, adjacent sites, and within the Chelsea Creek DPA, and other factors as determined by DEP with input received by public comment through the Chapter 91 licensing process. Additionally, the City will establish a Waterfront Improvement Fund (WIF) to receive direct Supporting DPA Use economic support payments. The WIF will be a segregated account held by the City and used exclusively to fund projects that directly support water-dependent industrial use within the DPA. Projects eligible for contribution to the WIF will be determined in consultation with DEP and may be prescribed as a condition through the Chapter 91 licensing process. As a condition of my approval, the City shall develop a list of potential projects to be supported by the WIF. The list shall be developed with input from stakeholders, the City, DEP, CZM and the water dependent industry in the DPA.

The proposed alternative site coverage ratio allowing for an increase in Supporting DPA Use is only applicable to 111 Eastern Avenue. All Supporting Uses within a DPA, including those on 111 Eastern Avenue, must conform to a DPA Master Plan meeting the requirements of 301 CMR 23.05(2)(e)(1), which require that commercial uses and any accessory uses thereto will not, as a general rule, occupy more than 25 percent of the total DPA land area covered by the DPA Master Plan. Based on an analysis by the City in the supplemental information filing, it appears commercial and accessory uses will not occupy more than 25 percent of the total DPA land area. To ensure continued conformance with 301 CMR 23.05(2)(e)(1), the director of the City of Chelsea Housing and Community Development Department shall maintain an accounting of the locations and areas of Supporting DPA uses permitted and licensed within the DPA Master Plan planning area, provide this information upon request by DEP or other entity, and shall provide this information to an applicant for submittal to DEP in connection with the filing of a Chapter 91 license application involving Supporting Uses in the DPA.

As a result of my review, and with the conditions noted herein, I find that the requested alternative site coverage ratio as articulated and reviewed with the proposed offset does ensure that commercial uses and any accessory uses thereto will not, as a general rule, occupy more than 25 percent of the total DPA land area covered by the Master Plan. Therefore, I approve this alternative site

coverage ratio for 111 Eastern Avenue and the corresponding offset measure subject to the conditions contained in Table 3 and the Statement of Approval below.

The DPA Master Plan ensures that the needs of water-dependent industrial uses and facilities will be accommodated and encouraged through the implementation of a variety of mechanisms. As the Plan envisions a mixed-use waterfront, the DPA Master Plan includes provisions to prevent conflicts between the water-dependent industrial users of the DPA and adjacent uses/users. To address this, the City has implemented changes to local zoning to align the zoning code more closely with the Plan and Chapter 91 substitutions. Further, allowable DPA uses are identified as supporting uses in the supplemental information filing (Appendix L of the Plan). The Plan proposes that up to 35 percent of filled tideland may be allowed for Supporting DPA uses outside of the WDUZ at 111 Eastern Avenue, subject to an offsetting measure requiring that any area of Supporting DPA use in excess of 25 percent of the project site within Chapter 91 jurisdiction shall provide direct operational or economic support to the extent that compensates for the reduced amount of tidelands on the project site that will be available for water-dependent industrial use during the term of the license. Operational support is preferred but economic support is allowable at a premium rate to be determined during the Chapter 91 licensing process. Economic support payments may be made to the WIF to directly support water-dependent industrial uses on 111 Eastern Avenue or elsewhere in the DPA. Through these provisions, the Plan meets the standard to ensure the needs of water-dependent industrial uses and facilities will be accommodated in the DPA.

The DPA Master Plan approval standards (301 CMR 23.05(2)(e)(1)) require that the plan shall ensure that an extensive amount of the total DPA land area in close proximity to the water will be reserved for water-dependent industrial uses and, that commercial uses and any accessory uses thereto will not, as a general rule, occupy more than 25 percent of the total DPA land area covered by the Master Plan. To meet this objective and to ensure that supporting commercial uses and any accessory uses thereto will not, in the aggregate, occupy more than 25 percent of the total DPA land area covered by the Master Plan, the Plan proposes that the director of the City's Housing and Community Development Department shall maintain an accounting of the locations and areas of supporting commercial uses permitted and licensed within the Chelsea Creek DPA Master Plan planning area and shall provide this information to an applicant for submittal to DEP in connection with the filing of any Chapter 91 license application involving Supporting Uses in the DPA.

The DPA Master Plan must ensure that an extensive amount of the total DPA land area covered by the Master Plan is occupied by and/or reserved for water-dependent industrial uses. Water-

dependent industrial uses are defined in the state's Waterways Regulations (310 CMR 9.12(2)(b)). Generally, these are industrial uses that require direct access to or location in tidal waters and therefore cannot be located away from such waters, such as marine terminals, storage for materials and goods transported in waterborne commerce, commercial passenger vessel operations, commercial fishing, boatyards, facilities for vessels engaged in ports operations, etc. Included as water-dependent industrial uses are accessory uses, i.e., those uses that are customarily associated with, integral in function to, commensurate in scale with the water-dependent industrial use, operate at similar hours, and do not require significant additional investment in infrastructure (see 310 CMR 9.12(3)(a) and (b)). The DPA Master Plan confirms these allowable DPA uses and ensures capacity for their development within the DPA. The Plan and supplemental information filing indicate that any industrial or commercial uses, other than those posing a conflict with port operations, are eligible for licensing as Supporting DPA Uses. Further, the Plan provides a list of allowable Supporting DPA Uses in the DPA (Appendix L in the Plan). Further, in order to ensure that no more than 25 percent of the DPA Master Plan area is occupied by supporting uses, 75 percent must be used or reserved for water-dependent industrial uses, or industrial Supporting DPA uses. As part of implementation of the Plan the City in coordination with DEP will track and ensure that no more than 25 percent of the total DPA land area in mass is used for Supporting DPA uses. Based on the information provided, the Plan complies with the DPA Master Plan approval standards which require an “extensive amount of the total DPA land area in close proximity to the water will be reserved for water-dependent industrial uses”.

Based on the information provided in the Plan and supplemental filing as discussed above and subject to the conditions referenced in the Statement of Approval section, I find that the DPA Master Plan components of the Plan are consistent with the requirements of 301 CMR 23.05(2)(e).

Table 3. Summary of Alternative Site Coverage Ratio and Offsets

Regulatory Provision	Chapter 91 Standard	Alternative Site Coverage Ratio	Offsetting Measure(s)
SUPPORTING DPA USES: 310 CMR 9.32(1)(b)5	<p>The Department shall waive the numerical standard for Supporting DPA Uses as defined at 310 CMR 9.02, if the project conforms to a DPA Master Plan or Marine Industrial Park Master Plan which specifies alternative site coverage ratios and other requirements which ensure that:</p> <ol style="list-style-type: none"> 1. said Supporting Uses are relatively condensed in footprint and compatible with existing water-dependent industrial uses on said pier; 2. said Supporting Use locations shall preserve and maintain the site's utility for existing and prospective water-dependent industrial uses; 3. parking associated with a Supporting Use is limited to the footprint of existing licensed fill and is not located within a Water-dependent Use Zone; and 4. The use of tidelands for this purpose in a DPA shall be governed by the provisions of 310 CMR 9.15(1)(d)1 and 310 CMR 9.36(5). 	<p>Applicable to 111 Eastern Avenue:</p> <p>Supporting DPA Uses may occupy up to 35% of filled tidelands outside of the water-dependent use zone.</p>	<p>For any area of Supporting DPA Use in excess of 25% of the project site within Chapter 91 jurisdiction, direct operational or economic support shall be provided to an extent that adequately compensates for the reduced amount of tidelands on the project site available for water-dependent industrial use during the term of the license.</p> <p>Offset in the capacity of operational support shall be preferred.</p> <p>If employed, economic support shall be calculated at a premium rate, to be determined during the Chapter 91 licensing process.</p> <p>Economic support payments may be made to the Waterfront Improvement Fund to provide direct support to Water-dependent Industrial Use in the DPA.</p>

G. Relationship To State Agency Interests

The Municipal Harbor Planning regulations (301 CMR 23.05(3)) require that the Plan include all feasible measures to achieve compatibility with the plans or planned activities of all state agencies owning real property or otherwise responsible for the implementation or development of plans or projects within the harbor planning area. I encourage the City to continue working with state agencies on current and future plans and projects within or affecting the harbor planning area.

The Chelsea Street Bridge is a vertical-lift bridge built in 2012. The bridge connects Chelsea and East Boston and serves as a major gateway to the Chelsea waterfront. MassDOT began the Chelsea Street Bridge Advanced Notification Project in 2021. The project involves communications upgrades to the Chelsea Street Bridge including implementing an advanced notification system for bridge users. This advanced notification system is comprised of overhead signage, electrical infrastructure, and communication systems. The City and MassDOT should continue coordination throughout the Chelsea Street Bridge Advanced Notification Project.

Although outside the planning area, MassDOT is also in the process of conducting a study to assess the potential uses of the MassDOT and MBTA rail parcels between Route 1A and Chelsea Creek, and evaluating the Route 1A corridor between Bell Circle in Revere and Day Square in East Boston. The Route 1A Corridor Study will identify opportunities to improve connections for people walking, biking and taking transit. The study also seeks to address safety issues and potential impacts of climate change. Although it will not directly impact the proposed planning area, it is important for the City to continue coordinating with MassDOT throughout the Route 1A Corridor Study to encourage robust public outreach and participation.

The Plan discusses the commercial and industrial nature of Chelsea Creek and the desire for future dredging to promote navigational access. The U.S Army Corps of Engineers last dredged Chelsea Creek in 2012 and dredging work in the Chelsea Creek Channel was proposed as part of the larger 2018 Boston Harbor Improvement Project. However, the dredging work for Chelsea Creek was not scheduled or funded as part of this project, which concluded since the submittal of the proposed MHP. Future dredging will support water-dependent industry along both sides of the Chelsea Creek.

The Plan discussed the MBTA Silver Line and Gateway Project within the context of local and regional modes of transportation relevant to the harbor planning area. The new Chelsea Commuter Rail Station opened in November 2021, subsequent to the filing of the Plan and supplemental information filing, and work, including closing and decommissioning the old station, was completed in December 2021 at a total project cost of \$37.7M. The City should continue working with the MBTA to resolve outstanding issues regarding traffic and safe accommodation of pedestrians and bicyclists.

H. Implementation Strategies

Pursuant to 301 CMR 23.05(4), the Plan must include enforceable implementation commitments to ensure that, among other things, all measures will be taken in a timely and

coordinated manner to offset the effect of any plan requirement less restrictive than that contained in 310 CMR 9.00. The provisions of this Plan will be implemented through a combination of regulatory and environmental review provisions, through fiduciary mechanisms, and through additional stakeholder processes.

DEP's Chapter 91 licensing process under the Waterways regulations will implement the portions of this plan associated with the amplification and substitution provisions as described above, as well as any projects involving an alternative site coverage ratio. Through the MEPA review process, project proponents will be required to evaluate alternatives, assess environmental impacts associated with proposed projects, and demonstrate how potential impacts are to be avoided, minimized, and mitigated. The proposed lateral public accessways in Landlocked Tidelands will be implemented through the discretionary provisions for a public benefits determination under 301 CMR 13.00.

The provisions of this Plan will be implemented through regulatory and environmental review provisions, as applicable, and amended zoning provisions approved prior to Plan submittal will ensure that permitted uses are consistent with the approved substitute provisions, amplification, and alternative site coverage ratio described in the Plan. The Plan further provides additional direction in the application and issuance of Chapter 91 licenses for the harbor planning area.

In order to ensure that the City's Zoning Ordinance supported the goals and objectives of the Plan and was consistent with the substitution and amplification provisions and alternative site coverage ratio identified in the Plan, the City updated its zoning ordinances in March 2021. Updating of the zoning ordinances explicitly allows for maritime industrial uses within the planning area and to protect the industrial character of the Marginal Street and Eastern Avenue corridors. In addition, the new zoning ordinances: establish a new Port zoning district that limits uses to water-dependent industrial, general industrial uses, commercial uses, and accessory uses on properties within the DPA and establish a new Waterfront Upland district on the upland side of Marginal Street consisting of land that was previously in the Waterfront zone that creates a commercial and light industrial buffer between the DPA and adjacent residential neighborhoods.

As part of the implementation of this plan, the City will establish a WIF to support water-dependent industrial use within the DPA. The WIF can serve as a means by which an allowable commercial or industrial use can provide direct economic support to water-dependent industrial users within the DPA in order to qualify as a Supporting DPA Use for Chapter 91 licensing purposes. Supporting DPA Uses are not required to contribute to the WIF if they provide an alternative form

of direct economic or operational support to water-dependent industrial use within the DPA. However, the WIF is an acceptable form of economic support that Supporting DPA Uses can utilize to meet regulatory requirements. Contribution amounts are to be determined on a case-by-case basis during the Chapter 91 licensing process, taking into account a number of factors described earlier. This WIF will be a segregated account used exclusively to fund projects that support water-dependent industrial use within the DPA in consultation with DEP and as may be prescribed in the Chapter 91 license conditions. I encourage the City, in consultation with water-dependent industrial users, to develop a list of potential projects that could be funded through WIF contributions. This list should be reviewed with CZM and DEP once developed and as it is updated, to ensure the projects support water-dependent industrial uses.

IV. EFFECTIVE DATE AND TERM OF APPROVAL

This Decision shall take effect immediately upon issuance on April 1, 2022. As requested by the City of Chelsea, the Chelsea Creek Municipal Harbor Plan and Designated Port Area Master Plan Decision shall expire ten years from this effective date unless a renewal request is filed prior to that date in accordance with the procedural provisions of 301 CMR 23.06. No later than six months prior to such expiration date, in addition to the notice from the Secretary to the City required under 301 CMR 23.06(2)(b), the City shall notify the Secretary in writing of its intent to request a renewal and shall submit therewith a review of implementation experience relative to the promotion of state tidelands policy objectives.

V. STATEMENT OF APPROVAL

Based on the planning information and public comment submitted to me pursuant to 301 CMR 23.04 and evaluated herein pursuant to the standards set forth in 301 CMR 23.05, I hereby approve the City of Chelsea's Chelsea Creek Municipal Harbor Plan and DPA Master Plan and supplemental information filing according to the terms and obligations contained herein and subject to the following conditions:

1. In the application of substitutions and amplification DEP shall refer to Section III, Table 1, 2 and 3, and the following conditions.
2. The City shall prepare a final, approved City of Chelsea Municipal Harbor Plan and Designated Port Area Master Plan ("Approved Plan") to include:

- The Plan dated March, 2021; with an updated “Figure 4: Land subject to Chapter 91 Jurisdiction in Chelsea, MA” showing only 111 Eastern Avenue as the only parcel where Supporting DPA Uses may exceed 25%;
 - Supplemental materials dated January 31, 2022, submitted during the consultation session; and
 - This Decision.
3. Within 6 months of the date of this Decision or prior to issuance of a Chapter 91 license for 111 Eastern Avenue, whichever date is sooner, the City shall meet with water-dependent industrial users, to develop a list of potential projects that could be funded through WIF contributions. This list should be reviewed with CZM and DEP to ensure the projects directly support water-dependent industrial uses.

Copies of the final Approved Plan shall be provided to CZM and DEP’s Waterways Program, kept on file at the City of Chelsea, and made available to the public through the City’s website and/or copies at the public library. For Chapter 91 Waterways licensing purposes pursuant to 310 CMR 9.34(2), the Approved Plan shall not be construed to include any of the following:

1. Any subsequent addition, deletion, or other revision to the final Approved Plan, except as may be authorized in writing by the Secretary as a modification unrelated to the approval standards of 301 CMR 23.05 or as a plan amendment in accordance with 301 CMR 23.06(1);
2. Any provision which, as applied to the project-specific circumstances of an individual license application, is determined by DEP to be inconsistent with the Waterways regulations at 310 CMR 9.00 or with any qualification, limitation, or condition stated in this Approval Decision.

This Decision and the Approved Plan do not supersede separate regulatory review requirements for any activity.

In a letter dated March 31, 2022, the DEP Waterways Program Chief has expressed support for approval of the substitute provisions and amplification in the Plan and stated that in accordance with the provisions of 310 CMR 9.34(2), DEP will require conformance with any applicable provisions of the approved Plan in the case of all Waterways license applications submitted subsequent to the

Plan's effective date. It will apply as well to all pending applications for which no public hearing has occurred or where the required public comment period has not expired by the effective date of the approved Plan.



Kathleen A. Theoharides
Secretary of Energy and Environmental Affairs

Thursday, March 31, 2022

Date



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

March 31, 2022

Kathleen A. Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street
Boston, MA 02114

RE: Massachusetts Department of Environmental Protection Recommendation for the Approval of the
Secretary's Decision on the City of Chelsea Municipal Harbor Plan

Dear Secretary Theoharides,

The Department of Environmental Protection, Waterways Regulation Program ("the Department") has reviewed the City of Chelsea's Proposed Municipal Harbor Plan and Designated Port Area Master Plan ("the Plan") dated March 2021 and supplemental information submitted on January 31, 2022. The Department's staff have worked closely with the Massachusetts Office of Coastal Zone Management (CZM) and representatives of the City of Chelsea throughout the planning process and consultation period. The Department has reviewed the proposed Secretary's Decision ("Decision") on the Substitute Provisions and Amplification Provisions and recommends that you approve these regulatory provisions and make a finding that they are consistent with state tidelands policy objectives in accordance with 301 CMR 23.05.

The Decision lays out Substitute Provisions and offsets that will adequately meet or exceed the protected interests pursuant to 310 CMR 9.00. The Substitute Provisions included in the Decision will modify 310 CMR 9.51(3)(c) which governs the dimensions of a Water-Dependent Use Zone, and 310 CMR 9.51(3)(e) which governs the height of new or expanded buildings for nonwater-dependent use. The Decision amplifies the discretionary language at 310 CMR 9.37 and identifies an alternative site coverage ratio for Supporting DPA Uses as defined at 310 CMR 9.02 in accordance with 310 CMR 9.32(1)(b)5.

In accordance with the provisions of 310 CMR 9.34(2), the Department will apply the use limitations or numerical standards specified in the municipal harbor plan as a substitute for the respective limitations or standards, adhere to the greatest reasonable extent to applicable guidance specified in the municipal harbor plan which amplifies any discretionary requirements of 310 CMR 9.00, and determine whether the requirement of 310 CMR 9.54 has been met, if applicable, for all waterways license applications submitted subsequent to the Decision's effective date and within the geographic scope of the Plan. It will apply as well to all pending applications for which no public hearing has occurred or where the required public comment period has not expired by the effective date of the Decision.

The Department looks forward to continuing its work with CZM and the representatives of the City of Chelsea in the implementation of this important planning effort. If you have any questions regarding the foregoing, please contact me at Daniel.Padien@mass.gov or (617) 292-5615. Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel Padien". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel J. Padien
Program Chief
Waterways Regulation Program

cc: Lisa Berry Engler, Massachusetts Office of Coastal Zone Management
Karl Allen, City of Chelsea
Alexander Train, City of Chelsea