

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

July 7, 2025

**Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
Rebecca L. Tepper, Secretary**

I. INTRODUCTION

Today, as Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs (EEA), I am approving, subject to the modifications and conditions noted below, a renewal (2025 Renewal) of the City of Gloucester's (City) Municipal Harbor Plan (MHP) and Designated Port Area (DPA) Master Plan dated July 30, 2014 (2014 Plan). The Secretary approved the 2014 Plan on December 19, 2014. This Decision presents an overview of the 2025 Renewal, findings on how it complies with the standards for approval set forth in the Municipal Harbor Planning regulations at 301 CMR 23.00, and concurrence by the Massachusetts Department of Environmental Protection (MassDEP) of the Substitutions and Offsets as specified herein.

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, the timing of proposed developments, geographic constraints, and other factors, the process may focus on various areas and extents, ranging from an entire harbor to a district or neighborhood, and in some cases, a smaller subset of parcels. The plans also vary in scope, sometimes laying out detailed development standards and other times establishing general building maximums to allow for flexibility in future developments.

The geographic scope of the Harbor Planning Area (HPA) for the proposed 2025 Renewal, as shown in Figure 1, encompasses approximately 424 acres and includes the entirety of Gloucester's Inner Harbor, Harbor Cove, and Smith Cove and adjacent landside areas extending from the Rocky Neck peninsula to the Blynman Canal. On the landside, the Harbor Planning Area extends to one parcel depth on the far or inland side of each of the DPA and harbor access roads, including Western Avenue, Commercial Street and Fort Square, Rogers Street and Main Street downtown, as well as East Main Street, Rocky Neck Avenue, and Horton Street. The total DPA area within the HPA is approximately 215 acres, of which 184 acres are within Chapter 91 jurisdiction. Approximately 209 acres of the HPA are outside the DPA, of which 108 acres are within Chapter 91 jurisdiction. The planning process for the 2014 Plan also considered areas west of the Blynman Canal along the boulevard to Stage Fort Park. However, that area ultimately played a minimal role in the final emphasis of the 2014 Plan, so the 2025 Renewal excludes the areas west of the canal and focuses on the inner harbor areas as described here.

The main goal of the 2025 Renewal is to update the 2014 Plan in light of changing economic and environmental challenges. It provides detailed analysis and recommendations in three primary

areas of concern to Gloucester across five sub-areas (Figure 2), culminating in regulatory and economic development recommendations for coastal resilience, harbor infrastructure, and economic development needs. Four key objectives developed with substantial public input are presented, with specific and concrete actions to support implementation.

Since completing the 2014 Gloucester Harbor Plan, the City has implemented the zoning and policy changes identified in that plan and undertaken or participated in several additional planning efforts to inform decision-making on local development priorities. These include the Coastal Climate Change Vulnerability Assessment and Adaptation Plan (2015); the Municipal Vulnerability Preparedness Workshop Summary of Findings (2018); the North Shore Blue Economy (NSBE) Phase 1 Assessment (2021); the Local Rapid Recovery Program (LRRP) Plan (2021); Building Resilience in Massachusetts Designated Port Areas (2021); the Climate Action and Resilience Plan (2022); and the 2022 Open Space and Recreation Plan (OSRP). The 2025 Renewal draws on these studies.

Throughout this and previous iterations of harbor planning in Gloucester, the focus has been on increasing private and public investment in critical infrastructure, supporting and revitalizing the core commercial fishing industry, cultivating a strong and mutually beneficial relationship between downtown and the waterfront, and seeking out innovative marine-related research and development activities. The 2025 Renewal continues the waterfront vision set out in the 2014 Gloucester Harbor Plan, with a greater emphasis on climate resilience and a renewed focus on facilitating productive redevelopment of underutilized public assets on the waterfront. The City proposes to continue four of the five substitute provisions, offsets, and amplifications of the 2014 Gloucester Harbor Plan in the 2025 Renewal. The one amplification from the 2014 Plan that the City is not continuing is no longer relevant due to clarifications and changes to the Chapter 91 regulations since 2014. The 2025 Renewal discontinues the alternative DPA Supporting Use ratio in the 2014 Plan and will proceed with the provisions for the DPA Supporting Use requirement of the Waterways regulations.

My approval of the 2025 Renewal, 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, the City submitted its Request for a Notice to Proceed in August 2021, and following a public comment period, the Office of Coastal Zone Management (CZM) issued a Notice to Proceed on November 8, 2021. From 2020 to 2024, the City convened 18 public Harbor Planning Committee (HPC) meetings and three additional public

outreach meetings to inform the development of the 2025 Renewal. The City submitted the 2025 Renewal to EEA on March 6, 2025. CZM published the notice of a public hearing and a 30-day opportunity to comment in the *Environmental Monitor* dated March 26, 2025, and held a public hearing virtually using Zoom on April 15, 2025 during which participants could make oral comments. Two oral comments were received during the public hearings, and two written comment letters were received during the public comment period, which closed on April 25, 2025. The review and consultation process, led by CZM, also included consultation among CZM, MassDEP, and the City. In reaching my decision, I have considered the oral and written testimony submitted to CZM by the public, as well as public comments and discussions provided to the City during public engagement throughout the waterfront planning process, as the public planning effort formed the basis for the goals and objectives laid out in the 2025 Renewal.

Comments received during the CZM public comment period praised the 2025 Renewal as complete and comprehensive and note that the final document reflects public input provided during the planning process. Commenters expressed support for the 2025 Renewal's recognition of the commercial fishing industry as a continuing strength for the Gloucester Harbor economy and the objectives to support investment in infrastructure specifically to support the industry. Comments also supported the recommendation to provide staff or a Port Authority to support plan implementation.

One commenter questioned a conclusion in the 2025 Renewal that it may be unrealistic for Gloucester to compete with ship and boat building operations with access to deeper harbors with larger parcels and better trucking access. During the consultation period, the City clarified that the Renewal came to this conclusion because those larger ports, such as New London, CT, or Bath, ME, can operate more efficiently and effectively with the supply chains and technological needs of modern ship and boat building, and note that the plan does identify Gloucester's potential to prototype and build smaller craft, especially under the umbrella of marine technology research, prototyping, and testing. The commenter also expresses concern that the 2025 Renewal does not adequately describe or address factors, such as state and federal laws, that may be having a negative impact on Gloucester's fishing port economy and provide recommendations to resolve these. Though the City's harbor planning process cannot directly work to change existing laws at the state and federal level, the 2025 Renewal does specifically address this concern in the recommended action to "Review current regulations and support implementation of changes to minimize impediments to innovation, resilience, efficiency, and modernization of port infrastructure, marine technology and vessel design."

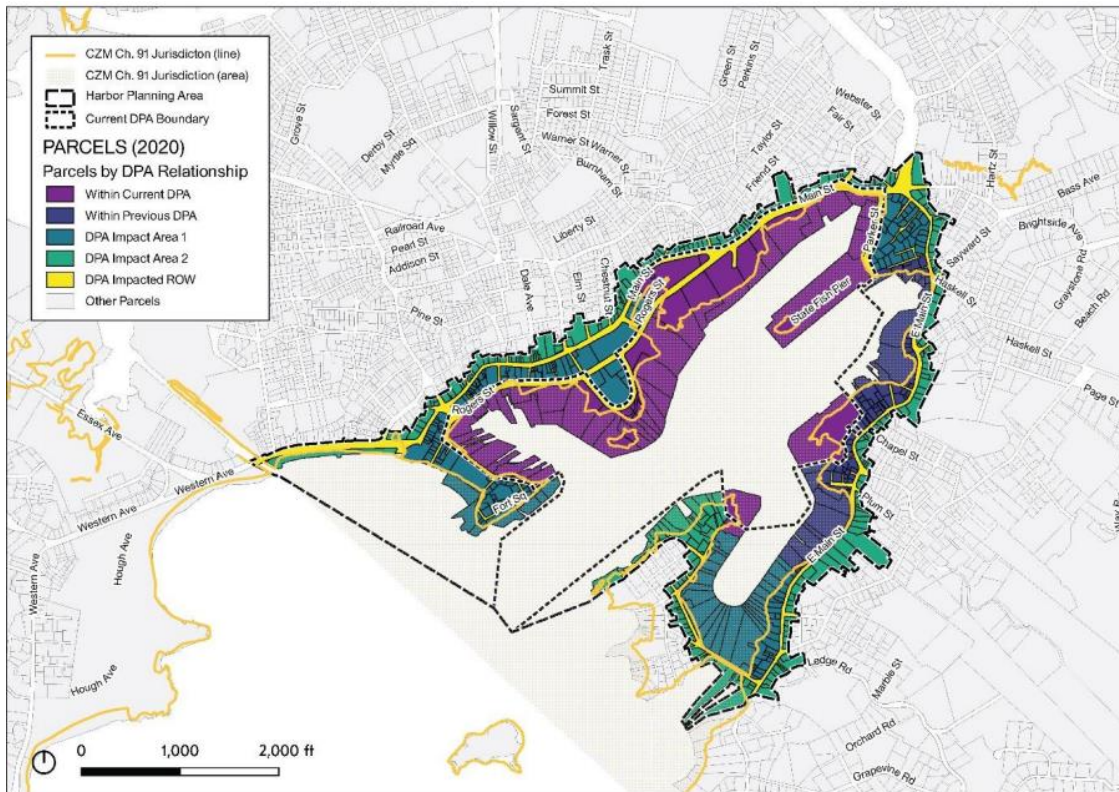


Figure 1. Gloucester Harbor Planning Area

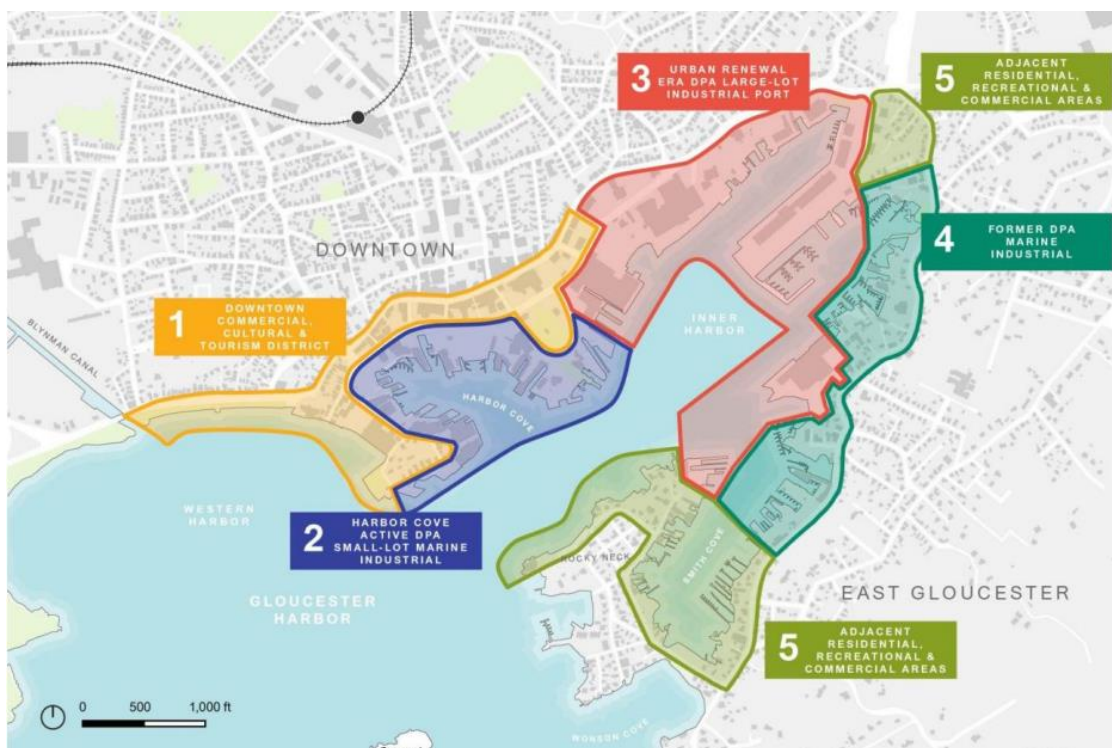


Figure 2. Gloucester Harbor Planning Sub-Areas

II. PLAN CONTENT

The 2025 Renewal notes that Gloucester's working waterfront is the center of both civic and commercial activity in the City and identifies Gloucester Harbor as the City's most valuable asset, making planning for its future central to all economic and community development. While maintaining many of the priorities of the 2014 Plan, the 2025 Renewal addresses pressures on commercial fishing operations from changes in fisheries management and global competition, as well as risks to existing and aging infrastructure associated with climate change and rising sea levels. It also guides Gloucester's harbor economy to capitalize on new "blue economy" opportunities in fisheries, marine research and biotechnology, and ocean and seafood product development to diversify and expand economic activity while maintaining the centrality of the harbor to the City's identity.

In their request for a Notice to Proceed, the City noted that the goals of the 2025 Renewal are to align the plan with the City's goals of diversifying and modernizing its maritime economy, incorporate long-term planning measures to adapt to risks associated with rising sea levels and climate change; and renew the provisions of the 2014 Plan that are still consistent with the goals of the City. The City developed a planning approach to inform these goals, including five key study actions. These included a baseline assessment of the conditions and needs in the areas of coastal resilience, harbor infrastructure, and economic development; developing the vision, goals, and objectives framework through extensive public engagement; developing and refining recommended actions and implementation strategies; reviewing existing conditions and needs relative to the 2014 Plan; and finally, updating the 2014 Plan to reflect the findings of these efforts.

The 2025 Renewal provides a clear description of the HPA, as detailed above, and further identifies five sub-areas within the planning area with distinctive physical, regulatory, and use characteristics that support differing development and public access needs within the HPA and contribute to the integrated vision and implementation of the plan. The Downtown Commercial, Cultural, and Tourism District is entirely outside the DPA. It encompasses the heart of downtown Gloucester's commercial corridor along Main Street and the public open space and tourism uses along Commercial Street and Western Avenue. This area is significant for the harbor economy because it represents one of the areas where the public has the most visual connection and interaction with the working waterfront. However, it is also an area of tension and conflict between resident and visitor uses and maritime industrial operations. The Harbor Cove Active DPA Small-Lot Industrial District is almost entirely within the DPA. It includes a collection of privately held narrow pier-style small-lot marine industrial use parcels, several significant publicly held assets such as the Harbormaster's office

and the US Coast Guard station, and several parks that anchor the public identity and experience of Gloucester's working waterfront. Despite challenges, including the physical constraints of the parcels, comparatively poor landside trucking access, and deteriorating conditions of waterside infrastructure, the area continues to be a vital part of Gloucester's fishing and vessel servicing economies. The Urban Renewal Era Large-Lot Industrial Port District sub-area is entirely within the DPA. Privately held larger parcels with deep water access and comparatively better landside truck access characterize the area, representing Gloucester's maritime industrial capacity. Despite its physical advantages, many parcels in this area are underutilized and have waterside infrastructure and building maintenance needs that constrain their capacity and potential. The East Gloucester Former DPA Marine Industrial District was removed from the DPA as part of a 2014 DPA boundary review and is now entirely outside the DPA boundary. This area has retained a maritime industrial character with several lobstering enterprises anchoring the waterfront, mixed with commercial marinas, harborside tourism and hospitality uses, and smaller workshops and art spaces on parcels along East Main Street. The Adjacent Residential, Recreational, and Commercial Districts are primarily in Smith Cove and Rocky Neck, with a small area at the head of the harbor inland from the Fish Pier where Main and East Main Street meet. These districts are entirely outside the DPA but still provide an economic, cultural, and physical relationship to active DPA uses by hosting many complementary non-water-dependent uses that bolster Gloucester's maritime economy.

The 2025 Renewal provides detailed analysis and regulatory and economic development recommendations across three primary areas of concern for each of these five sub-areas, presented in separate sections. The Coastal Resilience Needs section evaluates infrastructure and property-level vulnerabilities, needs, and potential approaches to increase resilience in Gloucester's DPA. This section concludes with specific strategies to protect infrastructure and assets and informs subsequent harbor infrastructure and economic development strategies. The Harbor Infrastructure Needs section evaluates utility condition and capacity, navigational and shoreside infrastructure condition and need, dockage demand, and options to encourage greater investment in new dockage and repair of docks, piers, and wharves. This section concludes with specific strategies to address infrastructure needs to support a more resilient and thriving harbor economy. The Economic Development Needs section documents the economic baseline and trends within the existing and emerging waterfront industries. These include the frozen and fresh fish markets, the visitor-based maritime industry, the City's emerging marine science, research and technology cluster, offshore wind and ocean monitoring potential, and value-added seafood product development. This section concludes with specific

recommendations encompassing resilience, infrastructure, and economic development potential within a comprehensive framework to encourage a more robust and resilient maritime economy in Gloucester.

The 2025 Renewal identifies four key objectives. The City developed these objectives based on an expansive public engagement process. The objectives include strengthening organizational capacity and regulatory foundation to support harbor economic development; diversifying and investing in Gloucester Harbor holistically to create a stronger and more resilient harbor economically and environmentally; cultivating a high-profile, unified, supported, and well-resourced fishing and shellfishing network in Gloucester; and advancing relevant innovation in blue tech, marine life sciences, and offshore wind industries within and beyond Gloucester's working harbor. The 2025 Renewal identifies specific and concrete actions to support the implementation of each objective. The recommended actions include implementing the recommended Chapter 91 substitutions and amplifications and numerous strategies that the City can implement locally or in conjunction with state and federal partners.

The first objective, to strengthen organizational capacity and regulatory foundation to support harbor economic development, grew from an emerging recognition during the planning process that the community's vision for the HPA aligns with the intent of the waterways and DPA regulations and that economic factors, rather than regulatory limitations, are the primary barrier to successful development. Property owners, developers, and business owners lack the technical and financial resources to successfully navigate the processes required to protect and grow their businesses. Therefore, the strategies and recommendations of this objective focus on rebuilding a foundation for effective harbor economic development in Gloucester that incorporates climate resilience and harbor infrastructure needs and is spatially specialized to maximize the economic potential of the harbor as a whole.

The strategies associated with the second objective, to diversify and invest in Gloucester's harbor holistically to create a stronger and more resilient harbor economically and environmentally, identify strategic investment in the redevelopment of publicly held harbor sites, particularly 65 Rogers Street (I4-C2), as a way of signaling a vision and providing supportive infrastructure. However, this objective also identifies a need for investment in harbor infrastructure in additional areas, including enhancements to internet service, wastewater treatment, electrical service, streetscapes, and wayfinding.

The third objective, to cultivate a high-profile, unified, supported, and well-resourced fishing and shellfishing network in Gloucester, identifies that the slim margins and unpredictability of catch volume, particularly in fin fishing, has limited Gloucester businesses' ability to carry out critical capital investments in resilience, fleet modernization, dock and bulkhead maintenance and repair, and modern seafood processing. The actions and strategies recommended for this objective lay out ways that Gloucester's civic leadership can invest in building a supportive foundation that grows the capacity of a network of individual operators in the fishing and shellfishing industry through investing in shared infrastructure, technical assistance, seafood processing and wholesale, marketing and recruitment, workforce development and related hospitality and tourism initiatives. These strategies are designed to grow and maintain the existing culture of independent private operators while creating stronger support infrastructure for those operators.

The fourth objective, to advance relevant innovation in blue tech, marine life sciences, and offshore wind industries within and beyond Gloucester's working harbor, identifies a need to navigate economic change in a way that balances the preservation of the traditional fishing industry with emerging opportunities like the blue economy and marine life sciences cluster. Building on the success of existing local anchors, the 2025 Renewal recognizes an opportunity to establish shared infrastructure and recruit partners that can signal Gloucester's leadership potential in life sciences, marine electronics, and fleet repair and modernization. While many of these blue tech, marine life sciences, and wind industry uses may not be water-dependent, their recruitment can focus on complementing rather than replacing existing water-dependent industrial (WDI) businesses. These uses can be located close to the Commuter Rail station, in inland industrial parks, along Main Street and Rogers Street, in potential vacant inland sites close to the harbor. The strategies under this objective outline opportunities for Gloucester to build on existing momentum and cultivate a more robust and mutually beneficial ocean cluster that radiates out from the harbor.

The 2025 Renewal planning included a vigorous outreach and engagement process. Residents, other community members, businesses, nonprofits, thirty-two academic institutions, and state and federal partners participated in an active dialogue that included site visits, video conferencing, and interactive mapping tools. The City developed and maintained a project to provide accessible information to the public, including events, agendas, and information on how to get involved. The COVID-19 pandemic required engagement to shift to digital platforms, including virtual stakeholder interviews, an interactive online mapping tool, and a series of virtual public meetings. The planning team conducted 15 individual and small group stakeholder interviews with over 30 stakeholders,

including all members of the Harbor Plan Committee, representatives from key City of Gloucester departments and positions, and 19 private DPA property and business owners. The team interviewed representatives from the City of Gloucester Economic Development, City of Gloucester Public Works, Gloucester Planning Board, Gloucester Waterways Board, Gloucester Economic Development & Industrial Corporation, Gloucester Fisheries Commission, Gloucester Fishermen's Wives Association, Gloucester Fishing Community Preservation Fund and Fishing Permit Bank, Gloucester Harbormaster, Gloucester Marine Genomics Institute; MA Fishing Partnership, MassDevelopment State Fish Pier, UMass Amherst Gloucester Marine Station & North Shore Blue Economy Initiative, and the US Coast Guard Station. An interactive mapping exercise was shared for public input during the public kickoff meeting in November 2021, generating 587 visits from 167 unique users and 67 comments from 28 unique stakeholders over several months. The planning team held twenty-one public meetings for the Harbor Plan Committee and the general public to convey information about research and regulations and obtain feedback on the development of the 2025 Gloucester Harbor Plan Renewal.

The policies and strategies section of the 2025 Renewal clearly articulates the recommended objectives and regulatory approach and describes the updates and revisions since the 2014 Plan. Considerations relative to the plan's three primary areas of concern, coastal resilience, harbor infrastructure, and economic development, are discussed. This section also includes a vision for the utilization of public land. It introduces and summarizes the implementation strategies for the document, including the recommended waterways substitution and amplifications and the DPA Master Plan, which are discussed in more detail in separate sections. With minor language clarifications, the City proposes to continue four of the five substitute provisions, offsets, and amplifications of the 2014 Gloucester Harbor Plan in the 2025 Renewal. The one amplification from the 2014 Plan that the City is not continuing is no longer relevant due to clarifications and changes to the Chapter 91 regulations since 2014.

The 2025 Renewal includes a DPA Master Plan that details a strategy to preserve and enhance the capacity of the DPA to accommodate water-dependent industries and prevent substantial displacement of these activities by non-water-dependent uses. The DPA Master Plan proposes implementation measures to ensure that extensive areas are reserved for WDI uses, identifies preferred and locally allowed uses as supporting uses in the DPA, puts limits on commercial uses to prevent incompatibility with the marine industry, and identifies the City's strategy to guide the ongoing promotion of WDI use within the DPA. The 2025 Renewal discontinues the alternative DPA

Supporting Use ratio in the 2014 Plan. The 2025 Renewal will proceed with the provisions for the DPA Supporting Use requirement of the Waterways regulations that the amount of tidelands occupied by Supporting DPA Uses and any accessory uses thereto shall not exceed 25% of the area of the project site (excluding tidelands seaward of the project shoreline), so that the remainder of the project site will continue to be available exclusively for water-dependent industrial or temporary uses.

The 2025 Renewal addresses consistency with state agency plans and projects within the HPA, including cooperative planning with DCR and MassDevelopment for recommendations regarding the Jodrey State Fish Pier. No potential conflicts have been identified between planned state agency actions or plans and this 2025 Renewal. A clear presentation of how the 2025 Renewal is consistent with the relevant Waterways regulations and CZM Coastal Policies is also provided.

The 2025 Renewal includes Figures to support the narrative and the City's Request for a Notice to Proceed. Appendices A, B, and C include the Notice to Proceed and the 2014 Designation Decision for the Gloucester Inner Harbor Designated Port Area to provide additional background for the City's goals and objectives for developing the 2025 Renewal. In addition, detailed Economic Development Recommendations are included in Appendix D, and a Land Use Table is included in Appendix E.

The 2025 Renewal includes a DPA Master Plan that details a strategy to preserve and enhance the capacity of the DPA to accommodate water-dependent industries and prevent substantial displacement of these activities by non-water-dependent uses. The DPA Master Plan proposes implementation measures to ensure that extensive areas are reserved for WDI uses, identifies preferred and locally allowed uses as supporting uses in the DPA, puts limits on commercial uses to prevent incompatibility with the marine industry, and identifies the City's strategy to guide the ongoing promotion of WDI use within the DPA. An alternative coverage ratio for DPA Supporting Uses approved by the 2014 Decision is no longer proposed, and the City is requesting to discontinue that provision with the 2025 Renewal.

III. STANDARDS FOR APPROVAL

My approval today is bounded by the authority and standards in 301 CMR 23.00 (Review and Approval of MHPs). This Decision does not supersede separate regulatory review requirements for any activity.

A. Consistency with CZM Program Policies and Management Principles

The federally approved CZM Program Plan establishes 20 enforceable program policies and nine management principles that embody coastal policy for the Commonwealth of Massachusetts. The following is a summary of the Policies and Management Principles applicable to the 2025 Renewal:

- Coastal Hazards Policy #2 – Ensure construction in water bodies and the contiguous land area will minimize interference with water circulation and sediment transport. Approve permits for flood or erosion control projects only when it has been determined that there will be no significant adverse effects on the project site or adjacent or downcoast areas.
- 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 the new or substantial reconstruction of structures in a manner inconsistent with the Coastal Barrier Resource/Improvement Acts.
- Coastal Hazards Policy #4 – Prioritize acquisition of hazardous coastal areas that have high conservation and/or recreation values and relocation of structures out of coastal high-hazard areas, giving due consideration to the effects of coastal hazards at the location to the use and manageability of the area.
- Energy Policy #2 – Encourage energy conservation and the use of renewable sources such as solar and wind power to assist in meeting the energy needs of the Commonwealth.
- 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 the 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.
- 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 the highest priority in the allocation of resources.
- Ports and Harbors Policy #3 – Preserve and enhance the capacity of Designated Port Areas to accommodate WDI uses and prevent the exclusion of such uses from tidelands and any other DPA lands over which an EEA agency exerts control by 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.
- 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.
- Water Quality Policy #2 – Ensure the implementation of nonpoint source pollution controls to promote the attainment of water quality standards and protect designated uses and other interests.

The 2025 Renewal 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 find that the 2025 Renewal is consistent with state tidelands policy objectives and associated regulatory principles as set forth by MassDEP in 310 CMR 9.00: *Waterways*. As promulgated, the Waterways regulations provide a uniform statewide framework for regulating tideland projects. For approval, I must find that the MHP is consistent with the primary state tidelands policy objectives embodied therein. In addition, MHPs and associated amendments offer cities and towns an opportunity to propose modifications to these uniform standards through either the amplification of the discretionary requirements of the Waterways regulations and/or the substitution of certain minimum use limitations or numerical standards of 310 CMR 9.00. 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, when adopted into the Waterways regulations by MassDEP, waive or modify otherwise-applicable specific use limitations and numerical standards affecting nonwater-dependent use projects. MassDEP makes an independent determination of whether to adopt substitutions in the Waterways regulations and will review any specific project proposals submitted for licensure in accordance with all applicable regulations and standards. However, for approval of an MHP, I must find that: (i) the amplifications are complementary in effect with the regulatory principle(s) underlying the discretionary requirement to which they relate; and (ii) the substitutions meet specific criteria set out in 301 CMR 23.05(2)(c) and (d). Finally, if the MHP includes a DPA Master Plan, I must find that the Master Plan preserves and enhances the capacity of the DPA to accommodate WDI use, and that it prevents substantial exclusion of WDI use by any other use eligible for licensing in a DPA. The 2025 Renewal meets each of these requirements.

a. Consistency with 310 CMR 9.00

Approval of an MHP requires a finding of consistency with the following state tidelands policy objectives and associated regulatory principles, as set forth in 310 CMR 9.00: *Waterways*.

1. Ensure that development of all tidelands complies with other applicable environmental regulatory programs of the Commonwealth as provided in 310 CMR 9.33: Environmental Protection Standards, and must be especially protective of aquatic resources within coastal Areas of Critical Environmental Concern, as provided in 310 CMR 9.32(1)(e): Areas of Critical

Environmental Concern (ACECs). The HPA for the 2025 Renewal does not include any ACECs. The City commits to ensuring that projects proposed within the area will comply with all applicable environmental standards and that coastal resources will be protected.

2. Preserve any rights held by the Commonwealth in trust for the public to use tidelands for lawful purposes, and to preserve any public rights of access that are associated with such use, as provided in 310 CMR 9.35: Standards to Preserve Water-related Public Rights. The 2025 Renewal expresses strong support for the public interest in navigation and the use of tidelands for water-dependent uses. While the 2025 Renewal prioritizes the use of the DPA areas for WDI uses, it also allows and encourages general public pedestrian access where it does not conflict with or preempt WDI use.
3. Preserve the availability and suitability of tidelands that are in use for water-dependent purposes, or that are reserved primarily as locations for maritime industry or other specific types of water-dependent use, as provided in 310 CMR 9.32(1)(b): Tidelands Within Designated Port Areas (DPAs) and 9.36: Standards to Protect Water-dependent Uses. A primary focus of the 2025 Renewal is to preserve and protect tidelands to serve WDI uses in the DPA, while also providing mechanisms for additional economic and operational support through Supporting DPA uses, and, where possible, improved public access.
4. Ensure that all licensed fill and structures are structurally sound and otherwise designed and built in a manner consistent with public health and safety and with responsible environmental engineering practice, especially in coastal high-hazard zones and other areas subject to flooding or sea-level rise, as provided in 310 CMR 9.37: Engineering and Construction Standards. The 2025 Renewal identifies a need to improve the condition of waterfront structures. It provides mechanisms to allow Supporting DPA uses to provide economic support, ensuring that waterfront structures are maintained in a structurally sound condition.
5. Ensure patronage of public recreational boating facilities by the general public and to prevent undue privatization in the patronage of private recreational boating facilities, as provided in 310 CMR 9.38: Use Standards for Recreational Boating Facilities; and to ensure that fair and equitable methods are employed in the assignment of moorings to the general public by harbormasters, as provided in 310 CMR 9.07: Activities Subject to Annual Permit. The 2025 Renewal does not address recreational boating facilities. Therefore, this standard does not apply.

6. Ensure that marinas, boatyards, and boat-launching ramps are developed in a manner that is consistent with sound engineering and design principles, and include such pumpout facilities and other mitigation measures as are appropriate to avoid or minimize adverse impacts on water quality, physical processes, marine productivity, and public health, as provided in 310 CMR 9.39: Standards for Marinas/Boatyards/Boat Ramps. The 2025 Renewal expressly supports the use of best operating practices for recreational marinas throughout the harbor to preserve and protect harbor water quality and notes that the Harbormaster's office provides a pump-out boat for both visiting and home-ported recreational boaters and conducts routine harbor patrols to ensure the harbor waters are protected.
7. Ensure that dredging and disposal of dredged material is conducted in a manner that avoids unnecessary disturbance of submerged lands and otherwise avoids or minimizes adverse effects on water quality, physical processes, marine productivity, and public health, as provided in 310 CMR 9.40: Standards for Dredging and Dredged Material Disposal. The 2025 Renewal does not propose any new or maintenance dredging as part of the plan, but notes that the City of Gloucester Conservation Commission would review any such plans to ensure adverse impacts are avoided or minimized.
8. Ensure that nonwater-dependent use projects do not unreasonably diminish the capacity of any tidelands to accommodate water-dependent use, as provided in 310 CMR 9.51: Conservation of Capacity for Water-dependent Use. The 2025 Renewal prioritizes the use of DPA lands for WDI uses and commits to carefully evaluating proposed non-water-dependent use projects to ensure that they do not diminish the port's capacity to support ongoing water-dependent uses.
9. Ensure that nonwater-dependent use projects on any tidelands devote a reasonable portion of such lands to water-dependent use, including public access in the exercise of public rights in said lands, as provided in 310 CMR 9.52: Utilization of Shoreline for Water-dependent Purposes. The 2025 Renewal encourages the provision of public pedestrian access within the DPA, where it does not conflict with ongoing WDI uses, and promotes public access uses seasonally where possible. It also intentionally encourages improved access to waterborne vessels.
10. Ensure that nonwater-dependent use projects on Commonwealth tidelands, except in DPAs, promote public use and enjoyment of such lands to a degree that is fully commensurate with the proprietary rights of the Commonwealth therein, and that ensures that private advantages

of use are not primary but merely incidental to the achievement of public purposes, as provided in 310 CMR 9.53: Utilization of Shoreline for Water-dependent Purposes. The 2025 Renewal does not directly address public benefit standards for non-water-dependent use projects on Commonwealth tidelands outside the DPA, but acknowledges the importance of public pedestrian access.

Based on my review, I find that the 2025 Renewal is consistent with state tidelands policy objectives and associated regulatory principles as set forth by MassDEP in 310 CMR 9.00: *Waterways*.

b. Evaluation of Proposed Amplification Provisions

Approval of a MHP requires a finding that any provision that amplifies a discretionary requirement of the Waterways regulations is complementary in effect with the regulatory principle(s) underlying that requirement. Specifically, as set forth in 301 CMR 23.05(2)(b), the provisions in question: (i) cannot contradict the corresponding provisions of 310 CMR 9.00: *Waterways*; (ii) cannot significantly alter the substantive nature of the requirement, narrow the range of factors that may be considered, or otherwise unreasonably affect the ability of MassDEP to exercise discretion in the interpretation and application of all relevant provisions of 310 CMR 9.00: *Waterways*; and (iii) must be consistent with the provisions of any memoranda of understanding with other state agencies that, as provided in 310 CMR 9.00: *Waterways*, may govern the manner in which MassDEP licenses and permits will incorporate the requirements of other statutes and regulations that preserve public rights in waterways and otherwise promote state tidelands policy objectives.

The 2025 Renewal contains three amplification provisions. My determination of the relationship of these proposed local amplification provisions to Chapter 91 standards in accordance with the MHP regulations is discussed below. A summary of the proposed amplification provisions for the 2025 Renewal is provided below in Table 1.

Table 1. Summary of Amplification Provisions for 2025 Renewal

Regulatory Provision	9.36(4) Standards to Protect Water-Dependent Uses
Chapter 91 Standard	The project shall not displace any water-dependent use that has occurred on the site within five years prior to the date of license application, except upon a clear showing by the applicant that said use: (a) did not take place on a reasonably continuous basis, for a substantial period of time; or (b) has been or will be discontinued at the site by the user, for reasons unrelated to the proposed project or as a result of voluntary arrangements with the applicant.

	<p>Absent the above showings, the project shall include arrangements determined to be reasonable by the Department for the water-dependent use to be continued at its existing facility, or at a facility at an alternative location having physical attributes, including proximity to the water, and associated business conditions which equal or surpass those of the original facility and as may be identified in an Approved Municipal Harbor Plan, if any. Permanent relocation to an offsite facility may occur in order to accommodate a public service project for which relocation arrangements are governed by law, or if the Department determines that it is not appropriate for the water-dependent use to continue on the site. Otherwise, only temporary relocation may occur as necessary for project construction.</p>
Proposed Amplification	<p>For any project which will displace any commercial fishing vessel berthing in Gloucester Harbor, MassDEP will consult with the City of Gloucester prior to making any determination to confirm that there are reasonable arrangements to provide equivalent berthing space on-site or at a suitable alternative site not already used by commercial fishing vessels. The following criteria should be considered by MassDEP when determining what would be considered reasonable accommodations or a suitable alternative for commercial fishing vessel berthing in Gloucester Harbor:</p> <ol style="list-style-type: none"> 1. The site should be accessible by pickup trucks and service vehicles. 2. The site should be protected from strong wave action, which would limit its utility for long-term berthing of commercial fishing vessels. 3. The site should have available landside space to store fishing gear on a temporary basis. 4. The site should have water and electric utility services suitable for commercial fishing vessel berthing. 5. The lease terms and pricing shall be comparable to similarly situated and equipped berthing locations elsewhere in the harbor. 6. Water depth should be sufficient for proposed vessel sizes. <p>For each criterion listed above, reasonable accommodations or suitable alternatives should be equivalent to or better than the original commercial fishing vessel berthing being displaced.</p>
Regulatory Provision	<p>310 CMR 9.52(1)(a) Utilization of Shoreline for Water Dependent Purposes</p>
Chapter 91 Standard	<p>(1) In the event the project site includes a water-dependent use zone, the project shall include at least the following:</p> <p>(a) one or more facilities that generate water-dependent activity of a kind and to a degree that is appropriate for the project site, given the nature of the project, conditions of the water body on which it is located, and other relevant circumstances; in making this determination, the Department shall give particular consideration to:</p> <ol style="list-style-type: none"> 1. facilities that promote active use of the project shoreline, such as boat landing docks and launching ramps, marinas, fishing piers, waterfront boardwalks and esplanades for public recreation, and water-based public facilities as listed in 310 CMR 9.53(2)(a); and 2. facilities for which a demonstrated need exists in the harbor in question and for which other suitable locations are not reasonably available;

Proposed Amplification	<p>For any project located along the water's edge of the DPA, the priority land use is water-dependent industrial.</p> <ol style="list-style-type: none"> 1. To the extent practicable for a site, public access facilities shall be integrated into a project to activate the waterfront as part of the open space required with a nonwater-dependent supporting DPA use, not to interfere with water-dependent industrial uses and activities. 2. Open areas used for working waterfront activities seasonally during the year shall accommodate public access when possible. 3. Within the water-dependent use zone, no use shall be licensed that would result in any adverse impact to and/or restriction of access to water-borne vessels wherever possible.
Regulatory Provision	310 CMR 9.36(5)(b)4. Standards to Protect Water-Dependent Uses (operational or economic support)
Chapter 91 Standard	<p>Reasonable arrangements shall be made to prevent commitments of space or facilities that would significantly discourage present or future water-dependent-industrial activity on the project site or elsewhere in the DPA; such arrangements shall include, but are not limited to, the following:</p> <ol style="list-style-type: none"> 4. in the case of supporting DPA use, conditions governing the nature and extent of operational or economic support must be established to ensure that such support will be effectively provided to water-dependent industrial uses.
Proposed Amplification	<p>The nature and extent of operational or economic support provided by a supporting DPA use will be considered according to the following tiered approach. In each case, in order to fulfill the obligations of a supporting use using a particular tier, the applicant must demonstrate that it is infeasible to meet the obligation through the previous preferred tier. DEP will consider economic support to on-site WDI use, or if a project site does not have existing water-dependent industrial uses on-site or if an on-site WDI use does not have a need for support, DEP will consider commensurate investment in on-site waterfront infrastructure, offsite waterfront infrastructure, or an appropriate contribution to the Gloucester Port Maintenance and Improvement Fund as mitigation according to a tiered approach:</p> <ol style="list-style-type: none"> 1. For properties with a water-dependent industrial use, economic or operational support from the supporting use to the on-site water-dependent industrial use is preferred. 2. If no water-dependent industrial use exists or is proposed on the site, or if the WDI user does not have a need for support, an investment in on-site waterfront infrastructure to improve capacity for water-dependent industrial use will be required. Improvement/maintenance of existing berthing and/or creation of new berthing for commercial vessels is required where feasible. 3. If it is infeasible to invest in on-site waterfront infrastructure to improve capacity for water-dependent industrial use, offsite operational or economic support to WDI uses within the DPA will be considered. 4. If none of the above can be achieved, a contribution to the Gloucester Port Maintenance and Improvement Fund will be considered. This fund shall be used only to support water-dependent industrial uses within the

	DPA. The City prefers the fund to be used for WDI infrastructure where possible.
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i. **Amplification 1: Standards to Protect Water-Dependent Uses [9.36(4)]**

The 2025 Renewal recognizes that commercial berthing space on the harbor is limited, specifically for commercial fishing vessels, and seeks to protect these valuable spaces wherever possible. The 2025 Renewal therefore proposes an amplification to 310 CMR 9.36(4)¹ which would prevent displacement of commercial fishing vessels as the result of projects in the MPA wherever possible by ensuring that any commercial fishing vessel displaced by a project will be provided a reasonably alternative equivalent berthing space at the project site or at an alternative site not already used by commercial fishing vessels. The amplification specifies criteria to be considered by MassDEP when determining what would be considered reasonable. These criteria consider accessibility, protection from wave energy, appropriate landside space, adequacy of available utilities, terms and pricing, and adequate berthing depth, and stress the need for suitable alternative locations to be equivalent or better than the original berthing space.

The proposed amplification specifically protects commercial fishing vessels from displacement from an existing berth by providing MassDEP with clear guidance for determining when accommodations at an alternative site are comparable and suitable for the displaced use, and by assuring that no commercial fishing vessel will be displaced at the alternative site.

This amplification is complementary to, and does not contradict, the existing regulations at 310 CMR 9.36(4), which prevent the displacement of existing water-dependent uses and allow for additional guidance to be provided through an MHP. This amplification does not significantly alter the substantive nature of the requirement or unreasonably restrict MassDEP's discretion in applying the Waterways regulations. Instead, it provides MassDEP with additional criteria specific to Gloucester's needs. The provision is consistent with existing memoranda of understanding with other state agencies that govern the manner in which MassDEP licenses and permits incorporate the

¹ "The project shall not displace any water-dependent use that has occurred on the site within five years prior to the date of license application, except upon a clear showing by the applicant that said use:

- (a) did not take place on a reasonably continuous basis, for a substantial period of time; or
- (b) has been or will be discontinued at the site by the user, for reasons unrelated to the proposed project or as a result of voluntary arrangements with the applicant.

Absent the above showings, the project must include arrangements determined to be reasonable by the Department for the water-dependent use to be continued at its existing facility, or at a facility at an alternative location having physical attributes, including proximity to the water, and associated business conditions which equal or surpass those of the original facility and as may be identified in an Approved Municipal Harbor Plan." 310 CMR 9.36(4).

requirements of other statutes and regulations that preserve public rights in waterways and otherwise promote state tidelands policy objectives. Therefore, I approve this amplification subject to the conditions provided at the end of this Decision.

ii. Amplification 2: Utilization of Shoreline for Water Dependent Purposes
[9.52(1)(a)]

The activation of the waterfront was a theme of the 2014 Plan and continues to be an important theme in the 2025 Renewal, which seeks to improve public access to the working harbor without interfering with water-dependent industrial uses. The 2025 Renewal includes an amplification of 310 CMR 9.52(1)(a) in support of this theme.² The 2025 Renewal acknowledges that the priority land use along the water's edge within the DPA remains water-dependent industrial. However, when a non-water-dependent use project that includes fill or structures on any tidelands is proposed as a Supporting DPA Use, this amplification encourages integrating public access, temporary open space, and access to waterborne vessels wherever possible. The amplification provides guidance to MassDEP in determining the type of facilities that could be allowed to promote active water-dependent use of the project shoreline, which are appropriate for Gloucester Harbor.

This amplification is complementary to, and does not contradict, the existing regulations at 310 CMR 9.52(1)(a), which require that nonwater-dependent use projects that include fill or structures on any tidelands include at least one or more facilities that generate water-dependent activity of a kind and to a degree that is appropriate for the project site, given the nature of the project, conditions of the water body on which it is located, and other relevant circumstances, and directs MassDEP to give particular consideration to applicable guidance specified in an approved MHP. By identifying the type

² “A nonwater-dependent use project that includes fill or structures on any tidelands shall devote a reasonable portion of such lands to water-dependent use, including public access in the exercise of public rights in such lands. In applying this standard, the Department shall take into account any relevant information concerning the capacity of the project site to serve such water-dependent purposes, especially in the vicinity of a water-dependent use zone; and shall give particular consideration to applicable guidance specified in an Approved Municipal Harbor Plan, as provided in 310 CMR 9.34(2)(b)2. Except as necessary to protect public health, safety, or the environment, the Department shall act in accordance with the following provisions.

- (1) In the event the project site includes a water-dependent use zone, the project shall include at least the following:
 - (a) one or more facilities that generate water-dependent activity of a kind and to a degree that is appropriate for the project site, given the nature of the project, conditions of the water body on which it is located, and other relevant circumstances; in making this determination, the Department shall give particular consideration to:
 1. facilities that promote active use of the project shoreline, such as boat landing docks and launching ramps, marinas, fishing piers, waterfront boardwalks and esplanades for public recreation, and water-based public facilities as listed in 310 CMR 9.53(2)(a); and
 2. facilities for which a demonstrated need exists in the harbor in question and for which other suitable locations are not reasonably available. . . .”

of water-dependent activities that the City believes are most appropriate for the Gloucester Harbor waterfront, the amplification provides specific guidance for MassDEP to consider when reviewing a proposed project for licensing. This amplification does not significantly alter the substantive nature of the requirement or unreasonably restrict MassDEP's discretion in applying the Waterways regulations, because the recommendation for their implementation is qualified using phrases such as "to the extent practicable," "when possible," or "wherever possible." The provision is consistent with existing memoranda of understanding with other state agencies that govern the manner in which MassDEP licenses and permits incorporate the requirements of other statutes and regulations that preserve public rights in waterways and otherwise promote state tidelands policy objectives. Therefore, I approve this amplification subject to the conditions provided at the end of this Decision.

iii. Amplification 3: Standards to Protect Water-Dependent Uses [9.36(5)(b)4.]

The 2025 Renewal, like the 2014 Plan, emphasizes the importance of improving the water-dependent marine industrial infrastructure on the waterfront and recognizes that maintenance of infrastructure directly related to commercial fishing is of utmost importance to the viability of the commercial fishing industry in Gloucester. The 2025 Renewal process investigated the conditions of waterfront structures and found that many require upkeep and repair, but the challenging economic viability of marine industries makes maintaining infrastructure difficult. The 2025 Renewal therefore includes an amplification of 310 CMR 9.36(5)(b)4. to clarify preferred mechanisms for Supporting DPA uses to provide optimal operational or economic support to help ensure that waterfront infrastructure is maintained and structurally sound.³

This amplification is complementary to, and does not contradict, the existing regulations at 310 CMR 9.36(5)(b)4., which require that reasonable arrangements are made to prevent commitments of space or facilities within a DPA that would significantly discourage present or future water-dependent-industrial activity on a project site or elsewhere in the DPA. For supporting DPA uses, these arrangements must include, but are not limited to, establishing conditions governing the nature and extent of operational or economic support to ensure that such support is effectively provided to water-dependent industrial uses. The proposed amplification provision provides specific guidance to

³ 310 CMR 9.36(5)(b) states that "reasonable arrangements shall be made to prevent commitments of space or facilities that would significantly discourage present or future water-dependent-industrial activity on the project site or elsewhere in the DPA" and that "in the case of supporting DPA use, conditions governing the nature and extent of operational or economic support must be established to ensure that such support will be effectively provided to water-dependent-industrial uses."

MassDEP to consider the nature and extent of operational or economic support provided by a supporting DPA use according to a tiered approach. While the guidance is very specific, the amplification does not significantly alter the substantive nature of the requirement and maintains MassDEP's discretion in applying the Waterways regulations. The provision is consistent with existing memoranda of understanding with other state agencies that govern the manner in which MassDEP licenses and permits incorporate the requirements of other statutes and regulations that preserve public rights in waterways and otherwise promote state tidelands policy objectives. Therefore, I approve this amplification subject to the conditions provided at the end of this Decision.

c. Evaluation of Requested Substitute Provision

The 2025 Renewal contains a substitute provision and associated offset that, if adopted by MassDEP, will directly affect MassDEP licensing decisions within the HPA. Table 2 contains a summary of the substitute provision and offsetting measures proposed in the 2025 Renewal, subject to and modified by this Decision.

Substitutions are subject to the approval criteria under 301 CMR 23.05(2)(c) and (d). These criteria must be applied to each proposed substitution to ensure that the intent of the Waterways requirements concerning public rights in tidelands is preserved. Under 301 CMR 23.05(2)(c), I must determine that certain conditions are met for the requested substitute provision. 301 CMR 23.05(2)(d) requires that these determinations must be based on “a demonstration by the municipality that the substitute provisions set forth in the MHP will promote, with comparable or greater effectiveness, the state tidelands policy objectives stated in the corresponding provisions of 310 CMR 9.00: *Waterways*. The substitute provisions may include alternative use limitations or numerical standards that are less restrictive than the Waterways requirements as applied in individual cases, provided that the MHP 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.” Section 23.05(d) also requires me to act in accordance with listed provisions in making my determination.

As described in Table 2, the 2025 Renewal includes a substitution and offset to the Water Dependent Use Zone (WDUZ) requirements of 310 CMR 9.51(3)(c)1.-3. The MHP regulations provide that for this substitution, I must determine that the following condition has been met:

“3. as provided in 310 CMR 9.51(3)(c), governing the establishment of a water-dependent use zone, the MHP must specify alternative setback distances and other requirements that ensure that 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 harbor in question;" 301 CMR 23.05(2)(c)3.

My determination as to this condition must be based on the City's demonstration that the substitute provision will, with comparable or greater effectiveness, meet the objectives of 310 CMR 9.51, which provides that "A nonwater-dependent use project that includes fill or structures on any tidelands shall not unreasonably diminish the capacity of such lands to accommodate water-dependent use." This demonstration must conform to the requirements of 301 CMR 23.05(2)(d)1.-3.

Establishing and maintaining an adequate and functional WDUZ is critical to assuring necessary waterfront access for water-dependent industrial uses within the DPA and essential to sustaining these uses. The 2025 Renewal notes that flexibility in the delineation of the WDUZ while maintaining its overall size has been useful and has enhanced the effectiveness of the WDUZ in prior Gloucester Harbor Plans because of Gloucester's unique structure of relatively small parcel sizes with a few relatively large parcels. In some cases, strict adherence to the WDUZ dimensional requirements of 310 CMR 9.51(3)(c) may result in an oddly configured WDUZ and inefficient siting of uses. In these cases, the configuration of the WDUZ as directed by the Waterways standards may be less effective in providing water-dependent use of the water's edge than another configuration allowed with flexibility to the existing standards.

To address this challenge, the 2025 Renewal recommends continuing the substitute provision of the 2014 Harbor Plan. The substitution allows a reconfiguration of the WDUZ that narrows the minimum width of the WDUZ on eligible project sites, provided that the total area of the WDUZ is not reduced. The approved 2014 Harbor Plan offsets for this substitution limited eligibility for the substitution to those project sites where it is shown that application of the Chapter 91 standard would result in an inefficient siting of uses in the WDUZ. However, the 2025 Renewal removes specific offset language approved in the 2014 Decision relative to the required demonstration that the application of the Chapter 91 standards would result in inefficient siting of uses. This language was not included in the summary of the proposed substitution provision in the 2025 Renewal. The 2025 Renewal does not directly address why this language was excluded, and content elsewhere supports its inclusion. Consultation with MassDEP waterways indicates that this provision is important to ensure that the substitution meets waterways standards with comparable or greater effectiveness than the original standards set forth in the Waterways regulations. Therefore, this Decision includes this language in the offsets required for this substitution. The substitution will only apply upon a

demonstration that the application of the Waterways dimensions results in a diminished WDUZ effectiveness due to the site's unusual configuration and not due to the preferred characteristics in a development proposal.

As modified by my decision, the offsets proposed in the 2025 Renewal require that the substitute provision only applies to those project sites where the reconfiguration of the WDUZ achieves greater effectiveness in the use of the water's edge for water-dependent industrial and other water-dependent use, where the reconfigured zone is adjacent to the waterfront and does not result in an area separated from the waterfront, and does not result in a net loss of WDUZ. The 2025 Renewal continues to endorse the application of the WDUZ requirement at 310 CMR 9.51(3)(c) for the majority of parcels within the DPA, and most parcels in the DPA are not likely to be eligible for the substitution.

The planning analysis and data presented in the 2025 Renewal clearly identifies the proposed WDUZ substitute provision and establishes offsets based on the specific characteristics of Gloucester's waterfront to address the effects of the less restrictive requirements on tidelands policy objectives. The substitution establishes explicit alternative setback distances and appropriate maintenance of the net area of WDUZ that ensure that new or expanded buildings for nonwater-dependent use are not constructed immediately adjacent to a project shoreline, while providing more flexibility for site specific considerations, including the prevalence of Gloucester's long, narrow piers. The offsetting measures avoid inequity in the distribution of public benefits and detriments by ensuring that the substitution is applied only to those parcels where such application would provide improved effectiveness in the use of the water's edge for water-dependent industrial use. The particulars of mitigation will be established by MassDEP through licensing on a case-by-case basis. 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 MassDEP before issuance of a Chapter 91 license.

As a result of my review, I find that the proposed substitute provision in the plan includes alternative distances and other requirements that ensure that new or expanded buildings for nonwater-dependent use will not be constructed immediately adjacent to the shoreline so that sufficient areas along the edge of the shoreline will be devoted exclusively to water-dependent use, including public access, with comparable or greater effectiveness than the provisions of 310 CMR 9.51(3)(c). Further, the 2025 Renewal provides planning analysis and data clearly identifying the substitution and offset and how they will affect tidelands policy objectives, and I find that the substitution and offset will not result in licensing of projects that unreasonably diminish the capacity of such lands to accommodate

water-dependent use. Therefore, I approve this substitute provision and the corresponding offset measures.

Table 2. Summary of Substitute and Offset Provision for 2025 Renewal

Regulatory Provision	310 CMR 9.51(3)(c)1.-3.
Chapter 91 Standard	<p>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:</p> <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; and 2. 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; and 3. 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.
Substitution	For non-water dependent use project sites that meet the eligibility standard, the required WDUZ dimensions may be modified as long as a minimum width of 25 feet is maintained along the project shoreline and the ends of piers and wharfs and a minimum of 10 feet along the sides of piers and wharves, and as long as the modification results in no net loss of WDUZ area.
Offsetting Measures	<p>Substitution provision can only be applied to those project sites where it is shown that application of the Chapter 91 standard would result in an inefficient siting of uses in the WDUZ, and where the reconfiguration of the WDUZ achieves greater effectiveness in the use of the water's edge for water-dependent industrial and other water-dependent use.</p> <p>The reconfigured zone must be adjacent to the waterfront.</p> <p>In no case will a reconfigured WDUZ that results in an area separated from the waterfront or in a net loss of WDUZ be allowed.</p>

d. Evaluation of the DPA Master Plan

According to the 2025 Renewal, the Gloucester Inner Harbor DPA encompasses approximately 215 acres within Gloucester Harbor, or just over half of the HPA for the 2025 Renewal. It includes all of the Urban Renewal Era Large-Lot Industrial Port District and most of the Harbor Cove Active

DPA Small-Lot Industrial District. Approximately 86% of the total DPA area and 59 % of the land area is within Chapter 91 jurisdiction. Gloucester Harbor has numerous WDI Uses within the DPA. Traditional WDI Uses include commercial fishing vessel berthing, seafood processing (fresh and frozen), and cold storage. The DPA also supports commercial passenger vessel operations, including whale watching, cruise ships and harbor tours, and vessel repair and servicing. The 2025 Renewal found that the seafood sector of the local economy continues to struggle with the declining availability of fishery resources, discouraging investment in this sector. However, fishing efforts have shifted toward the lobster resource. Two potential WDI opportunities for future growth identified through the harbor planning process include providing supporting services to renewable energy facilities utilizing offshore wind, tidal, or wave energy sources and the development of the marine research sector utilizing ship-to-shore transfers or use of large volumes of water.

The 2025 Renewal notes that the future of Gloucester's harbor economy relies on simultaneously strengthening the harbor's traditional fishing industry and recruiting and supporting complementary emerging industries that provide economic stability, resilience, and diversity. Compatible industries for the commercial fishery, such as the professional maritime trades, renewable energy, and marine and climate change research, provide additional work for the existing commercial fleet, increase demand for shoreside property, and create synergy between the existing knowledge base of the community and emerging blue economy industries. The 2025 Renewal aims to further define the conditions under which these complementary uses can benefit one another and the Gloucester maritime economy.

Because the 2025 Renewal includes a DPA Master Plan, the approval criteria at 301 CMR 23.05(2)(e) require me to find that the Master Plan preserves and enhances the capacity of the DPA to accommodate WDI 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 2025 Renewal must:

- Ensure that extensive amounts of the total DPA area in close proximity to the water are reserved for WDI uses and that commercial uses and associated accessory uses will not, as a general rule, occupy more than 25% of the total DPA land area;
- set forth reasonable limits on commercial uses that would significantly discourage present or future WDI uses and ensure that commercial uses mix compatibly and will not alter the predominantly maritime industrial character of the DPA;
- identify industrial and commercial uses allowable under local zoning that will qualify as supporting DPA uses; and

- identify strategies for the ongoing promotion of WDI use, including recommendations for capital improvements or other economic or operational benefits to be provided by supporting DPA uses recommendations to preserve or enhance for transportation facilities for WDI use, and measures to prevent conflicts between WDI use and adjacent neighborhoods.

The 2025 Gloucester DPA Master Plan acknowledges that the capacity of the DPA to accommodate WDI use is challenged by deteriorating infrastructure, rising sea levels, and competition from higher-value land uses. The DPA Master Plan preserves and enhances the capacity of the DPA through the priority assigned to WDI uses, by precluding the displacement of commercial fishing vessel berthing, and by encouraging investment in infrastructure improvements through Supporting DPA uses. The 2025 DPA Master Plan ensures that an extensive amount of the total DPA land area in close proximity to the water will be reserved for water-dependent industrial uses by ensuring compliance with Chapter 91 licensing standards and through the City's MI zoning district. Gloucester has adopted a strong zoning ordinance that limits uses within the MI zoning district, including, importantly, the non-jurisdictional portions of the DPA, to those uses traditionally associated with the DPA and prohibiting those uses that conflict with the DPA.

The existing percentage of commercial uses and any accessory uses thereto in the DPA is 12.8% of the entire DPA land area. Significant land use changes that would increase the percentage of commercial uses are not anticipated from this DPA Master Plan, as 59% of the land area is in Chapter 91 jurisdiction and subject to the area limitations that apply to supporting commercial uses on filled tidelands. Approximately 8 acres, or nearly 10% of the overall DPA land area, are on pile-supported piers on which supporting commercial uses are not allowed. Several large parcels where substantial commercial development would impact the overall percentage of commercial uses are unlikely to acquire commercial uses during the term of this 2025 Renewal decision. They represent over thirteen acres and include the Jodrey State Fish Pier, which is dedicated solely to commercial fishing-related activities, the Coast Guard property, and the electrical substation on Rogers Street. The 2025 DPA Master Plan further ensures that the percentage of commercial uses in the DPA will not exceed 25% of the DPA land area through the underlying local Marine Industrial zoning, which limits these uses in the DPA.

The 2025 Gloucester DPA Master Plan includes reasonable arrangements to prevent commitments of any space or facilities that would discourage present or future water-dependent industrial activities, especially on waterfront sites, by maintaining the regulatory standard of not more

than 25% of each project site within jurisdiction occupied by Supporting DPA Uses and accessory uses thereto; prioritizing the use of the shoreline for commercial fishing vessel berthing; and drawing upon the City's MI zoning to protect areas not subject to Chapter 91 from incompatible land uses. The DPA Master Plan limits commercial uses that could create conflict within and outside of Chapter 91 jurisdiction, and waterfront areas are generally reserved for water-dependent industrial uses. The few residential areas that abut the DPA in Gloucester are longstanding neighborhoods where the mix of uses has been sustained for decades.

The MI zoning identifies any industrial and commercial uses to be allowable for licensing by MassDEP as Supporting DPA Uses, specifically excluding those inherently conflicting with port operations such as residential, transient lodging, care facilities, and similar. Noting that all supporting DPA uses allowable for licensing must comply with the provisions of both the local zoning ordinance and the definition of Supporting DPA Use at 310 CMR 9.02, I find that the allowable industrial and commercial uses to be licensed as Supporting DPA Uses for the Gloucester DPA are appropriate.

The 2025 Gloucester DPA Master Plan identifies needs for the Harbor that would benefit the DPA through the involvement of local, state, and federal agencies, including the expansion of commercial fishing dockage, which may require relief from federal navigational projects and state harbor line limitations. In addition, there may be opportunities for state and federal funding assistance to adapt to climate change for the harborfront properties. At the local level, the 2025 Renewal presents a new focus on economic development activities that can spur new water-dependent industries, particularly in the marine research sector, and new market opportunities for higher-value seafood products. It highlights specific recommendations for capital improvements associated with 65 Rogers Street and general recommendations for other sites. It also recommends further investigation of navigation channels within Harbor Cove to see to what extent commercial fishing vessel dockage can be expanded. The Gloucester DPA has developed over time in a manner that mostly has avoided land use conflicts with surrounding residential uses. The Gloucester zoning ordinance prioritizes maritime uses on the harbor, consistent with existing land use patterns.

Based on the information provided in the 2025 Renewal as discussed above and subject to the conditions at the end of this Decision, I find that the DPA Master Plan components of the 2025 Renewal are consistent with the requirements of 301 CMR 23.05(2)(e).

C. Relationship to State Agency Plans

The Municipal Harbor Planning regulations (301 CMR 23.05(3)) require that the 2025 Renewal 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 HPA. The only state-owned property in the 2025 Renewal HPA is the Jodrey State Fish Pier, which is owned by the Department of Conservation and Recreation and managed by MassDevelopment. The planning team met with staff from MassDevelopment from the state pier at the outset of the planning process, collaborated with them to develop recommendations for the area, and committed to coordinating on implementing the 2025 Renewal goals and objectives. The 2025 Renewal identifies the existing supporting services for WDI use at the Jodrey State Fish Pier and encourages the continuation of the commercial fishing berthing and the offloading and seafood processing that currently occurs there. Further, the plan recommends supporting waterside infrastructure by pursuing capital and grant funding to maintain and upgrade publicly owned bulkheads, seawalls, and pile-supported piers and docks to meet modern industrial and climate resilience standards, including for the Jodrey State Fish Pier, and identifies MassDevelopment as a partner for implementation of the 2025 Renewal. No potential conflicts have been identified between planned state agency actions or plans and this 2025 renewal. The City should continue to work with DCR and MassDevelopment on implementation associated with activities at the Jodrey State Fish Pier.

D. Enforceable Implementation Commitments

Pursuant to 301 CMR 23.05(4), the 2025 Renewal must include enforceable implementation commitments to ensure that 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 substitution in the 2025 Renewal includes an offset, which limits its application to specific cases where strict enforcement of otherwise-applicable WDUZ standards would result in an inefficient siting of uses and a narrower WDUZ would benefit WDI uses. Upon issuance of regulations adopting the substitution and offset, MassDEP will have discretion to implement their provisions in the context of each project and to ensure that application of the substitution is in the public interest. Accordingly, I find that this approval standard is met subject to the conditions detailed below.

IV. EFFECTIVE DATE AND TERM OF APPROVAL

This Decision shall take effect upon issuance of final amendments by MassDEP to incorporate the substitutions described in this Decision into the Waterways regulations. As requested by the City of Gloucester, the City of Gloucester Municipal Harbor Plan and Designated Port Area Master Plan Decision shall expire ten years from this effective date unless a renewal request is filed before that date in accordance with the procedural provisions of 301 CMR 23.06. No later than six months before the 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 its 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 2025 Gloucester Municipal Harbor Plan and Designated Port Area Master Plan according to the terms and obligations contained herein and subject to the following conditions:

1. Projects may apply a substitute reconfigured Water Dependent Use Zone (WDUZ) as described above only when a clear showing has been made that the application of the Chapter 91 standard would result in an inefficient siting of uses in the WDUZ and where the reconfiguration achieves greater effectiveness in the use of the water's edge for water-dependent industrial or water-dependent use. For reconfiguration of any WDUZ, the following conditions shall apply:
 - a. The reconfiguration shall result in no net loss of WDUZ area;
 - b. The reconfigured WDUZ shall be adjacent to the water and must adhere to the following minimum dimensions: 25 feet width maintained along the project shoreline and the ends of piers and wharves, and 10 feet width along the sides of piers and wharves and
 - c. The reconfigured WDUZ shall not result in an area of WDUZ separated from the water.
2. For any project which will displace any commercial fishing vessel berthing in Gloucester Harbor, MassDEP will consult with the City of Gloucester prior to making any

determination to confirm that there are reasonable arrangements to provide equivalent berthing space on-site or at a suitable alternative site not already used by commercial fishing vessels. The following criteria should be considered when determining what would be considered reasonable accommodations or a suitable alternative for commercial fishing vessel berthing in Gloucester Harbor:

- a. The site should be accessible by pickup trucks and service vehicles.
 - b. The site should be protected from strong wave action, which would limit its utility for long-term berthing of commercial fishing vessels.
 - c. The site should have available landside space to store fishing gear on a temporary basis.
 - d. The site should have water and electric utility services suitable for commercial fishing vessel berthing.
 - e. The lease terms and pricing shall be comparable to similarly situated and equipped berthing locations elsewhere in the harbor.
 - f. Water depth should be sufficient for the proposed vessel sizes.
 - g. For each criterion listed above, reasonable accommodations or suitable alternatives should be equivalent to or better than the original commercial fishing vessel berthing being displaced.
3. Projects shall prioritize water-dependent industrial uses for any project located along the water's edge of the DPA.
4. Projects may, to the extent practicable for a site, integrate public access facilities into a project to activate the waterfront as part of the open space required with a nonwater-dependent supporting DPA use, so long as it is sited to be compatible with and not interfere with water-dependent industrial uses and activities.
5. Projects shall allow open areas used to support working waterfront activities seasonally during the year to accommodate temporary public access when possible.
6. Projects shall not include any use in the WDUZ zone that would result in any adverse impact to and/or restriction of access to water-borne vessels, wherever possible.
7. The extent of operational or economic support provided to water-dependent industrial uses by supporting DPA uses should be as follows:

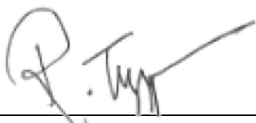
- a. For properties with a water-dependent industrial use, economic or operational support from the supporting use to the on-site water-dependent industrial use is preferred.
 - b. If no water-dependent industrial use exists or is proposed on the site, or if the WDI user does not need support, an investment in on-site waterfront infrastructure to improve capacity for water-dependent industrial use will be required. Where feasible, improvement/maintenance of existing berthing and/or creation of new berthing for commercial vessels shall be required.
 - c. If it is infeasible to invest in on-site waterfront infrastructure to improve capacity for water-dependent industrial use, offsite operational or economic support to WDI uses within the DPA will be considered.
 - d. If none of the above can be achieved, a contribution to the Gloucester Port Maintenance and Improvement Fund will be considered. This fund shall be used only to support water-dependent industrial uses within the DPA. The fund shall be used for WDI infrastructure where possible. In the limited circumstances where a contribution to the fund is required, MassDEP will determine the contribution amount and require payment as a licensing condition. The City will be responsible for administering the fund. The fund should only be used for payments required under this licensing condition, and expenditures from the fund are restricted to investment in water-dependent infrastructure within the DPA. The City shall submit to MassDEP an annual report detailing the Fund expenditure and balances.
8. The City shall prepare a final, approved Gloucester Harbor Plan (Approved Plan) to include:
 - a. The 2025 Renewal dated March 2025 as amended by this Decision; and
 - b. This Approval Decision.

Copies of the final Approved Plan shall be provided to CZM and MassDEP's Waterways Program, kept on file at the City Clerk and Planning and Community Development Offices, and Harbormaster's Office and made available to the public through the City's website and copies at the library. For Chapter 91 Waterways licensing purposes, 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); or
2. Any provision which, as applied to the project-specific circumstances of an individual license application, is determined by MassDEP 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 July 2, 2025, the MassDEP Waterways Program Chief expressed support for approval of the substitute and amplification provisions in the 2025 Renewal and stated that in accordance with the provisions of 310 CMR 9.34(2), MassDEP will apply the applicable substitute provisions and adhere to the amplifications of the Approved Plan in the case of all Waterways license applications submitted after the 2025 Renewal's effective date and within the geographic scope of the Plan. The Approved Plan will also apply 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.



Rebecca L. Tepper
Secretary of Energy and Environmental Affairs

July 7, 2025

Date



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

100 Cambridge Street Suite 900 Boston, MA 02114 • 617-292-5500

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

July 2, 2025

Rebecca L. Tepper, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street
Boston, Massachusetts 02114

RE: Massachusetts Department of Environmental Protection Approval of Substitute and Amplification Provisions and Recommendation for the Approval of the Secretary's Decision on the City of Gloucester Municipal Harbor Plan

Dear Secretary Tepper:

The Massachusetts Department of Environmental Protection, Waterways Regulation Program ("the Department") has reviewed the City of Gloucester's Proposed Municipal Harbor Plan and Designated Port Area Master Plan ("the Plan") dated March, 2025. The Department's staff have worked closely with the Massachusetts Office of Coastal Zone Management (CZM) and representatives of the City of Gloucester throughout the planning process and consultation period.

The Department has reviewed the proposed Secretary's Decision ("Decision") and has determined that the Substitute Provisions and Offsets and Amplification Provisions as stipulated in the Decision will adequately and properly comply with or exceed the minimum regulatory standards for protection of interests pursuant to G.L. c.91 and 310 CMR 9.00. Therefore, pursuant to its statutory authority under G.L. c.91 to regulate tidelands, the Department hereby approves the Substitute Provision and Offsets and Amplification Provisions as stipulated in the Decision.

The Substitute Provision included in the Decision will modify the numerical standards for 310 CMR 9.51(3)(c) which governs the dimensions of a Water-Dependent Use Zone. The Amplification Provisions included in the Decision will amplify 310 CMR 9.36(4) and 310 CMR 9.36(5)(b)4., which stipulate standards to protect water-dependent uses, and 310 CMR 9.52(1)(a), which addresses utilization of the shoreline for water-dependent purposes.

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

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MassDEP Approval of Substitute and Amplification Provisions – 2025 City of Gloucester
Municipal Harbor Plan and Designated Port Area Master Plan

310 CMR 9.00, and determine whether the requirement of 310 CMR 9.54 has been met, as applicable, for all Chapter 91 license applications submitted subsequent to the Decision's effective date and within the geographic scope of the Plan. The Plan 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 Gloucester 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 (857) 329-3574. Thank you for your consideration.

Sincerely,

DEPARTMENT OF ENVIRONMENTAL PROTECTION

A handwritten signature in black ink, appearing to read "Daniel Padien", with a stylized flourish at the end.

Daniel J. Padien
Program Chief
Waterways Regulation Program

Cc: Alison Brizius, Assistant Secretary/Director of Coastal Zone Management