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WAIVER OR MODIFICATION OF REPLACEMENT LAND REQUIREMENTS OF M.G.L. c. 3 § 5A

PROJECT: Proposed Transfer of Land and Conservation Restriction in the Town of Bourne
MUNICIPALITY: Bourne
EEA FILE NUMBER: A97_019_036
PROJECT PROPONENT: Town of Bourne and Barnstable County
DATE: October 03, 2025

Pursuant to M.G.L. c. 3 § 5A(a), a public entity that is proposing to use for another purpose or otherwise dispose of land or an interest in land subject to Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts (“Article 97”) may request a waiver or modification of the otherwise-applicable requirement to provide replacement land, provided that:

1. the disposition involves only the transfer of legal control between public entities and does not involve any other change, including, but not limited to, a change allowing the land to be used for another purpose; or
2. the transfer is of land or interest in land that is of insignificant natural resource and recreation value and is less than 2,500 square feet in area and the transfer serves a significant public interest.

This determination constitutes solely a waiver or modification of the replacement land requirements pursuant to M.G.L. c. 3 § 5A(a) and does not indicate that the Secretary of Energy and Environmental Affairs takes any position on the Project or on whether it complies with the Executive Office of Energy and Environmental Affairs (“EEA”) Article 97 Land Disposition Policy or any law or regulation.

Project Description:

The Project, described more particularly in an Alternatives Analysis and supplemental materials provided by the Town of Bourne and Barnstable County, and posted on EEA’s website¹, involves the conveyance of the fee interest in land from Barnstable County to the Town of Bourne. A portion of this land is subject to a Conservation Restriction which is currently held by the Town of Bourne. Concurrently with the

¹ <https://www.mass.gov/info-details/article-97-an-act-preserving-open-space-in-the-commonwealth-mgl-c-3-ss-5a>

conveyance of the fee interest in this land, the interest in the Conservation Restriction will be transferred from the Town of Bourne to Barnstable County.

Determination:

Based on the information provided by the Town of Bourne and Barnstable County, and an independent analysis conducted by EEA, the proposed project meets the criteria for the requested waiver of the replacement land requirements pursuant to M.G.L. c. 3 § 5A because the project involves a transfer of legal care and control from one public entity to another public entity without a change in use. Provided that no merger of the Conservation Restriction occurs, the project will not result in a net loss of Article 97 land or interests in land, and there is no need to mitigate for any loss through the provision of replacement land. I therefore waive the requirement for the provision of replacement land associated with the Project.