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

PROJECT: Proposed Disposition of Land Situated in the Town of Nantucket  
MUNICIPALITY: Nantucket  
EEA FILE NUMBER: A97\_009\_197  
PROJECT PROPONENT: Town of Nantucket  
DATE: July 30, 2024

Pursuant to M.G.L. c. 3 § 5A, a public entity who 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 replacement land requirements, 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 as a waiver or modification of the replacement land requirements pursuant to M.G.L. c. 3 § 5A(a)(ii) & M.G.L. c. 3 § 5A(a)(iii) 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. This determination reflects the independent analysis of EEA for advisory purposes and does not create any right, benefit, or duty, substantive or procedural, enforceable at law or equity by any party in any judicial or administrative matter.

**Project Description:**

The Project is described in pending legislation H.4646 and involves the transfer of land currently under the care, custody and control of the town of Nantucket for open space and conservation purposes to the Nantucket Islands Land Bank. Nantucket Islands Land Bank is a public entity that would hold this land for the purposes of open space and conservation.

**Determination:**

Based on the information provided by the town of Nantucket and an independent analysis conducted by EEA, the proposed project meets the criteria for a waiver of replacement land requirements pursuant to M.G.L. c. 3 § 5A because the project involves only a transfer of legal control between public entities without a change in use or purpose.