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March 12, 2021

Via email: erikk.hokenson@mass.gov

Office of Coastal Zone Management
Attention: Erik Hokenson, Boston Harbor Regional Coordinator
251 Causeway Street, Suite 800
Boston, MA 02114

Re: East Boston Designated Port Area (DPA) Boundary Review

Dear Mr. Hokenson,

On behalf of Boston Harbor Now, thank you for the opportunity to comment on the review of the East Boston Designated Port Area boundary. The review was requested on January 30, 2020 by the Boston Planning and Development Agency and the process was formally initiated only recently due to the ongoing COVID-19 pandemic and the inability to hold public meetings in person. Though the original request for review only encompassed a part of the Designated Port Area (DPA), the Office of Coastal Zone Management (CZM) has determined that review of the entire DPA is appropriate.

Members of the Boston Harbor Now team attended the public information session on February 23rd and now respectfully submit these comments for consideration.

DPA Purpose/Evaluation Criteria

We begin by noting that the analysis that CZM will undertake to evaluate the boundaries of the DPA is strictly prescribed by the regulations at 301 CMR 25.00. The primary purpose of the DPA program is to ensure that the Commonwealth's ports-related policy objectives are promoted actively within those geographic areas that support water-dependent industrial uses. These uses contribute to the maritime economy of the state and the region and require infrastructure comprised of three "essential components": a waterway and associated developed waterfront; backland area capable of supporting industrial facilities and operations; and transportation and public utilities similarly capable of supporting industrial operations. 301 CMR 25.01(2).

Because these attributes are "found in a very limited and diminishing portion of the coastal

zone...”

[a]s a matter of state policy, it is not desirable to allow these scarce and non-renewable resources of the maritime economy to be irretrievably committed to, or otherwise significantly impaired by, non-industrial or nonwater-dependent types of development that enjoy far greater range of locational options. 301 CMR 25.01(2).

It is against this policy backdrop that the boundary review takes place. The DPA boundary regulations stipulate that an area shall remain in a DPA if CZM finds that the area is in substantial conformance with the specific criteria governing its suitability to accommodate water-dependent industrial use, as appropriate to the harbor in question. If the land or water being evaluated meets the designation criteria, it must remain in the DPA.

Specifically, the regulations provide:

In the case of a land area, the designation criteria are as follows:

- (a) the land area must include, or be contiguous with other DPA lands that include a shoreline that has been substantially developed with piers, wharves, bulkheads, or other structures that establish a functional connection with a water area meeting the criteria set forth in the regulations [at 301 CMR 25.04(1)];*
- (b) the land area must lie in reasonable proximity to:*
 - 1. established road or rail links leading to major trunk or arterial routes;*
 - and*
 - 2. water and sewer facilities capable of supporting general industrial use;*
- (c) the land area must exhibit a topography that is generally conducive to industrial use, or reasonably capable of becoming so in terms of technology, cost, and other appropriate factors governing engineering feasibility; and*
- (d) the land area must exhibit a use character that is predominantly industrial, or reasonably capable of becoming so because it does not contain a dense concentration of:*
 - 1. non-industrial buildings that cannot be removed or converted, with relative ease, to industrial use; or*
 - 2. residential, commercial, recreational, or other uses that unavoidably would be destabilized if commingled with industrial activity.*

For a water area, the designation criteria are as follows:

- (a) the water area must include, or be contiguous with other DPA waters that include:*
 - 1. a navigable entrance or main channel with a design depth of at least 20 feet; and*
 - 2. a shoreline that has been substantially developed with piers, wharves, bulkheads, or other structures that establish a functional connection with a land area meeting the criteria in the regulations [at 301 CMR 25.04(2)].*
- (b) the water area must be of a configuration, size, and location that is appropriate for the maneuvering or berthing of vessels, the placement of intake/outfall structures, or other activities involving direct utilization of the water. At a minimum, the DPA shall include:*
 - 1. all channels (including sloped sides necessary to create actual depth), and mooring and turnaround areas within or serving as access channels to land or water areas meeting the designation standards in the regulations [at 301 CMR 25.04]; and*
 - 2. any water area lying between an entrance or main channel and any*

land or water areas meeting the designation standards in the regulations [at 301 CMR 25.04] that extend channelward from such areas.

These criteria are applied to each area of the DPA. There are limited exceptions which dictate that some areas are not subject to review, such as those that have been used for a water-dependent industrial use within the previous five years (301 CMR 25.02(2)(b)). Otherwise, this is the full extent of the review that is to take place.

In its letter requesting an initiation of the boundary review, however, the City of Boston has listed as its reasons “1) the lack of active water-dependent industrial activity in these areas, and 2) their flood vulnerability, which will likely require substantial investment to address.” (BPDA Request for Designated Port Area Boundary Review, East Boston, MA, dated January 30, 2020.) While we all share the urgent concern that the coastal impacts of climate change on vulnerable parts of the City need to be addressed, neither of these reasons appear to be appropriate criteria under current rules and regulations upon which to modify the boundary of a DPA.

Nevertheless, protecting the neighborhood from the impacts of sea level rise and storm surge is an important goal, and we understand that funding these resilience projects is difficult, particularly in a DPA such as this one where no investment in port facilities is planned for the foreseeable future that could be used to leverage investment in resiliency measures. The problem is especially acute in some parts of the East Boston DPA along Border Street where resilience measures are needed within the next decade to protect adjacent inland areas, as well as the DPA itself. With that in mind, we encourage the City and the Commonwealth to explore ways in which resilience can be achieved regardless of the outcome of the boundary review, beginning with the concepts developed in the recent report: *Coastal Resilience Solutions for East Boston and Charlestown*.

At the same time, we fully support the Office of Coastal Zone Management in its efforts to identify what resilience measures can be implemented within the context of an existing Designated Port Area. Before revising the boundary of the DPA, it would be important to know what kind of resilience is possible within the context of the current regulations. The pilot project currently being undertaken by CZM in the Gloucester and Chelsea DPAs is likely to create new options for resilience in these important economic areas. We look forward to learning the results of this pilot project and building on it to incorporate resilience in working ports throughout the Commonwealth.

Planning

As this process moves forward, we note that portions of this DPA were reviewed and a decision rendered by CZM in 2002. That exercise examined the DPA in three distinct planning units. As recognized at the public information session on February 23rd, the East Boston DPA is irregularly shaped and is separated into four “teeth.” We recommend that this boundary review consider the DPA designation criteria separately for each of the four units, and potentially at an even finer grain than that, based on the current land uses within each area. Based on these land uses, it is unlikely that any of these teeth can appropriately be de-designated in whole. A finer grain analysis is likely necessary. In light of the significant land use changes that have occurred over the last two decades since the 2002 decision, it will be especially important to understand whether adequate rail and road links exist for each unit and whether the use of such links for marine industries remain compatible with the current and potential future land uses in the area.

Finally, also as recognized in the 2002 review process and resulting decision, “[t]he marine industrial uses currently located on the East Boston waterfront—barge and water transportation services, construction staging areas, tugboat operators, small vessel supply and repair, marine construction and welding—are critically important businesses that support other, large-scale maritime activities throughout Boston Harbor.” (East Boston Designated Port Area (DPA) Boundary Review, December 18, 2002, p. 10.) The interdependence of this DPA with the rest of the working port in Boston Harbor was further recognized later in that decision: “The smaller supporting operations needed to keep the port and other important aspects of the Boston Harbor marine infrastructure functioning are located in this DPA. These supporting uses include marine construction, tug boat operations, vessel repair, fishing and boating supply stores, etc.” (Id., p. 11). Such smaller-scale marine uses are as important to the future of the port as the larger-scale uses in other parts of the harbor.

Finally, the East Boston DPA, along with other port areas in the Inner Harbor, create a maritime ecosystem that is mutually reinforcing and interdependent. In order to get a full view of the potential for the future of each of these DPAs, it would be important to do a port study that includes all of the DPAs together. Maintaining these areas to serve the evolving needs of the port is important to the future functioning of the system as a whole. The marine industry is evolving, and the needs of the future (land and water-side) may differ from what is currently required. A holistic, forward-looking plan, such as the one that was completed in 1996 by the BPDA and Massport would take into account changes in the maritime industries, future land use needs in each of these areas around the harbor, as well as how to ensure their long-term viability as contributors to the local and regional economy. Boston Harbor Now produced a forward-looking report in 2019 that identified opportunities for growth in DPAs around the harbor (<https://www.bostonharbornow.org/wp-content/uploads/2019/02/Recommendations-for-the-Future-of-Bostons-Working-Waterfront-2019.pdf>) that could serve as a basis for such a study. We look forward to participating in the ongoing discussion of port needs in order to maintain a healthy, vibrant port for the future.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron Toffler', written in a cursive style.

Aaron Toffler
Director of Policy
Boston Harbor Now