

Staff Report 64

TRUSTEE:

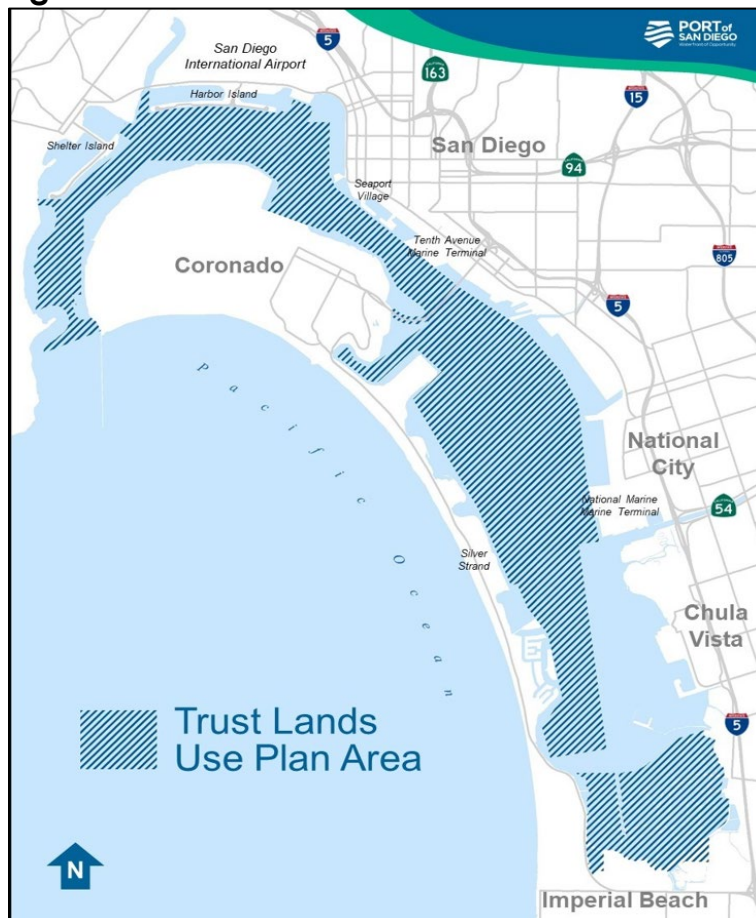
San Diego Unified Port District

PROPOSED ACTION:

Acknowledge the submittal of a Draft Trust Lands Use Plan pursuant to Chapter 372, Statutes of 2019 (SB 507, Atkins).

TRUST LANDS USE PLAN AREA:

Figure 1. Trust Lands Use Plan Area



SUMMARY:

The San Diego Unified Port District (Port) is trustee of sovereign tide and submerged lands within and around the San Diego Bay granted by the Legislature in 1962. The Port is governed by a seven-member Board of Port Commissioners comprising appointees by the city councils of the adjacent jurisdictions. Legislation enacted in 2020 (SB 507, Atkins), expanded the Port's trust grant to include tide and submerged lands in the inner bay area. The newly granted area is almost all open water within the San Diego Bay and includes roughly 8,000 acres of submerged lands and 5 acres of tidelands (the land area). SB 507 required the Port to submit a Trust Lands Use Plan (TLUP) to the Commission for the newly granted area by January 1, 2024 "describing any proposed development, preservation, or other use" of the granted land.

The Trust Lands Use Plan, a standard requirement in new or expanded trust grants, is the foundational document that guides how the trustee will manage, use, and preserve its Public Trust lands. It provides accountability to the public and Legislature and assists the Commission with its oversight role by providing a framework and structure for how the trustee will manage its granted lands. It explains how the trustee will uphold the principles of the Public Trust Doctrine and meet its fiduciary and trustee responsibilities. It is an essential planning document that the Legislature requires when it grants sovereign state-owned land to a local jurisdiction to hold and manage in trust. The Port has been developing the TLUP over the past several years, and during this time, has collaborated with Commission staff and the public on its development. In July 2023, the Port released a discussion draft of the TLUP for a 30-day public review period. Port staff received 22 comments on the Discussion Draft, revised the Draft based on the comments received, and on September 12, presented the Draft TLUP to the Port Board. The Board directed staff to submit the Draft, dated September 2023, to the Commission. When finalized, the TLUP will memorialize the goals, policies, and allowable uses and activities within the newly granted lands. It will establish a comprehensive vision for how the Port will manage these newly granted lands and govern the use, design, improvement, and preservation of these Public Trust lands.

Port staff will process the Draft TLUP as a Port Master Plan Amendment with the California Coastal Commission. Once the California Coastal Commission certifies the Port Master Plan amendment, the Port will submit the TLUP Port Master Plan Amendment to the State Lands Commission. The Port anticipates final approval of the TLUP in 2025 and will continue coordinating with the State Lands Commission as the TLUP progresses.

The Draft TLUP establishes a comprehensive vision for how the Port will manage the additional granted lands. It addresses six elements—water and land use, mobility, ecology, safety and resiliency, environmental justice, and economics—and sets the policy direction for future development, environmental protection, and public improvements. The six elements set goals, objectives, and policies, developed in accordance with the Coastal Act, Public Trust doctrine, and the Port Act, that provide the foundation and direction for development and improvements contemplated in four new planning districts, (the North Bay, North Central Bay, South Central Bay, and South Bay).

The Draft TLUP establishes a vision for each planning district that includes water and land use designations, public access, development standards, and water and land use maps, among other things. The Draft TLUP also establishes development standards meant to align with the Coastal Act, Public Trust Doctrine and the Port Act, and provides prioritization guidance and guidance for the Port when reviewing development and nonconforming uses. The Draft TLUP includes an implementation component.

Below is a summary of the six elements analyzed in the Draft TLUP, which are the bulk of the document:

WATER AND LAND USE ELEMENT

The purpose of the water and land use element is to guide future water and land uses and development and establish a range of water dependent tideland uses, emphasizing the importance of coastal access. The goals, objectives, and policies included in this element are intended to support and provide a framework for:

- Honoring the unique relationship between the diverse character of tidelands and the water.
- Balancing the requirements of the Port Act and Coastal Act.
- Improving the public's access to, and experience on, tidelands and the water.
- Providing a diversity of water and land uses.
- Enhancing coastal access throughout the tidelands.
- Retaining and expanding priority coastal uses.
- Providing coastal and landside improvements.
- Encouraging coordination with agency stakeholders.

MOBILITY ELEMENT

The purpose of the mobility element is to provide direction for the maintenance, enhancement, accessibility, and integration of the travel options to, from, and

throughout the Draft TLUP Area while being flexible and adaptable to future needs of pedestrians, transportation, transit, parking, cargo, freight, and the military. The focus of this element is to:

- Encourage the implementation of new, and the improvement and expansion of, mobility networks to provide users with diverse travel options, including transit, on water and land.
- Provide efficient marine terminals as cargo connection points to maintain a sustainable freight network.
- Continue coordination with the Department of Defense to support and maintain the Port's strategic port designation.

ECOLOGY ELEMENT

The Port is responsible for safeguarding its natural resources and public access. The purpose of the ecology element is to identify goals, objectives, and policies that enhance, conserve, and restore natural resources and foster a healthy environment. The ecology element is intended to create a balance between the natural environment and the built environment and focus on healthy and diverse ecosystems and collaborative stewardship.

The goals, objectives, and policies in this element are intended to demonstrate the Port's environmental stewardship and its role in supporting a healthy and sustainable ecosystem through:

- Requirements for future development adjacent to or near environmentally sensitive areas.
- Protection, enhancement, and conservation of biologically diverse resources.
- Pollution prevention and improving the quality of the land, water, and air.
- Enhanced collaboration with local partners on shared priorities.

SAFETY AND RESILIENCY ELEMENT

The safety and resiliency element establishes goals, objectives, and policies intended to ensure that the Port is prepared to respond to climate change and fulfill its responsibilities to protect and maintain critical infrastructure, public assets, and coastal access. The following concepts are analyzed in this element:

- Creating and maintaining safe access to and within the tidelands and the bay.
- Collaborating with adjacent jurisdictions and regional partners to mitigate, prepare for, respond to, and recover from emergencies.

- Applying an adaptive management approach to mitigate, prepare for, respond to, and recover from human-caused and natural hazards through an iterative cycle of planning, monitoring, evaluating, and adapting.

ENVIRONMENTAL JUSTICE ELEMENT

The environmental justice element centers on coastal access, outreach and public participation, and a healthy environment. It establishes goals, objectives, and policies intended to ensure that disadvantaged communities are afforded equitable opportunity to access tidelands, participate in Port planning and public involvement processes, and enjoy a healthy environment through:

- Improved mobility and transit linkages from adjacent disadvantaged communities throughout the tidelands and expanded free and lower cost recreational opportunities.
- Greater opportunities to participate in the Port's planning and decision-making processes.
- Reduced pollution in disadvantaged communities to improve those communities' quality of life.
- Enhanced collaboration locally and regionally, as well as deepening relationships with Indigenous communities, so that disadvantaged communities near tidelands and adjacent areas are cleaner and thriving places to work, live, and play.

ECONOMICS ELEMENT

The economics element establishes goals, objectives, and policies intended to ensure that the Port supports the economic vitality of the region, with an emphasis on promoting equity and the tidelands economy. The policies in this element emphasize:

- Continued strengthening of public and private partnerships.
- Exploration of innovative financing mechanisms.
- The provision of infrastructure to support businesses on the tidelands.
- Encouraging a diverse suite of trust consistent uses and businesses to operate on the tidelands to support local and regional economic prosperity.

Each element is intended to be balanced with each other and with the Port's management responsibilities under the Coastal Act, Public Trust Doctrine, and the Port Act. As stated in the Draft TLUP: "Many of the policies contained in this document support and promote coastal-dependent uses while also integrating public coastal access." The Port conducted public outreach and stakeholder engagement during the process of developing the Draft TLUP. The Port held

meetings with partner agencies, member cities, and the public. As mentioned in the summary, the Port received 22 public comments on the Draft TLUP. Comment themes include clarification on the boundaries of the newly granted lands; clarification of the Port's management responsibilities; clarification of the relationship between the Draft TLUP and the Port Master Plan, and other Port plans; requests to enhance environmental stewardship policies and narratives; and requests to encourage more nature-based shoreline solutions.

OTHER PERTINENT INFORMATION:

1. The Port was created by Chapter 67, Statutes of 1962 to manage, in trust, certain tide and submerged lands within San Diego Bay. When the statutory grant took effect, state lands within the Bay that had been previously granted to the cities of San Diego, Chula Vista, Coronado, and National City were transferred to the Port. In 1990, tide and submerged lands along the Pacific Ocean previously granted to the City of Imperial Beach were also transferred to the Port. Since then, the Port has acquired additional upland parcels and has been granted other land through exchanges. These properties are part of the Port's tidelands.
2. The Port manages a diverse portfolio of trust uses to generate revenues that support its public amenities, port operations, and coastal access around San Diego Bay. The Port's mission is to protect the tidelands trust resources by providing economic vitality and community benefit through a balanced approach to the maritime industry, tourism, water and land recreation, environmental stewardship, and public safety.
3. The relevant provision of SB 507 is codified as Section 5.7 of the San Diego Unified Port District Act, within the California Harbors and Navigation Code.
4. Acknowledgement of the submittal is exempt from the requirements of CEQA because it is a ministerial action.

Authority: Public Resources Code section 21080(b)(1) and California Code of Regulations, title 14, section 15268.

5. This item is consistent with the "Meeting Evolving Public Trust Needs" and "Committing to Collaborative Leadership" Strategic Focus Areas of the Commission's 2021–2025 Strategic Plan.

EXHIBITS:

- A. [Trust Lands Use Plan](#)
- B. Resolution

RECOMMENDED ACTION:

It is recommended that the Commission:

Acknowledge the submittal of a Draft Trust Lands Use Plan, pursuant to Chapter 372, Statutes of 2019, by the San Diego Unified Port District.

Exhibit B

RESOLUTION 2023-084

RESOLUTION DIRECTING STAFF TO SUBMIT THE DRAFT TRUST LANDS USE PLAN TO THE CALIFORNIA STATE LANDS COMMISSION AND COMMENCE ENVIRONMENTAL REVIEW

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, on January 1, 2020, Senate Bill (SB) 507 was enacted, which granted in trust certain submerged lands and tidelands in and around the Bay to District management from the California State Lands Commission (CSLC); and

WHEREAS, the newly granted area is predominantly water area within the Bay, including approximately 8,000 acres of submerged lands and approximately 5 acres of tidelands (land area); and

WHEREAS, in addition to granting these submerged lands and tidelands to the District's management, the legislation also: (1) requires the District at the end of every fiscal year to transfer to the CSLC a specified amount of the revenues generated on the SB 507 granted area, and (2) requires the District to prepare and submit a Trust Lands Use Plan (TLUP) to the CSLC by January 1, 2024; and

WHEREAS, District staff has coordinated with the CSLC and lessees within the granted area to transfer the leases to the District's management (as they were previously between the lessee and the CSLC), and to make the required annual payment every fiscal year; and

WHEREAS, under SB 507, the TLUP should describe any proposed development, preservation, or other use of the granted area; and

WHEREAS, the TLUP only addresses the newly granted area and does not address the submerged lands and tidelands included in the District's ownership and jurisdiction prior to 2020; and

WHEREAS, the TLUP must be submitted to the CSLC on or before January 1, 2024, and thereafter, the District must submit to the CSLC for its approval any proposed changes or amendments to the TLUP; and

WHEREAS, the TLUP will be prepared as a Port Master Plan Amendment (PMPA) pursuant to Section 30711 of the California Coastal Act, as a PMPA will include the required contents of the TLUP; and

WHEREAS, once certified by the California Coastal Commission (CCC), the PMPA will also provide the District with coastal permitting authority over the granted area; and

WHEREAS, District staff is following an approach to preparation of the TLUP that mirrors the Integrated Planning process utilized for the PMPU; and

WHEREAS, the TLUP includes new goals, objectives, policies, and water and land use designations and use types relevant to the newly granted area, as well as site-specific planned improvements, development standards, and water and land use maps for the four new Planning Districts (North Bay, North Central Bay, South Central Bay, and South Bay); and

WHEREAS, the boundaries of the TLUP's four new Planning Districts follow the ecoregions identified in the joint U.S. Navy and District Integrated Natural Resources Management Plan; and

WHEREAS, the TLUP identifies current uses that should be preserved, protected, and maintained; proactively addresses potentially competing uses or activities; and creates opportunities to improve, enhance and/or expand some uses in a balanced way; and

WHEREAS, on July 20, 2023, a Discussion Draft of the TLUP was published for a 30-day public review period to allow for public comment and encourage discussion with the District on the draft plan; and

WHEREAS, a total of 22 comment letters were received; and

WHEREAS, based on comments received and stakeholder discussions since the Discussion Draft of the TLUP was published, staff have prepared the revised pre-submittal Draft TLUP; and

WHEREAS, based on Board direction, the pre-submittal Draft TLUP could be submitted to the CLSC and would serve as the basis for a project description to analyze under the California Environmental Quality Act (CEQA); and

WHEREAS, Staff's proposed next steps to preparing a TLUP for submittal to the CSLC include: (1) processing the Draft TLUP with CSLC, (2) analyzing the Draft TLUP under CEQA, (3) processing the Draft TLUP with the CCC, and (4) processing the TLUP with CSLC once the PMPA is certified by CCC; and

WHEREAS, Staff will continue to hold focused discussions with organizations, agencies, lessees, and other Bay stakeholders to obtain input on the process, potential opportunities, and key considerations; and

WHEREAS, staff recommends that the Board direct staff to submit the Draft

TLUP to the CSLC and to commence environmental review of the Draft TLUP pursuant to CEQA.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners (BPC) of the San Diego Unified Port District (District) as follows:

1. District Staff is hereby directed to submit the Draft Trust Lands Use Plan (TLUP) for the Submerged Lands and Tidelands Granted to the District through Senate Bill 507 to the California State Lands Commission.
2. District Staff is hereby directed to commence environmental review of the Draft TLUP pursuant to the California Environmental Quality Act.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

Shiraz D. Tangri

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 12th day of September 2023, by the following vote:

AYES: Castellanos, Malcolm, A. Moore, Naranjo, and Zucchet

NAYS: None.

EXCUSED: D. Moore, Urtasun

ABSENT: None.

ABSTAIN: None.

RECUSED: None.

Rafael Castellanos

Rafael Castellanos, Chairman
Board of Port Commissioners

ATTEST:

Donna Morales

Donna Morales
District Clerk



Document History

SignNow E-Signature Audit Log

All dates expressed in MM/DD/YYYY (US)

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