

# Staff Report 44

## APPLICANT:

Shallow Beach Association, Inc.

## PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

## AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Tomales Bay, adjacent to 470 – 520 Pierce Point Road, Inverness, Marin County (as shown in Figure 1).

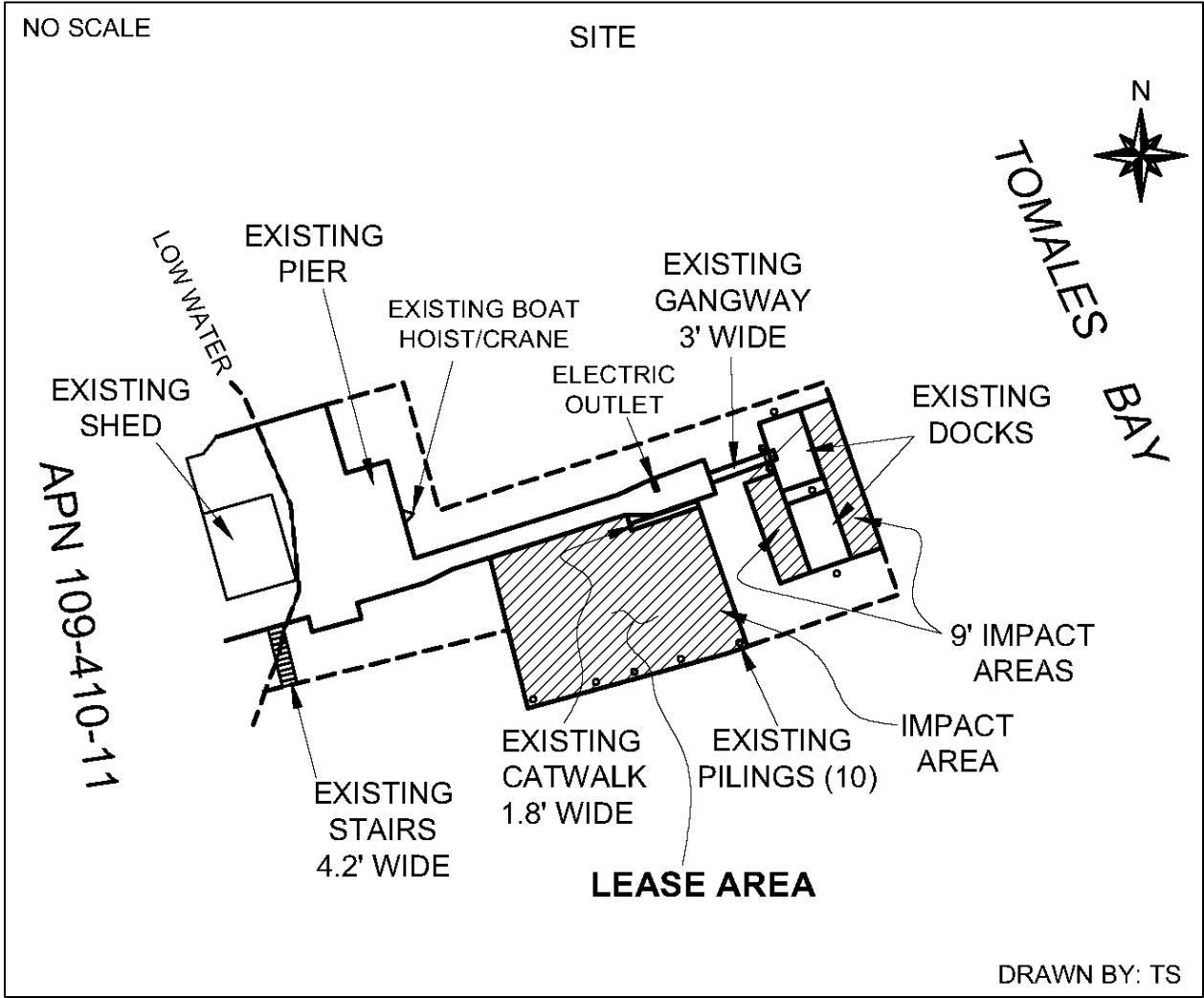
Figure 1. Location



**AUTHORIZED USE:**

Use of an existing fixed pier with boat hoist/crane, stairway, catwalk, gangway, two floating boat docks, and 10 pilings (as shown in Figure 2).

**Figure 2. Site Map**



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

**TERM:**

10 years, beginning April 23, 2024.

**CONSIDERATION:**

\$821 per year, with an annual Consumer Price Index adjustment.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Surety bond or other security in the amount of \$5,000.
- No refueling or maintenance of watercraft, vehicles, or equipment shall take place within the Lease Premises.

**STAFF ANALYSIS AND RECOMMENDATION:**

---

**AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5, and 6505.5; California Code of regulations, title 2, sections 2000 and 2003.

**PUBLIC TRUST AND STATE’S BEST INTERESTS:**

On April 23, 2014, the Commission authorized a General Lease - Recreational Use to Shallow Beach Association, Inc. for the use of an existing fixed pier with boat hoist/crane, stairway, catwalk, gangway, two floating boat docks, and 10 pilings in Tomales Bay, adjacent to 470 – 520 Pierce Point Road, Inverness, Marin County ([Item 07, April 23, 2014](#)). This lease expired on April 22, 2024.

The Applicant is now applying for a General Lease – Recreational Use for use of the existing fixed pier with boat hoist/crane, stairway, catwalk, gangway, two floating boat docks, and 10 pilings. Staff recommends issuance of a General Lease – Recreational Use to the Applicant, to take effect on April 23, 2024.

The Applicant is an incorporated association of residential property owners whose properties are adjacent to the lease premises and the Applicant has the right to use the upland adjoining the lease premises.

The subject facilities are located directly waterward of the upland property, occupy a relatively small area, and facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The proposed Lease does not alienate the State’s fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to

the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

**CLIMATE CHANGE:**

Climate change impacts, including sea level rise, increased wave activity, storm events, and flooding may impact the improvements subject to the proposed lease, located on Tomales Bay.

The California Ocean Protection Council updated the *State of California Sea-Level Rise Guidance* in 2018 to provide a synthesis of the best available science on sea level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The Point Reyes tide gauge was used for the projected sea level rise scenario for the lease area as listed in Table 1.

**Table 1. Projected Sea Level Rise for Point Reyes**

| Year | Projection (feet) |
|------|-------------------|
| 2030 | 0.8               |
| 2040 | 1.3               |
| 2050 | 2.0               |
| 2100 | 7.0               |

Source: Table 10, [State of California Sea-Level Rise Guidance: 2018 Update](#)

Note: Projections are with respect to a 1991 to 2009 baseline.

As stated in the [Safeguarding California Plan: 2018 Update](#) (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea level rise). The combination of these conditions will likely result in increased wave run up, storm surge, and flooding in coastal and near coastal areas. In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Beaches, coastal landscapes, and

near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater beach or bank erosion than previously experienced.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area to higher flood risks, comprised of greater total water levels for longer periods of time. The structures within the lease area may become vulnerable to more frequent overtopping or inundation during high tides, king tides, and storms, as well as from storm runoff. As a result, these structures may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement. The lease area contains a gangway and two floating boat docks that will rise and fall with tides and waves and have an increased resiliency to some sea level rise impacts. However, the pier, stairway, catwalk, and pilings are fixed structures that may need to be elevated or reinforced to withstand higher levels of flood exposure and more frequent storm events.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to the effects of climate change, including sea level rise.

**CONCLUSION:**

For all the reasons above, staff believes approval of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

---

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the improvements and restore the lease premises to their original condition. The lessee has no right to a new lease or to renewal of any previous lease.

2. This action is consistent with the “Leading Climate Activism” and “Meeting Evolving Public Trust Needs” Strategic Focus Areas of the Commission’s 2021-2025 Strategic Plan.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

## **RECOMMENDED ACTION:**

---

It is recommended that the Commission:

### **CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

### **PUBLIC TRUST AND STATE’S BEST INTERESTS:**

Find that the proposed lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

### **AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 23, 2024, for a term of 10 years, for the use of an existing fixed pier with boat hoist/crane, stairway, catwalk, gangway, two floating boat docks, and 10 pilings; annual rent in the amount of \$821, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.