Meeting Date: 12/17/24
Lease Number: 7128
Staff: K. Connor

Staff Report 42

APPLICANT:

Linear Bannasch

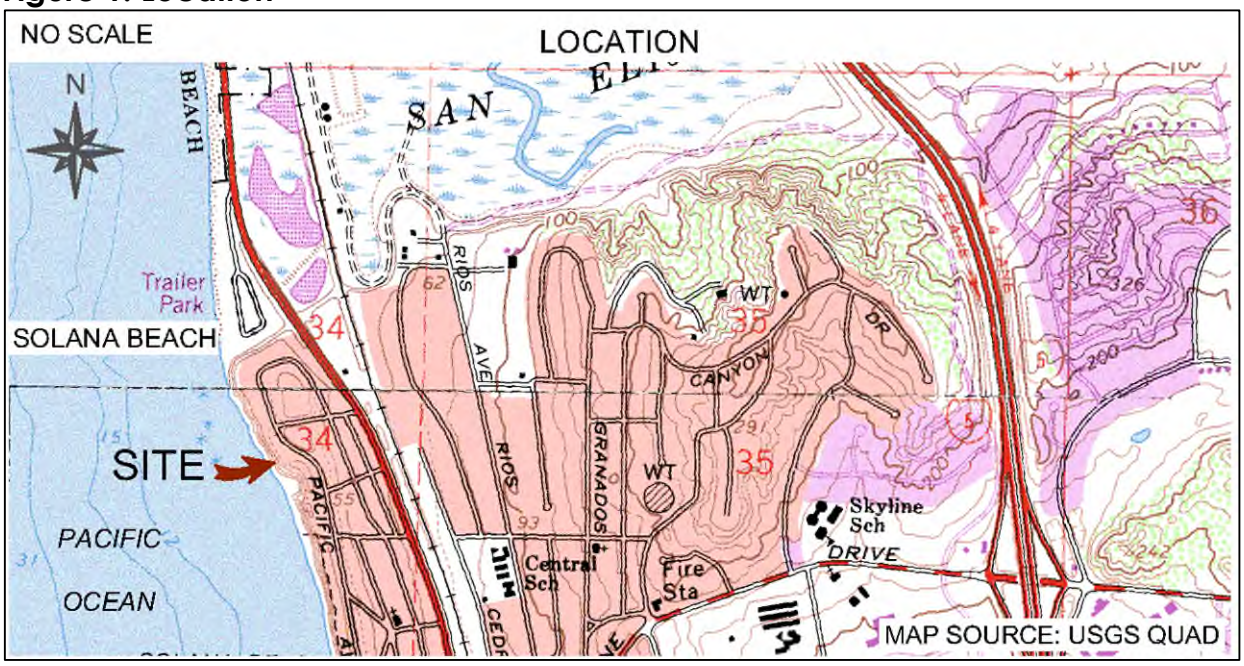
PROPOSED ACTION:

Issuance of a General Lease – Protective Structure Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Pacific Ocean, adjacent to 523-525 Pacific Avenue, Solana Beach, San Diego County (as shown in Figure 1).

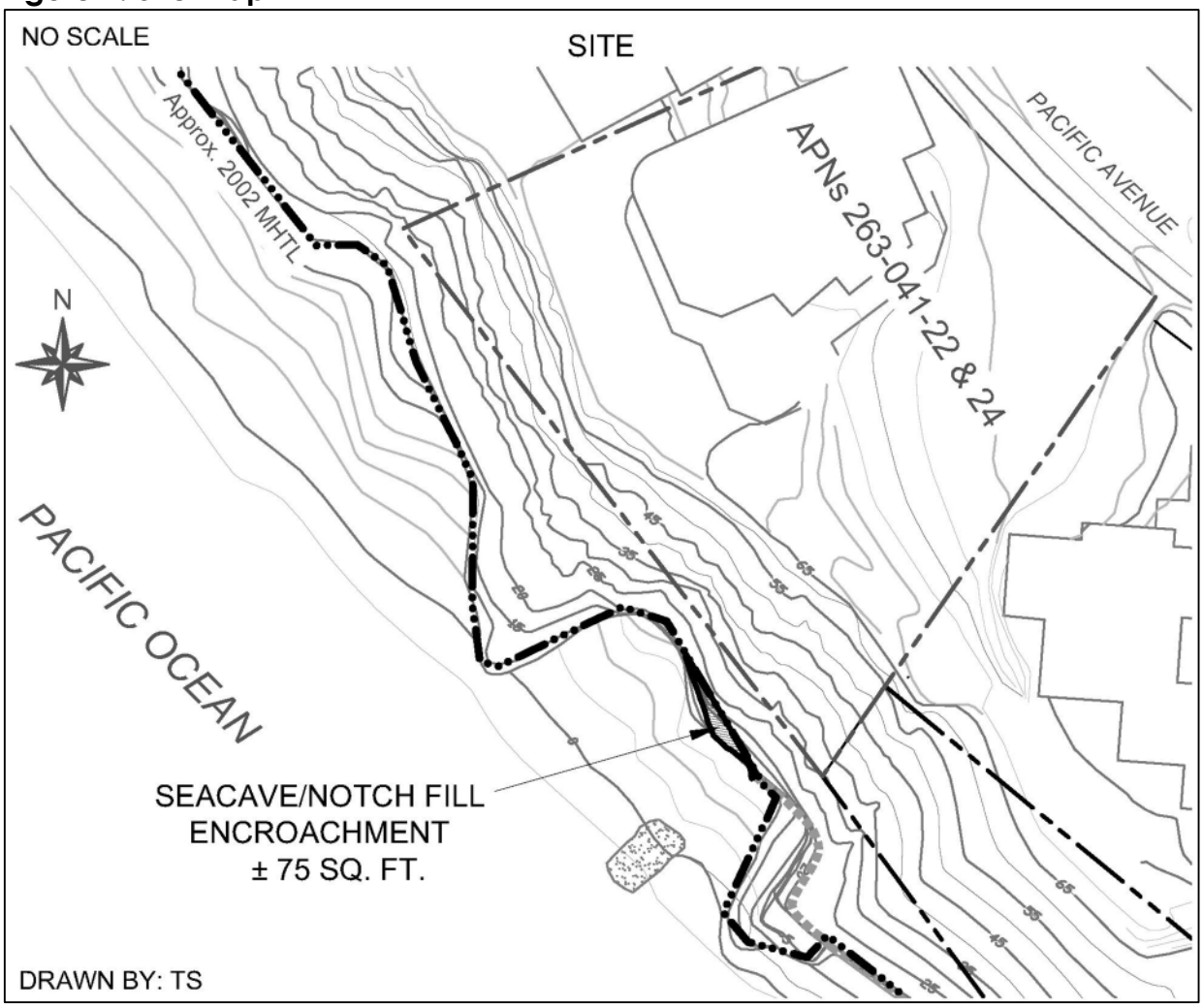
Figure 1. Location



AUTHORIZED USE:

Use of an existing seacave/notch fill at the base of the bluff below 523-525 Pacific Avenue (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 October 14, 2024.

CONSIDERATION:

$1,150 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Lessee must comply with all conditions of Coastal Development Permit (CDP) 6-13-0948.
- When requesting approval for any necessary major repairs or alterations of the authorized improvements, Lessee must assess the feasibility of implementing alternative adaptation strategies such as nature-based solutions or hybrid protective structure designs and provide written documentation of that analysis to Lessor's staff.
- If Lessee applies for a subsequent lease, then Lessee must concurrently apply for an amendment to CDP 6-13-0948 or for a new CDP to authorize the subject seacave/notch fill.
- Liability insurance in an amount no less than $1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On October 14, 2014, the Commission authorized a General Lease – Protective Structure Use to Michael S. Morris, Trustee of the William S. Bannasch Living Trust Dated August 30, 2002, for the use of one seacave/notch fill at the base of the bluff below 523-525 Pacific Avenue, in the Pacific Ocean, adjacent to 523-525 Pacific Avenue, Solana Beach, San Diego County (Item 75, October 14, 2014).

On November 22, 2021, the ownership of the upland property was deeded to Linear Bannasch (Applicant). On April 26, 2022, the Commission authorized an assignment of the lease to the Applicant (Item 41, April 26, 2022). That lease expired October 13, 2024. The Applicant is now applying for a new General Lease – Protective Structure Use.

The geology along this section of coastline causes the bluffs to be susceptible to periodic bluff failures. Bluff failures are typically caused by a combination of factors, including wave action eroding the sandstone formations at the base of the bluffs

and from wind and rain, which erode looser, less cohesive layers of materials above the sandstone.

The Applicant owns the uplands adjoining the lease premises, and the upland improvements are located atop the bluff protected by the subject seacave/notch fill. The seacave/notch fill is connected to and directly stabilizes the lower section of the bluff. Loss or degradation of the seacave/notch fill could result in failure of the bluffs, which could, in turn, lead to significant property damage and increased rockfall danger to beachgoers. Therefore, the presence of the seacave/notch fill provides a benefit to both the upland owner and the public.

Although the existing seacave/notch fill provides benefits to both the upland owner and the public, these benefits are not attained without some compromise. The seacave/notch fill is a small-scale hard armoring structure that is manufactured of erodible concrete that is formulated to erode at the same rate as the natural sandstone bluff. Small protective fill structures like these are generally expanded over time into larger seawalls that cover a larger portion of the cliff face and result in greater adverse impacts to the coastline. Hard armoring structures that provide a solid barrier between the land and sea to block or minimize energy from tides and waves often lead to increased erosion along adjacent beaches due to wave reflection and refraction. Therefore, though the seacave/notch fill authorized by the proposed lease protects the upland property and provides some safety benefits for public use of the beach, it may also accelerate erosion to the adjacent coastline. Additional adverse impacts related to the subject seacave/notch fill include interference with natural coastal processes that influence the supply of sand in the region, and potential impacts on flora and fauna due to habitat loss. To help address these impacts, various beach nourishment programs have been implemented by local governing bodies and sand-loss mitigation fees have been a requirement of new Coastal Development Permits for projects in the area. These efforts help maintain Public Trust resources in the region and help ensure that a wide sandy beach remains available for public use. Nevertheless, as detailed in the Commission's adopted report, Shoreline Adaptation and The Public Trust, the benefits and detriments to Public Trust resources resulting from the subject seacave/notch fill should be considered by the Applicant in future design and adaptation plans, particularly as climate impacts increase over time.

The Coastal Commission approved the subject seacave/notch fill through Coastal Development Permit (CDP) 6-13-0948. This CDP requires the Applicant to pay an in-lieu fee to compensate for the seacave/notch fill's adverse impacts to the sand supply of the adjacent beach over a 30-year period (2005 to 2035). The payments

collected via this fee are used to help fund sand-replenishment projects. The CDP also requires the applicant to submit an annual monitoring report prepared by a licensed civil or geotechnical engineer in order to monitor the condition of the seacave/notch fill and beach. The fill is also monitored to assess if the erodible concrete is performing as expected or if it needs to be recontoured if it extends past the dripline or natural face of the bluff. Likewise, per the CDP, the Applicant must submit a report prepared by a licensed civil or geotechnical engineer to assess the feasibility of alternative protection methods if they apply to expand the seacave/notch fill.

Staff has reviewed the current CDP and concluded that its terms and conditions adequately protect public resources. To ensure consistency between the proposed lease and the CDP while also emphasizing the Commission's strategic focus, the proposed lease would incorporate the terms and conditions of the CDP while also expanding them to require an assessment of alternative adaptation strategies prior to repair or replacement of the subject seacave/notch fill. Additionally, the proposed lease will require the Applicant to apply for an amendment of the CDP, or for issuance of a new CDP, concurrent with any application for a new lease from the Commission. This concurrent application process will ensure that Coastal Commission staff can coordinate with State Lands Commission staff when analyzing a potential subsequent lease.

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 existing sea cave infills within coastal bluffs. These infills were installed to stabilize and reduce erosion of the coastal bluffs, located along the coastline of Solana Beach.

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 La Jolla 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 La Jolla

Year	Projection (feet)
2030	0.9
2040	1.3
2050	2.0
2100	7.1

Source: Table 28, 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. Climate change and sea level rise will further influence coastal areas by changing erosion and sedimentation rates. Beaches and coastal bluffs, will be exposed to increased wave force and run up, potentially resulting in greater shoreline erosion than previously experienced.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area to stronger wind-driven waves, currents, and erosion at higher levels along the shoreline. The sea cave infill will improve the resilience of the bluff and bluff-top property by providing some stability for the bluff and limiting further erosion within the sea cave. However, the bluff remains vulnerable to erosion in other locations where the infill is not located. The face of the infill is also vulnerable to erosion since it was constructed with an erodible concrete to mitigate its adverse impacts to the beach and public access. While hard structures can accelerate the erosion and narrowing of beaches, Special Condition #14 of the Applicant's Coastal Development Permit (CDP 6-13-0948) required the sea cave infill to be constructed with an erodible concrete that would erode at a similar rate as the bluff to prevent the infill from extending seaward the bluff and onto the public beach. If the sea cave infill does not erode and

effectively fixes the back of the beach, resulting in impacts similar to those of a seawall, Special Condition #3 requires the Applicant to apply for permits to remove the portion of the infill that extends beyond the bluff. Any future construction or activities on state land would require a separate authorization from the Commission.

Pursuant to Special Condition #12 of the Applicant's Coastal Development Permit, the Applicant is also required to pay an in-lieu fee to compensate for the sea cave infill's adverse impacts to the beach sand supply over a 20-year period. The fee is placed into a fund administered by the San Diego Association of Governments (SANDAG) for the purpose of aiding beach nourishment projects in San Diego County. Over the past two decades, multiple beach nourishment projects have taken place near the lease premises, including SANDAG's Regional Beach Sand Project II (2012) and the Solana Beach Shoreline Project (2024). These beach nourishment projects will temporarily widen the beach in front of the sea cave infill, increasing its resilience to sea level rise and mitigating some of its adverse effects to Public Trust resources and uses; however, beach nourishment projects are not a permanent solution, since the added sand will be lost over time, re-exposing the bluff and sea cave infill to coastal hazards and sea level rise.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation. 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, nor for the term of the lease; 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 current lessee or 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 2, section 2905, subdivision (a)(2).

   Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061 and California Code of Regulations, title 2, section 2905.

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 2, section 2905, subdivision (a)(2).

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; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning October 14, 2024, for a term of 10 years, for the use of an existing seacave/notch fill at the base of the bluff below 523-525 Pacific Avenue; annual rent in the amount of $1,150, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than $1,000,000 per occurrence.