Meeting Date: 10/21/26
Lease Number: 8244
Staff: M. McGough

Staff Report 47

APPLICANT:

Qui V. Phan and Ngan L. Phan, trustee of the Living Trust of Qui V. Phan and Ngan L. Phan Dated January 28, 2019

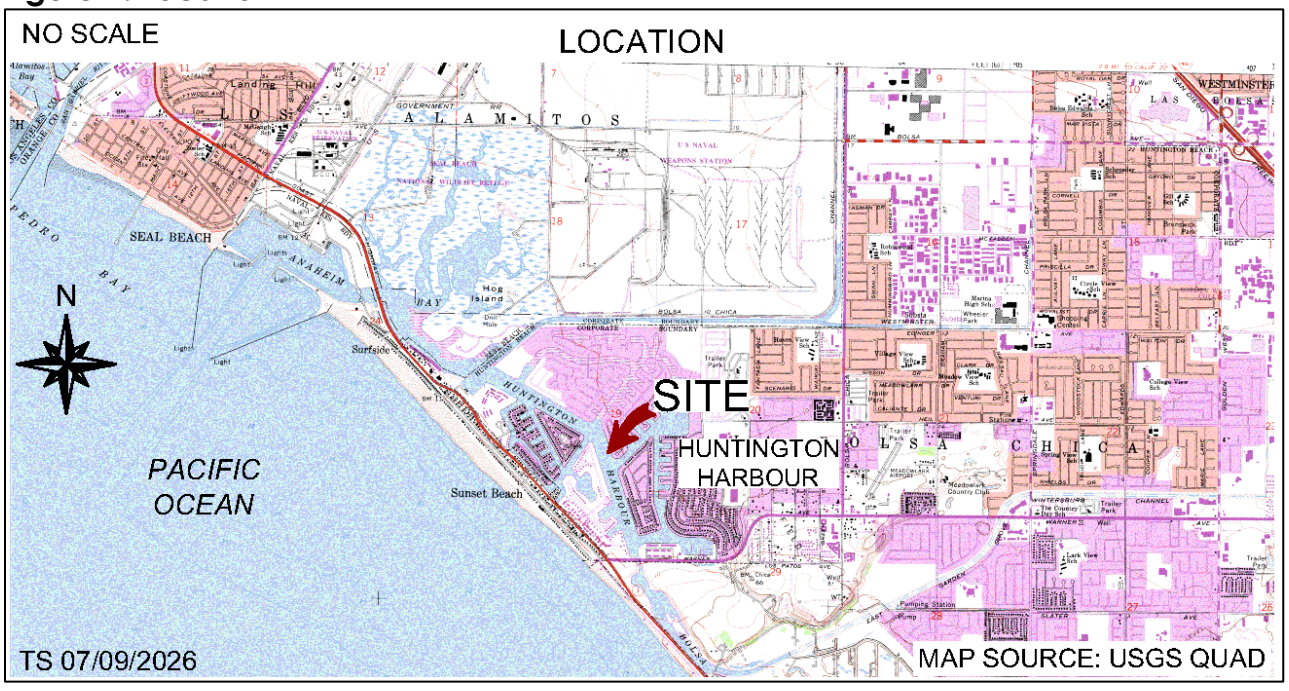
PROPOSED ACTION:

Issuance of a General Lease – Recreational and Protective Structure Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Main Channel of Huntington Harbour, adjacent to 16711 Carousel Lane, Huntington Beach, Orange County (as shown in Figure 1).

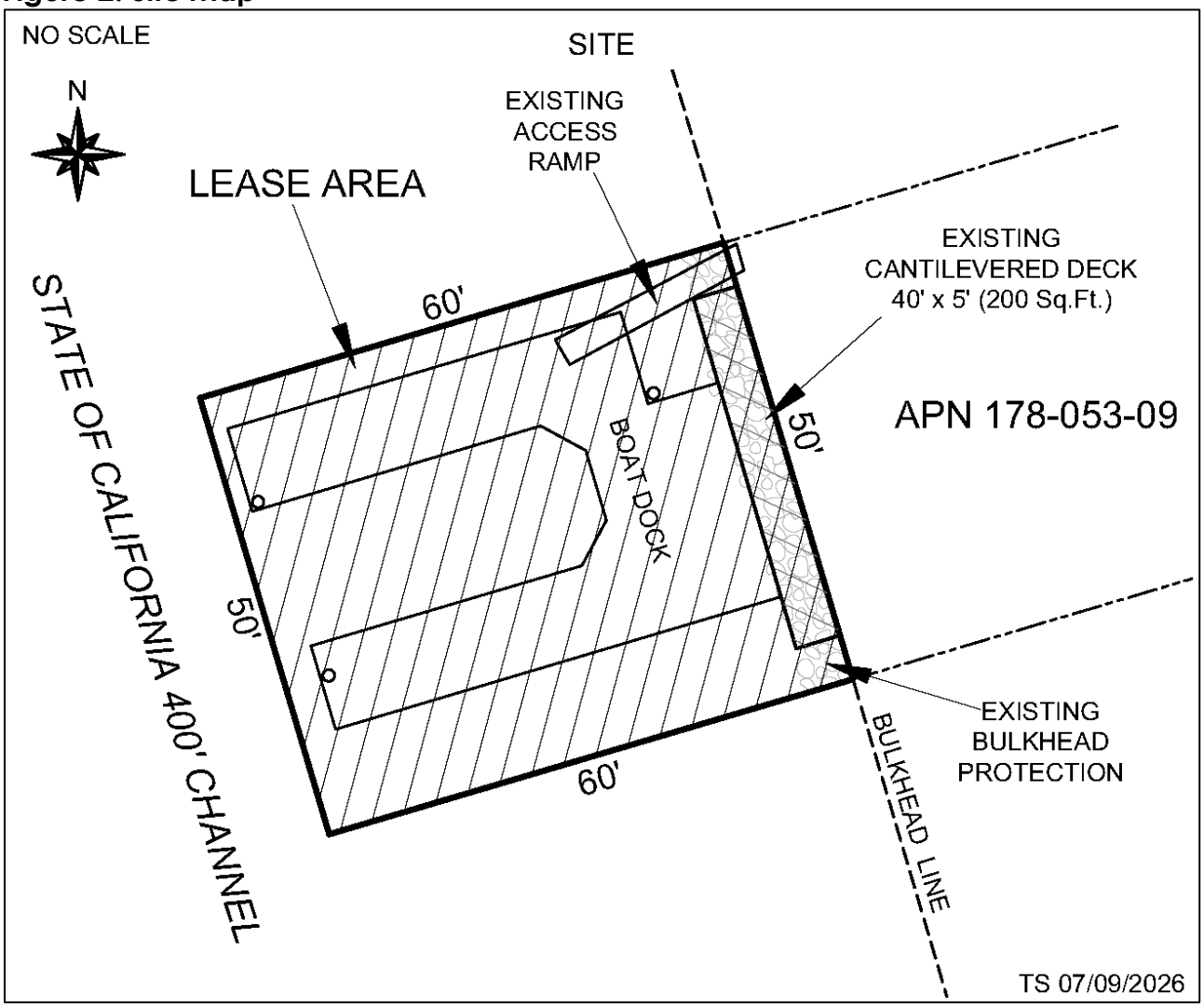
Figure 1. Location



AUTHORIZED USE:

Use of an existing boat dock, access ramp, cantilevered deck, and bulkhead protection (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 13, 2026.

CONSIDERATION:

$3,324 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.
- No permanent roof or other enclosures will be constructed or permitted on the Lease Premises.
- Lessee agrees that any proposed use of the Lease Premises that includes extension of the actual living quarters constitutes residential use and is prohibited.

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 October 13, 2016, the Commission authorized issuance of a General Lease – Recreational and Protective Structure Use to Qui V. Phan and Ngan L. Phan, for the continued use and maintenance of a boat dock, access ramp, cantilevered deck, and bulkhead protection, in the Main Channel of Huntington Harbour (Item 42). That lease expired on October 12, 2026. Rent is paid current through the end of the lease term.

On January 28, 2019, the Lessees transferred ownership interest in the upland parcel into a trust. The Applicant, Qui V. Phan and Ngan L. Phan, trustees of the Qui V. Phan and Ngan L. Phan Living Trust Dated January 28, 2019, is applying for a General Lease – Recreational and Protective Structure Use for use of an existing boat dock, access ramp, cantilevered deck extending no more than five feet waterward of the bulkhead, and bulkhead protection.

The proposed lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation, from January 28, 2019, the date the upland parcel was transferred into trust, to October 12, 2026, ensuring the State is protected.

The Lease Premises are located in the Main Channel of Huntington Harbour. The Main Channel was created in the early 1960s, and the State of California acquired fee ownership of this channel in 1962. The upland parcel adjacent to the Lease

Premises is privately owned and developed with a residence. There is no public access at this location because the private upland property directly abuts the concrete bulkhead that defines the limits of the channel. Virtually the entire Main Channel has been developed for many decades with closely spaced houses, leaving little to no vertical access to the channel. However, the boat dock on the Lease Premises terminates at the pierhead line, which leaves the majority of the channel available for navigation and public recreation.

The Applicant owns the upland adjoining the lease premises, and the subject facilities are privately owned and maintained and have existed at this location for many years. The boat dock and access ramp facilitate the docking and mooring of recreational boats. 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 land. (Pub. Resources Code, § 6503.5.)

The cantilevered deck is connected to the upland residence and serves as an extension of the upland property's backyard. Such residential use is generally not consistent with the Public Trust Doctrine; however, the cantilevered deck extends no more than five feet over the Main Channel and does not substantially interfere with the public's right of navigation or access. Because the cantilevered deck serves as an extension of the upland property, proposed rent for the deck is calculated utilizing a benchmark rate based on nearby upland land values to ensure the State receives appropriate compensation for this use of sovereign land. The lease contains provisions to restrict the placement of a permanent roof enclosing the cantilevered deck.

The existing bulkhead protection at this location serves to stabilize the bank, prevent erosion, support the integrity of the channel, and help ensure the channel remains navigable. Loss or degradation of the bulkhead structure could result in property damage and concerns to public safety within the lease area and surrounding waterway. The bulkhead protection provides a benefit to the public and does not negatively impact Public Trust uses in this location at this time.

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:

INTRODUCTION:

The climate crisis and rising sea levels are impacting coastal California now. As underscored in the State of California Sea Level Rise Guidance (Ocean Protection Council, 2024), the combination of extreme weather events and the persistent and accelerating rise in sea levels will lead to increased coastal hazards, such as storm surges, flooding, and erosion. Shorelines will move inland due to rising seas, exposing more of the natural and human-built environment to coastal hazards. The resulting damage will occur repeatedly and incrementally over years and, in extreme cases, over the span of a few large winter storms.

The existing structures subject to the proposed lease are located within the Huntington Harbour development, which is highly vulnerable to sea level rise. Huntington Harbour is built near sea level elevation, on the former site of the Sunset Bay Estuary wetlands, and receives stormwater runoff from several large flood control channels. Currently, select areas surrounding Huntington Harbour experience flooding during high tides exceeding 6.7 feet and El Niño events, impacting transportation and utility infrastructure, boat ramps and launches, and recreational facilities (p.51, Ch. 7: Vulnerability Assessment, City of Huntington Beach *Sea Level Rise Vulnerability Assessment*, 2021). The Harbour is adjacent to two wetlands, Bolsa Chica Ecological Reserve and the Seal Beach National Wildlife Refuge, which may buffer and absorb storm surges and lessen flood risks; however, the area is still highly vulnerable due to its low elevation.

DATA & PROJECTIONS:

Sea levels in most of California rose four to eight inches during the last century, and this trend will accelerate throughout this century. The current rate of sea level rise is triple the rate of the last century. By 2050, there is growing confidence that sea levels will be approximately ten inches higher than in 2000. The severity of sea level rise beyond 2050 is contingent on future levels of greenhouse gas emissions. The California Ocean Protection Council (OPC) updated the State of California Sea Level Rise Guidance in 2024 to provide a synthesis of the best available science on

sea level rise projections and rates for multiple emissions scenarios. To apply a precautionary approach, Commission staff evaluated the "intermediate-high" and "high" scenarios due to the vulnerability and exposure of Huntington Harbour and the continued global reliance on fossil fuels. The Los Angeles 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 Los Angeles

Year	Intermediate-High (feet)	High (feet)
2040	0.6	0.7
2050	0.9	1.1
2070	2.1	2.7
2100	4.5	6.3

Source: Table 12, State of California Sea Level Rise Guidance: 2024 Update
Note: Projections are with respect to a 2000 baseline.

ANALYSIS:

Huntington Harbour has a high exposure to flood hazards due to the area's low elevation, location on top of former wetlands, and shallow groundwater table. Low-lying roads already experience flooding during high tides and storm events. Commission staff used the online sea level rise mapping tool, Our Coast Our Future, to analyze the future sea level rise vulnerabilities. With 1 foot of sea level rise, flooding of the streets and Pacific Coast Highway will become more widespread and occur more frequently during high tides and storms. Stormwater and wastewater systems, including pump stations and outfalls, could also become inundated and less effective. According to the projections in Table 1, these impacts could occur by 2050 under the intermediate-high and high scenarios.

With 2.7 feet of sea level rise, most streets and waterfront properties will experience flooding during normal tides and weather conditions, likely resulting in damage to and disruption of residential, commercial, and recreational resources. Additionally, sea level rise will cause saltwater to intrude into the shallow groundwater table and push it up to the surface, which could degrade subsurface structures and utilities (e.g., foundations, pipelines) before floodwaters reach the ground level. These impacts could occur between 2070 and 2080 according to the projections in the current OPC report.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, comprised of greater total water levels for longer periods of time. Flooding conditions could cause

structures to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel.

Although the bulkhead underneath the deck is not under the Commission's jurisdiction, any sea level rise impacts to the bulkhead could also affect the structures under the Commission's jurisdiction because it serves to stabilize the bank. Therefore, any loss or degradation of the bulkhead protection under lease could affect the bulkhead and could result in property damage and public safety concerns within the lease area and the surrounding waterways.

Locally available resources such as the upcoming update to the City of Huntington Beach's Local Coastal Program and the 2021 City of Huntington Beach Sea Level Rise Vulnerability Assessment can be valuable references for understanding the impacts from climate change and options available to minimize the risks.

RECOMMENDATIONS:

Due to the Harbour's dense shoreline development, structures within the lease premise may need to be elevated or redesigned (e.g., floodproofing or conversion from fixed to floating) to be resilient to higher total water levels and more extreme tides. Strategies for flood protection that incorporate natural materials or designs (such as living seawalls) can reduce the reflection of wave energy more effectively than conventional materials (e.g. smooth concrete), while also improving water quality and biodiversity. Any future construction or activities on State land would require a separate authorization from the Commission.

CONCLUSION:

For all the reasons above, staff believe issuance of this lease will not substantially interfere with the Public Trust needs at this location, at this time, and for the term of the proposed 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 the use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. 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:

1. Find that the existing and, for a limited period, continued use of the existing boat dock and access ramp will not substantially interfere with Public Trust needs and values at this location, and are consistent with the common law Public Trust Doctrine.

2. Find that the existing and, for a limited period, continued use of the existing cantilevered deck and bulkhead protection is not generally consistent with the common law Public Trust Doctrine, but that the current use does not substantially interfere with the Trust.

3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning October 13, 2026, for a term of 10 years, for use of a

boat dock, access ramp, cantilevered deck, and bulkhead protection; annual rent in the amount of $3,324, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than $1,000,000 per occurrence.