

**CALIFORNIA COASTAL COMMISSION**

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# Th19a



**DATE:** April 28, 2017

**TO:** Commissioners and Interested Persons

**FROM:** Karl Schwing, Deputy Director, San Diego District  
Deborah Lee, District Manager, San Diego District  
Kanani Brown, Coastal Program Analyst III, San Diego District  
Melody Lasiter, Coastal Program Analyst, San Diego

**SUBJECT:** **Staff Recommendation on San Diego Unified Port District Port Master Plan Amendment No. PMP-6-PSD-14-0003-2 (East Harbor Island Subarea) for Commission Meeting of May 11, 2017**

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## SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the Port Master Plan Amendment (PMPA), as submitted, due to its inconsistency with the public access and recreation policies of the Coastal Act that protect and encourage lower cost visitor and public recreational opportunities. The subject PMPA was previously denied by the Commission at its August 13, 2015 meeting due to the lack of language to support or provide lower cost visitor-serving overnight accommodations. Following the Commission's determination, the San Diego Unified Port District (Port) filed suit against the Commission arguing that the Commission impermissibly set room rates in violation of Coastal Act Section 30213 when it denied the PMPA because it identified "lower cost" accommodations as those costing \$106 or less per night. The court held that the "Commission acted in excess of its jurisdiction when it established a room rate of \$106/night as a benchmark rate for 'lower cost overnight accommodation' in the Port District."<sup>1</sup> As a result the court issued a writ of mandate, requiring the Commission to vacate its 2015 action to deny certification of the PMPA and conduct a new public hearing during the May 2017 Commission meeting, without consideration of a requirement to provide overnight accommodations at a rate of \$106/night, or any other specific rate, as a means of establishing "lower cost overnight accommodations." ([Exhibit 7](#))

Since issuance of the writ of mandate on March 20, 2017, Commission and Port staffs have attempted to reach agreement on language concerning lower cost overnight accommodation provisions; however, those efforts have not been successful. Thus, the subject PMPA before the Commission is the same amendment the Commission considered and denied in 2015. The subject PMPA is also nearly identical to a previous

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<sup>1</sup> *San Diego Unified Port District v. California Coastal Com.* (Super Ct., San Diego County, 2017, No. 37-20 15-00034288-CU-WM-CTL),

PMPA submittal (PMP-6-PSD-14-0002-6) that was heard by the Commission on July 9, 2014 and subsequently withdrawn by the Port during the hearing.

Since the 2015 hearing, another major change has occurred – the Board directed its staff to discontinue the Port’s study on lower cost overnight accommodations. The Port had been pursuing development of a policy consistent with Coastal Act Section 302153 to protect, encourage, and provide lower cost overnight accommodations within the Port. Development of a policy consisted of a four step approach that included: 1) establishing a baseline of existing accommodations within the Port, 2) conducting a nexus study to determine an appropriate in-lieu fee structure, 3) selecting sites within the Port for the development of lower cost accommodations, and 4) conducting environmental review and a PMPA. However, on March 8, 2016 the Board directed staff to discontinue the study, and instead passed BCP Policy No. 775, Guidelines for the Protection, Encouragement and, Where Feasible, Provision of Lower Cost Visitor and Recreational Facilities ([Exhibit 10](#)). The guidelines consist of a vague three paragraph policy statement, with a set of examples of lower cost visitor and recreational facilities. The guidelines lack specific procedures for protecting, encouraging or providing for lower cost overnight visitor accommodations within the Port, and instead, delay consideration of how such accommodations could be provided.

A unique provision with the review of Port Master Plans, and any subsequent amendments, is that the Commission may not adopt suggested modifications to them, as is provided for in the review of local coastal programs. (§ 30714.) Therefore, port master plans or their amendments must be either approved or denied as submitted.

The standard of review for the subject PMPA is the Chapter 3 and Chapter 8 policies of the Coastal Act. The subject PMPA is exactly the same as the one that was previously denied by the Commission, and since the prior denial the Board has also discontinued the Port’s study on lower cost accommodations. The amendment still lacks sufficient specificity to adequately protect lower cost visitor and public recreational opportunities, including overnight accommodations. Therefore, the amendment, as submitted, is inconsistent with the public access and recreation policies of the Coastal Act and Commission staff’s previous recommendation of denial remains the same. However, as required by the court’s writ of mandate, the findings of the subject staff report clarify that denial of the subject PMPA is not predicated upon identification of lower cost accommodations based upon a certain room rate.

The subject PMPA is project-driven with three possible hotels proposed for development at this time by Sunroad Marina Partners, LP. The existing PMP allows for a single, high quality hotel of up to 500 rooms on Subarea 23 – East Harbor Island. The amendment would revise the text of the Precise Plan for Lindbergh Field/Harbor Island Planning District 2 to allow the development of up to three separate hotels over a larger area of East Harbor Island, with a combined total of 500 rooms, as well as include road and traffic circle realignment. The amendment would also revise the Project List to add a

175-room hotel – referred to as the Sunroad hotel – as well as up to two additional hotels, and revise the land use acreage table to reflect the proposed changes to commercial recreation, promenade, open space, and street use designations. The subject PMPA is seeking full development of Subarea 23 at this time; therefore, specificity is especially needed to guide future proposals for development and to protect public access and coastal resources.

At the time of the original submittal in 2014, only one hotel had been proposed – the Sunroad hotel. The proposed Sunroad hotel would be situated towards the east end of Harbor Island on the same leasehold as the Sunroad Resort Marina, which has a 50 year lease with the Port for a 600-slip marina that will expire in 2037. The proposed hotel would operate in conjunction with the marina and includes a 175-room, four-story, limited service hotel with ancillary meeting and fitness space, common areas, an exterior pool, and surface parking. The proposed hotel would be similar in quality and amenities to a Courtyard by Marriott or a Hilton Garden Inn, both of which are considered upscale hotel chains according to Smith Travel Research.

On September 8, 2016, the Board directed Port staff to enter into an exclusive negotiating agreement with Sunroad Enterprises for redevelopment of the remainder of Subarea 23 with two hotels of up to 325 rooms combined on what is known as the “elbow site” ([Exhibits 2 and 8](#)). No details on these additional two hotels have been provided to Commission staff.

As proposed, the PMPA language acknowledges the hotel developer(s) must contribute a “fair-share” of on-site or off-site lower cost visitor accommodations or pay an in-lieu fee based on a study conducted by the District; however, as discussed previously, the study is no longer being pursued by the Port, so it is unclear how these requirements would be implemented. In addition, the language proposed in the PMPA would be similar to that included in other PMPAs approved by the Commission for other specific hotel projects; however, reliance on this language has not resulted in the actual provision of additional lower cost overnight accommodations within the Port. For example, of the existing 8,035 overnight accommodations within the Port, only 3% are lower cost (237 RV sites at Chula Vista RV Resort). There is an increasing need for lower cost overnight accommodations within the Port in the form of a specific program that will result in units as opposed to deferred collection of in-lieu fees. The subject subarea is public tidelands, is currently undeveloped and designated for overnight accommodations and is, thus, a potential location to be reserved for use of the in-lieu fees and provision of such lower cost overnight accommodations.

The Port’s final revision to the subject PMPA, made on July 24, 2015, includes language that attempts to address this issue, including that 25% of the remaining 325 rooms (82 rooms) planned for East Harbor Island will be midscale or economy, with no in-lieu fee required. However, the proposed language does not adequately protect and encourage

lower cost visitor-serving accommodations within the subarea, which are historic public tidelands subject to the public trust.

In an effort to resolve the remaining differences, Commission staff was prepared to allow the Port to move forward with the development of two higher cost hotels (with a combined total of 375 rooms), as long as the remaining subarea was reserved as a potential site for the remaining 125 rooms planned for East Harbor Island. However, these remaining 125 rooms could be developed as higher cost, without the need for another PMPA to the subarea, if the Port determines an alternative site within the Port's north bay for the development of lower cost overnight accommodations. The Port never submitted revised language for its PMPA based on these discussions.

Full-buildout of the subarea would be premature until it has been determined that this subarea is not required to accommodate lower-cost accommodations, such as a hostel or cabins/yrurts, through use of in-lieu fee payments. As the land owner of public trust lands, the Port is in a unique position to manage development within its jurisdiction in a manner that maximizes the public benefit consistent with the public access and recreation policies of the Coastal Act; however, the proposed PMPA does not adequately do so and therefore the staff recommendation is denial.

In addition to lower cost overnight accommodations, the originally submitted PMPA did not adequately protect coastal resources and the right of public access on public tidelands. However, Commission and Port staffs were able to reach agreement on proposed PMPA text language on all but the one issue of lower cost overnight accommodations. The revised PMPA submittal adequately addresses parking management to protect public access and recreational opportunities, requires participation in the Port's shuttle system, the provision of activating uses, and the provision of 15 public parking spaces beyond the otherwise required off-street parking conditions. The Port proposes to maintain and build upon alternate transit opportunities, in conjunction with the City of San Diego and the San Diego Metropolitan Transit System, to supplement existing transit services and provide a convenient alternate transit system for the public and patrons alike. In addition, the hotels would be constructed to protect public visual resources and will be required to conform to bulk and scale limits such that building envelopes will not exceed 70% of each project site. The PMPA includes a requirement for public access corridors in between hotel buildings to protect coastal access and visual resources to the scenic Harbor Island East Basin and the City of San Diego skyline. The PMPA also requires the installation of a bayside public promenade to be completed concurrent with the development of the first hotel in order to provide a continuous waterfront accessway.

**The appropriate motion and resolution can be found on Page 6. The findings for denial of the amendment as submitted begin on Page 6.**

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**Port Master Plan Amendment Procedure.** California Code of Regulations, Title 14, Section 13636 requires that port master plan amendments be certified in the same manner as provided in Section 30714 of the Coastal Act for certification of port master plans. Section 13628(b) of the Regulations states that, upon the determination of the Executive Director that the master plan amendment and accompanying materials required by Section 13628(a) are sufficient, the master plan amendment shall be deemed submitted to the Commission for purposes of Section 30714 of the Coastal Act.

The subject amendment was deemed submitted on May 21, 2015. Within 90 days after this submittal date, the Commission, after public hearing, was required to certify or reject the amendment, in whole or in part. The Commission took action on the subject amendment on August 13, 2015. However, following the Commission's action and the ensuing litigation, the superior court issued a writ of mandate that required the Commission to vacate its action to deny certification and conduct a new public hearing during the May 2017 Commission meeting.

Section 30700 of the Coastal Act states that Chapter 8 shall govern those portions of the San Diego Unified Port District located within the coastal zone, excluding any wetland, estuary, or existing recreation area indicated in Part IV of the Coastal Plan. The entire water area under the jurisdiction of the Port of San Diego is governed by Chapter 3 policies because San Diego Bay is mapped as an estuary and wetland in Part IV of the Coastal Plan, and on the maps adopted by the Commission pursuant to Section 30710 of the Act. The attached amendment reflects the Port's proposal ([Exhibit 4](#)).

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**STAFF RECOMMENDATION:**

**I. PORT MASTER PLAN SUBMITTAL - RESOLUTION**

Following a public hearing, staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to the resolution.

Resolution to deny certification of San Diego Unified Port District Port Master Plan Amendment No. PMP-6-PSD-14-0003-2.

**MOTION**

I move that the Commission certify the Port Master Plan Amendment No. PMP-6-PSD-14-0003-2 as submitted by the San Diego Unified Port District.

**Staff Recommendation**

Staff recommends a **NO** vote. Failure of this motion will result in rejection of the Port Master Plan Amendment and adoption of the following resolution and findings. The motion to certify passes only upon an affirmative vote of a majority of the Commissioners present.

**RESOLUTION**

**Deny Certification of Amendment**

The Commission hereby denies certification of San Diego Unified Port District Master Plan Amendment No. PMP-6-PSD-14-0003-2, and finds, for the reasons discussed below, that the amended Port Master Plan does not conform with or carry out the policies of Chapter 3 and Chapter 8 of the Coastal Act. Nor would certification of the amendment meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the amendment.

**II. FINDINGS AND DECLARATIONS.**

The Commission finds and declares as follows:

**A. Previous Commission Action.** The Commission certified the San Diego Unified Port District Master Plan on October 14, 1980. The Commission has reviewed 49 amendments since that date. The Commission reviewed two nearly identical PMPAs (Amendment #46 and Amendment #47). The first was on July 9, 2014; however, the

applicant subsequently withdrew the amendment during the hearing. The second PMPA was denied by the Commission on August 13, 2015. By court order, the August 13, 2015 action taken by the Commission is vacated, and thus the PMPA currently pending before the Commission is the same as the submittal that the Commission heard in August 2015.

**B. Contents of Port Master Plan Amendments.** California Code of Regulations Title 14, Section 13636 calls for port master plan amendments to be certified in the same manner as port master plans. Section 30711 of the Coastal Act states, in part, that a port master plan shall include all the following:

- (1) The proposed uses of land and water areas, where known.
- (2) The proposed design and location of port land areas, water areas, berthing, and navigation ways and systems intended to serve commercial traffic within the area of jurisdiction of the port governing body.
- (3) An estimate of the effect of development on habitat areas and the marine environment, a review of existing water quality, habitat areas, and quantitative and qualitative biological inventories, and proposals to minimize and mitigate any substantial adverse impact.
- (4) Proposed projects listed as appealable in Section 30715 in sufficient detail to be able to determine their consistency with the policies of Chapter 3 (commencing with Section 30200) of this division.
- (5) Provisions for adequate public hearings and public participation in port planning and development decisions.

The Commission finds that the proposed port master plan amendment does not conform to the provisions of Section 30711 of the Coastal Act. The proposed changes in land and water uses do not contain sufficient detail in the port master plan submittal for the Commission to make a determination of the proposed amendment's consistency with the Chapter 3 and Chapter 8 policies of the Coastal Act.

The proposed amendment was the subject of an Environmental Impact Report under the California Environmental Quality Act. The Environmental Impact Report and the proposed PMPA were subject to public review and hearing and were adopted by the Board of Port Commissioners on March 4, 2014 as Resolutions #2014-52 and #2014-53, respectively.

**C. Standard of Review.** Section 30710 states that Chapter 8 shall govern those portions of the San Diego Unified Port District, excluding any wetland, estuary, or existing recreation area indicated in Part IV of the Coastal Plan. The entire water area under the jurisdiction of the Port of San Diego is governed by Chapter 3 policies because

San Diego Bay is mapped as an estuary and wetland in Part IV of the Coastal Plan, and on the maps adopted by the Commission pursuant to Section 30710 of the Act. Section 30714 provides that the Commission shall certify a PMP if it conforms with and carries out the policies of Chapter 8 of the Coastal Act or, if there is a portion of the proposed PMPA that is appealable to the Commission pursuant to Section 30715 of the Coastal Act, then that portion of the PMP must also be consistent with the Chapter 3 policies of the Coastal Act. Section 30716 requires that an amendment to a PMP meet the same standards of review. Pursuant to Section 30715(a)(4) of the Coastal Act, a port-approved hotel, motel, or shopping facility not principally devoted to the sale of commercial goods utilized for water-oriented purposes is appealable to the Commission. The proposed amendment involves changes to the text and project list of the Lindbergh Field/Harbor Island Planning District 2. The proposed Sunroad and future hotel developments are appealable to the Commission; and, thus, that portion of the proposed PMPA must be consistent with the Chapter 8 and Chapter 3 policies of the Coastal Act.

#### **D. Summary of Proposed Plan Amendment/History.**

##### **1. Project Setting**

The subject PMPA will apply to East Harbor Island, which is located in the southern portion of San Diego County and at the northern end of San Diego Bay ([Exhibit 1](#)). East Harbor Island is designated as Subarea 23 of the Lindbergh Field/Harbor Island Planning District in the current PMP. Existing development within Subarea 23 includes two restaurants at the east end, Island Prime and Coasterra. The Sunroad Marina and commercial recreational uses associated with the marina facility including a marina, office, pool, and parking lots are located north and west of the restaurants. Harbor Island Drive terminates in a traffic circle located in the eastern portion of Subarea 23. The westernmost portion of East Harbor Island is currently used as a private parking lot.

The proposed Sunroad hotel, which is the catalyst for the proposed PMPA, includes a 175-room, four-story, limited service hotel with ancillary meeting and fitness space, common areas, an exterior pool, and surface parking on East Harbor Island. The proposed hotel would be similar in quality and amenities to a Courtyard by Marriott or a Hilton Garden Inn, both of which are considered upscale hotel chains according to Smith Travel Research<sup>2</sup>. The proposed development would be located on the east end of the existing Sunroad marina leasehold and would replace an existing locker building and parking spaces, with the existing marina offices to remain and the locker building to be reconstructed west of the proposed hotel. Sunroad Marina currently has a 50 year lease with the Port for a 600-slip marina on East Harbor Island that will expire in 2037. The proposed Sunroad hotel would be built on the same leasehold and operate in conjunction

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<sup>2</sup> <https://www.strglobal.com/>



with the marina. The additional hotels would be located on the western side of East Harbor Island on an area of land that is currently used for private parking.

Both project sites are designated for visitor-serving commercial uses and the area surrounding the site is developed with urban uses, including the Sheraton hotel to the west, two restaurants to the south and east, and the Sunroad Marina located on East Harbor Island.

## **2. History**

In 1990, the Coastal Commission approved a Port Master Plan to allow: (1) the development of a high quality hotel of up to 500 guest rooms on Harbor Island, including restaurants, cocktail lounges, meeting and conference rooms, recreation facilities, such as a swimming pool and tennis court, on-site parking and extensive landscaping; (2) the incorporation of 1.24 acres of adjacent land into the proposed hotel site; (3) the replacement of the main Harbor Island Drive traffic circle with a modified “T” intersection; and (4) the upgrade of sewer capacity to accommodate the proposed hotel development. The proposed hotel was to be located on approximately 7.56 acres of the westernmost portion of East Harbor Island. The 1990 Programmatic Environmental Impact Report (PEIR) concluded that significant environmental impacts could occur associated with Traffic/Circulation/Parking, Visual Quality, and Endangered Species (California Least Tern) from the PMPA, but all impacts would be mitigated to below a level of significance with the implementation of the recommended mitigation measures. The hotel project was evaluated in 1990 but never constructed.

In December 2009, the Port District prepared a Draft EIR for a PMPA for the Sunroad hotel project that proposed to replace the existing marina locker building with a 175-room, four-story, limited service hotel on a site currently leased to Sunroad Marina Partners, LP, located east of the hotel site evaluated in the 1990 PEIR. In 2011, a lawsuit was filed that claimed the Final EIR was inadequate with respect to analyzing the potential impacts of the development of multiple hotels. Additional analysis was completed in 2013 and on March 4, 2014, the Port passed Resolution 2015-52 to certify the Revised Final EIR and Resolution 2014-53 to approve the proposed PMPA.

On July 9, 2014, a PMPA submittal (PMP-6-PSD-14-0002-6) nearly identical to the subject PMPA was heard by the Commission and subsequently withdrawn by the Port during the hearing. A unique provision with the review of Port Master Plans, and any subsequent amendments, is that the Commission may not adopt suggested modifications to them, as is provided for in the review of local coastal programs. (§ 30714.) Therefore, master plans or their amendments must be either approved or denied as submitted. Commission and Port staffs were unable to reach agreement on one key issue – lower cost visitor-serving overnight accommodations. Thus, Commission staff recommended denial of the original PMPA due to its inconsistency with the public access and recreation policies of the Coastal Act that protect and encourage lower cost visitor-serving and

public recreational opportunities. At the July 9, 2014 hearing, both the Commission and staff noted concerns with the lack of lower cost overnight accommodations in the Port and the resulting need for the Port to develop a policy for the provision of such accommodations within the Port. Discussions centered on the specific reservation of land in this subarea for the development of lower cost overnight accommodations or the identification of an alternative location for development where in-lieu fees could be applied. Just before the vote was called, the Port asserted that it had the same concerns and questions as the Commission and withdrew the PMPA to allow more time to work on its study (San Diego Unified Port District Lower Cost Overnight Accommodations Study).

On November 7, 2014, the Port resubmitted the same PMPA, with no changes. The application was non-filed several times due to lack of information on the following: feasibility analysis on the reservation and provision of lower cost overnight accommodations within the subarea; a copy of the Port's draft study on lower cost overnight accommodations; update on the Port's process and timeframe for completing the study on lower cost overnight accommodations; and details regarding the proposed Sunroad hotel, including the anticipated hotel brand and projected room rates. However, once the application was deemed complete on May 21, 2015, the Port revised the submittal to include all the provisions previously agreed to. Commission and Port staff corresponded regularly and met on several occasions (January 12, 2015, January 30, 2015, May 28, 2015, June 18, 2015, July 1, 2015, July 21, 2015) to discuss potential language that would address the Commission's concerns regarding the protection of opportunities to provide lower cost overnight accommodations within this subarea; however, no agreement was reached on language that would adequately protect lower cost overnight accommodations. The Port's final revision to the subject PMPA was made on July 24, 2015, and includes language about the prospective build-out of Subarea 23 and that 25% of the remaining 325 rooms will be midscale or economy, discussed in greater detail below. However, the language did not adequately address lower cost overnight accommodations, and the Commission denied the PMPA at the August 13, 2015 hearing.

On October 9, 2015, the Port filed suit against the Commission arguing, in part, that the Commission impermissibly set room rates when it denied the PMPA because it identified "lower cost" accommodations as those costing \$106 or less. The superior court issued a writ of mandate ([Exhibit 7](#)) on March 20, 2017 requiring that the Commission consider the PMPA on remand as follows:

*Notice and conduct a new public hearing in accordance with applicable regulations and the California Coastal Act during the May 2017 California Coastal Commission meeting scheduled to be held in San Diego and, following the hearing, take action on the Port Master Plan Amendment No. PMP-6-PSD-14-003-2 (East Harbor Island Subarea) application, without consideration of a requirement to provide overnight accommodations at a rate of \$106/night, or any*

*other specific rate, as a means of establishing "lower cost overnight accommodations."*

Since the writ of mandate was issued, Commission and Port staffs have again attempted to reach agreement regarding lower cost overnight accommodation provisions; however, ultimately, the Port determined that it would not modify its proposed PMPA.

Since the 2015 hearing, another major change has occurred – the Board directed its staff to discontinue the Port's study on lower cost overnight accommodations. The Port had been pursuing development of a policy consistent with Coastal Act Section 30213 to protect, encourage, and provide lower cost overnight accommodations within the Port. Development of a policy consisted of a four step approach that included: 1) establishing a baseline of existing accommodations within the Port, 2) conducting a nexus study to determine an appropriate in-lieu fee structure, 3) selecting sites within the Port for the development of lower cost accommodations, and 4) conducting environmental review and a PMPA. However, on March 8, 2016 the Board directed staff to discontinue the study, and instead passed BCP Policy No. 775, Guidelines for the Protection, Encouragement and, Where Feasible, Provision of Lower Cost Visitor and Recreational Facilities ([Exhibit 10](#)). The guidelines consist of a vague three paragraph policy statement, with a set of examples of lower cost visitor and recreational facilities. The guidelines lack specific procedures for protecting, encouraging or providing for lower cost overnight visitor accommodations within the Port, and instead, delay consideration of how such accommodations could be provided. At the time the Board discontinued the study, the Port had already conducted draft components of the study to determine the baseline of lower cost overnight accommodations within the Port, as well as a draft nexus study to identify criteria for a potential in-lieu fee program; however, it had yet to finalize the studies, select sites for the development of lower cost overnight accommodations, or conduct the associated environmental review.

### **3. Amendment Description**

The proposed PMPA for the Sunroad hotel project includes changes to the Harbor Island Planning District 2 Precise Plan text and maps, land use tables, and project list ([Exhibit 4](#)). No changes to land or water use designations are proposed. There are five major components to the project: demolition of an existing marina locker room building, construction of Sunroad hotel, realignment of traffic circle and public utilities, construction of a continuous public promenade, and future construction of up to two additional hotels.

The subject PMPA includes the following:

- updating the Precise Plan map;
- updating the Lindbergh Field/Harbor Island Planning District 2 project list to change the 500-room hotel to a 175-room hotel and up to two additional hotels

- with a combined total of no more than 325 rooms and include a continuous bayside public promenade and traffic circle/road realignment;
- updating the land use acreage tables within the PMP to reflect increased promenade acreage, reduced street acreage, reduced open space acreage, and increased commercial recreation acreage;
  - adding language to the Planning District 2 text that indicates that as each hotel development on Harbor Island is developed or redeveloped, it will: (1) prepare and implement a public access plan; (2) provide or participate in shuttle service to and from the airport and expand the Port's bayside shuttle system; (3) prepare a parking management plan; (4) provide public access and view corridors in between structures and conform to bulk and scale requirements; and (5) provide on-site or off-site lower cost visitor-serving accommodations or pay an in-lieu fee contribution for such accommodations; and
  - adding language to the Planning District 2 text that indicates the following: a Request for Proposal (RFP) to develop the one or two remaining hotels (up to 325 rooms) shall specify that no less than 25% of the hotel rooms will be midscale or economy; the developer will be required to include amenities that lower the cost of stay; and if a hotel is developed at a midscale or economy product, it need not pay the in-lieu fee.

### **Sunroad Hotel Project**

The hotel referenced in the existing certified PMP was proposed for the westernmost area of East Harbor Island (the area located west of the proposed 175-room hotel site). This property has most recently been used as a parking lot. Although the proposed project generally includes those uses outlined in this description, the PMP needs to be amended to allow multiple hotels on a larger area of East Harbor Island. The proposed project site, as well as other areas within East Harbor Island where other hotels would be allowed, already has the proper land use designation for a hotel use – Commercial Recreation. The proposed changes to the traffic circle, roadway, and bayside public promenade also warrant an amendment to the PMP and are proposed as part of the Sunroad hotel project.

The proposed PMPA is project-driven and involves the partial redevelopment of the leasehold located at 955 Harbor Island Drive, currently leased by Sunroad Marina Partners, to allow a 175-room hotel. This leasehold is currently developed with a marina, support buildings, and surface parking. The proposed redevelopment would affect only the land side area of this leasehold.

The proposed Sunroad hotel project includes the following:

- demolition of an existing locker building and parking lot east of the existing marina building;

- construction of a limited service, four-story hotel with a maximum of 175 rooms, fitness area, limited meeting space (approximately 8,000 sq. ft.), and common areas;
- reduction of the traffic circle and realignment of the road and leasehold lines;
- reconfiguration of existing paved areas, as necessary, to accommodate ingress and egress to the hotel and surface parking;
- enhanced public access along the Harbor Island East Basin; and
- realignment of existing sewer, water and utility lines.

The floor area of the proposed Sunroad hotel would total approximately 117,000 sq. ft. and include a maximum of 175 rooms, fitness and meeting space, and common areas. The meeting rooms would facilitate functions and conferences for guests. The 175 rooms, which would make up approximately 94,000 sq. ft. of the hotel, would be distributed over four floors. The height of the structure is proposed to be approximately 65 feet, although architectural details and fenestrations may cause the maximum building height to reach 75 feet. The maximum height approved by the Federal Aviation Administration and San Diego County Airport Land Use Commission for the proposed 175-room hotel project is 86 feet above mean sea level in order to accommodate features such as a flag pole.

Fitness and meeting rooms would total approximately 8,000 sq. ft. Common areas – including exterior features such as a pool and spa – would total approximately 15,000 sq. ft. Specific lighting plans have not been developed; however, the structure is proposed to be lit at night for security and aesthetic purposes. All lighting will be consistent with the City of San Diego Outdoor Lighting Regulations. A detailed landscaping plan will be prepared for review and approval of the Port prior to construction of the hotel. Certain mature and scenic trees will be incorporated into the exterior design of the hotel and common areas.

Following construction, the number of parking spaces within the vicinity of the proposed hotel would be reduced from 568 to 457. The proposed hotel project would include a total of 457 parking spaces for shared use with the hotel and marina guests. To accommodate the construction of the hotel, 111 parking spaces of the existing 291-space lot currently located east of the marina building would be eliminated. A 72-space parking lot would be located east of the proposed hotel, and a 101-space lot would be located west of the proposed hotel. An additional 7 parking spaces would be located near the front entrance of the hotel. The configuration of the spaces in the existing 277-space lot west of the existing marina building may be modified as a part of the proposed hotel; however, the number of spaces in the existing 277-space lot would not be reduced. The existing 306-space parking area located east of the proposed hotel is not a part of the proposed project. The existing parking available on the proposed hotel site is part of the leasehold and is utilized for the marina. Public parking in the vicinity of the project site is located on the southern side of Harbor Island Drive and will not be affected by the proposed project. The Coasterra restaurant (reconstructed at the site of the former

Reuben E. Lee restaurant) at 880 Harbor Island Drive includes 10 public parking spaces with signage.

As part of the Sunroad hotel project, the traffic circle would be reconfigured to accommodate the ingress and egress of the hotel and a realignment of the easternmost portion of Harbor Island Drive. The section of Harbor Island Drive immediately south of the proposed hotel would also be realigned. Harbor Island Drive would be reduced in width by approximately 12 feet by removing one of the two westbound lanes for a total distance of approximately 370 feet. The number of lanes in the vicinity of the hotel would be reduced from four to three, but would still accommodate visitors to the hotel and maintain access to and from the Island Prime restaurant and the Coasterra restaurant. Emergency access and fire lanes would be provided. Emergency vehicles would be able to access fire lanes in the 101-space lot west of the proposed hotel.

Operation of the proposed hotel would increase demands on existing infrastructure, including water supply and wastewater treatment. Water and sewer pipelines currently extend through the site of the proposed hotel. The Project Utility Plan proposes that certain existing facilities be removed and new facilities be placed underneath Harbor Island Drive. Water and sewer pipelines serving the proposed hotel would be connected with the realigned water and wastewater lines within Harbor Island Drive. Electrical, gas, telephone connections, and a storm drain system serving the hotel are also proposed to be located beneath Harbor Island Drive.

Demolition associated with the proposed hotel would involve removal of an existing locker building and the existing parking lot located east of the marina building. Construction of the proposed hotel would occur in a single phase. The foundation of the proposed hotel would be constructed using stone columns or Helical Earth Anchor Technology (HEAT anchors), and would not utilize pile driving. Construction would involve excavation of approximately 10,000 cu. yds. of material. The excavated material would be used on site or be disposed of at an offsite landfill permitted to receive such material. Once construction commences, it is expected to be completed in 15 to 18 months. The construction staging area would be limited to the proposed hotel site, east of the marina building and west of the proposed hotel footprint. During construction, the 277-space parking lot located west of the marina building would remain open and available for marina use. The existing public parking spaces along East Harbor Drive would also remain open for public use during construction.

### **Future Hotels**

At the time the subject PMP was originally heard, the Port had not received a proposal to develop any of the remaining 325 hotel rooms that would be allowed on East Harbor Island under the proposed PMPA. Because no site specific proposal for the development of additional hotel(s) had been received, the EIR assumed that the hotel development allowed by the PMPA would consist of either (a) one additional hotel, providing up to

325 rooms and ancillary facilities in a structure up to ten stories in height; or (b) two additional hotels with 325 rooms and ancillary facilities equally distributed between the hotels with surface parking ([Exhibit 2](#)). The potential locations where hotels can be located are limited to the western portion of East Harbor Island, due to seismic faulting in the eastern portion of the subarea. Any future hotel development projects proposed as a result of the PMPA would require additional project-level environmental analysis to ensure any unidentified impacts are addressed.

The Port anticipated that the previous tenants of the easternmost portion of the subarea would relocate to the consolidated Rental Car Center on the north side of the San Diego International Airport in January 2016, leaving the site available for such a use. Thus, the Port included language in its final revised PMPA submittal addressing the remaining 325 rooms, as follows:

If the District issues a Request for Proposals (RFP) to develop the one or two hotels (up to 325 rooms) on the southwesternmost area of Subarea 23 before the District has completed a lower cost visitor accommodations study, the RFP shall specify that no less than 25% of the hotel rooms will be midscale or economy, as defined by Smith Travel Research. The developer of the midscale or economy hotel rooms shall be required to include amenities that lower the cost of stay. Examples of amenities that could lower the cost of stay may include the provision of kitchenettes, refrigerators and/or microwaves in guest rooms, it could also include provision of complimentary services such as Wi-Fi, continental breakfast and/or parking. If a hotel is developed at a midscale or economy product, it need not pay the in-lieu fee identified earlier in this precise plan.

However, since the original hearing, the Port has received proposals to develop the remainder of the East Harbor Island site and has selected Sunroad Enterprises as the final developer to complete build out of the 9 acre site by constructing two additional hotels with up to 325 rooms combined ([Exhibit 8](#)). The Port is not proposing to add this project to the PMP project list at this time and has not provided Commission staff with information specific to this project.

As discussed in greater detail below, the PMPA would require the development to include activating uses such as restaurants, outdoor seating and dining areas, and retail shops open to the public, which would be integrated into the hotels to maximize public recreation opportunities. Furthermore, in order to reduce the bulk and scale of the hotel structures to protect views, building envelopes would not be permitted to exceed 70% of each project site.

### **Public Promenade**

The existing public promenade along the south side of Harbor Island Drive will be extended to the east portion of East Harbor Island and along the Harbor Island East Basin

frontage. The promenade will provide pedestrian access around East Harbor Island and will connect the hotel developments, marina, and restaurants to the rest of Harbor Island. The promenade will be located along the waterfront to provide views of the San Diego Bay, the downtown San Diego skyline, and the Harbor Island East Basin. Public access signage, as well as signage identifying that the promenade is open to the public, will be placed at strategic locations throughout East Harbor Island to guide guests and visitors to and from public use areas, restaurants, and other facilities.

Completion of the bayside public promenade shall be required by the Port in conjunction with leasehold development or redevelopment. On each hotel project site, the shoreline promenade will be a minimum of 10-ft. wide and each respective portion must be fully completed prior to the completion of any new structure requiring the issuance of a final Certificate of Occupancy on that hotel project site. The promenade will include connections across the hotel project sites to the public sidewalk adjacent to the north side of Harbor Island Drive. At the Sunroad Resort Marina, the 10-ft. wide promenade will be continued on the shoreline side of the marina office and west locker buildings when the cumulative redevelopment of the marina office and west locker buildings exceeds demolition of more than 50% of the exterior walls and substantial structural components.

At such time as the current leases for the western half of the subarea terminate or are amended or concurrent with the development of the first hotel, whichever occurs first, and if a hotel development has not been approved for the remaining sites on the western half of the subarea, a temporarily aligned 10-ft. wide shoreline promenade is required to be installed by the developer of the Sunroad hotel as a special condition of that hotel's coastal development permit. The temporary promenade will be required to be replaced with a permanent 10-ft. wide shoreline promenade as a special condition of the coastal development permit(s) for the remaining hotel(s). The temporary promenade may include a fence and will include coastal access signage indicating that the promenade is open and accessible to the public.

Any hotel project on the Sunroad Resort Marina leasehold that is developed before the cumulative redevelopment of the marina office and west locker buildings will provide bayside pedestrian public access along the length of the marina leasehold. Within the marina's existing swimming pool enclosure and bayward of the west locker buildings, the walkway may be reduced to a minimum 5-ft. wide shoreline public promenade, which will also be constructed and open for public use prior to the issuance of a final Certificate of Occupancy for that hotel project. Pedestrian access would also be available adjacent to the hotel building to provide access to Harbor Island Drive. Additional public access enhancements include landscaping, benches, and signage adjacent to the pathways identifying the promenade is open to the public.

With the anticipated hotel development, the entire promenade will be located immediately adjacent to the shoreline except at the southeast end of the peninsula where it moves inland briefly due to an existing restaurant (Island Prime). At such time when



the cumulative redevelopment of the restaurant structures exceeds demolition or relocation of more than 50% of the major structural components including exterior walls, floor and roof structure, and foundation (excluding maintenance and repairs), approval of a CDP for the redevelopment will include a condition to relocate the promenade adjacent to the shoreline.

**E. Findings for Consistency with Chapter 3/Chapter 8 of the Coastal Act**

The following Coastal act policies are relevant and applicable:

**1. Public Recreation/Coastal Access**

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, [...]

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, [...] (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings [...]

Section 30253

New development shall do all of the following: [...]

(d) Minimize energy consumption and vehicle miles traveled. [...]

Section 30708

All port-related developments shall be located, designed, and constructed so as to: [...]

(d) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible.

**Lower Cost Overnight Accommodations on Public Trust Lands**

East Harbor Island constitutes public trust lands that the State of California has granted to the Port. The Commission implements the public trust doctrine through its application of the Coastal Act. Section 30213 requires that “[l]ower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.” Although there are over 8,035 existing overnight accommodations within the Port, only 3% of them are lower cost (237 RV sites at Chula Vista RV Resort).

The Coastal Act emphasizes the need to protect and provide for public access to and along the coast, and to provide lower cost visitor and recreational facilities, particularly in new development projects. The proposed PMPA does not include any specific requirement for the provision of lower cost accommodations on-site or in the subarea and does not meet the requirements of Section 30213. The proposed hotel developments will be on public trust land and the existing development pattern precludes convenient shoreline access and in some places directly obstructs it, an impact that will be only partially mitigated through construction of a bayside pedestrian promenade. The proposed PMPA would allow the construction of up to three hotels over a larger area within the subject subarea, but does not include any specific requirement for the provision of lower cost accommodations in the subarea, or even for an in lieu fee (for the remaining 325 rooms if developed as mid-scale or economy) to mitigate for the loss of public trust lands that could otherwise be used for lower cost accommodations. The plan language acknowledges the hotel developer(s) must contribute a fair-share of on-site or off-site lower cost visitor accommodations or pay an in-lieu fee based on a study conducted by the Port, as follows:

As a special condition of the coastal development permit for any hotel development or redevelopment that adds hotel rooms to Harbor Island, the hotel developer or redeveloper will develop or designate its fair-share of on-site or off-site lower cost visitor accommodations or pay an in-lieu fee based on a study conducted by the District.

However, as detailed in the History section above, in April 2016, the Board of Port Commissioners directed its staff to discontinue the study. Thus, the proposed PMPA language is predicated on a study that the Port no longer intends to complete.

Even if the Port did intend to resume the lower cost overnight accommodations study, the Commission has found that inclusion of this language has not resulted in the actual provision of additional lower cost overnight accommodations within the Port. Although fees have been collected for the Hilton Hotel expansion and the Lane Field Hotels, as well as several other hotel projects within the Port, none have been spent for the creation of lower cost accommodations. The challenge of providing lower cost accommodations is not unique to the Port; in fact, none of the hotel developments within San Diego County approved by the Commission have included the actual construction, either on-site or off-site, of lower cost accommodations as part of the project. Instead, hotel developers have chosen to pay mitigation fees in-lieu of providing lower cost accommodations. There is an increasing need for lower-cost overnight accommodations within the Port in the form of a specific program that will result in units as opposed to deferred collection of in-lieu fees. The subject subarea and proposed development is on public tidelands and is a potential location for lower cost overnight accommodations that should be considered within the Port's planning document – the Port Master Plan.

Staff is recommending denial of the PMPA because it does not include policy language that reserves a portion of the subarea as a potential site for lower cost overnight accommodations until such time as the Port resumes and finalizes its study on lower cost overnight accommodations, or the Port identifies an alternative location in the Port District where such lower cost accommodations could be developed and to which the in-lieu fees may apply. Furthermore, the proposed language allows an in-lieu fee to be paid instead of requiring lower cost overnight accommodations on-site. The Port, as landowner, is in a position to control development within its jurisdiction in a manner that assures that visitor-serving facilities are provided for all of the people of the State, consistent with the public trust doctrine and the public access and recreation policies of the Coastal Act.

In conversations and e-mail exchanges, the staffs of the Port and the Commission tried to reach a compromise on implementing lower-cost accommodations ahead of this hearing. The discussions attempted to find a way to ensure the provision of lower cost overnight accommodations on the subject site or, alternatively, within the vicinity through a future PMPA, in order to mitigate coastal resource impacts caused by the proposed hotel development on East Harbor Island.

In an effort to resolve the remaining differences, Commission staff was prepared to allow the Port to move forward with the development of two higher cost hotels (with a combined total of 375 rooms), as long as the remaining subarea was reserved as a potential site for the remaining 125 rooms planned for East Harbor Island. However, these remaining 125 rooms could be developed as higher cost, without the need for another PMPA to the subarea, if the Port determines an alternative site within the Port's north bay for the development of lower cost overnight accommodations. The Port never submitted revised language for its PMPA based on these discussions, thus the submittal before the Commission at this time is what the Port submitted on July 24, 2015, that addresses the development of the remaining 325 rooms, as follows:

If the District issues a Request for Proposals (RFP) to develop the one or two hotels (up to 325 rooms) on the southwesternmost area of Subarea 23 before the District has completed a lower cost visitor accommodations study, the RFP shall specify that no less than 25% of the hotel rooms will be midscale or economy, as defined by Smith Travel Research. The developer of the midscale or economy hotel rooms shall be required to include amenities that lower the cost of stay. Examples of amenities that could lower the cost of stay may include the provision of kitchenettes, refrigerators and/or microwaves in guest rooms, it could also include provision of complimentary services such as Wi-Fi, continental breakfast and/or parking. If a hotel is developed at a midscale or economy product, it need not pay the in-lieu fee identified earlier in this precise plan.

The Port asserts that its proposed PMPA language would ensure that 25% of the 500 rooms (125 rooms) would be limited to midscale or economy product types prior to the

completion of the Port's lower cost visitor accommodations study ([Exhibit 9](#)). However, this assertion is inaccurate; the Port's proposed language would require only 25% of the remaining 325 rooms (82 rooms) within the subarea to be developed as a midscale or economy product. The Port also asserts that the developers of the proposed 325 remaining rooms would also either develop their fair share of onsite or offsite lower cost overnight accommodations or pay an in-lieu fee. Again, this statement is inaccurate – the proposed PMPA language explicitly states that: "If a hotel is developed at a midscale or economy product, it need not pay the in-lieu fee identified earlier in this precise plan." If the Port intends for these statements to be accurate, it must submit revised PMP language that would accomplish these purposes.

Although the Port's proposed language would potentially increase the affordability of a portion of the remaining hotel(s) – at least 82 rooms, or 25% of the remaining 325 hotel rooms planned for this subarea – it is unlikely that these rooms would be truly lower cost. The Port's proposed language would allow all of these 82 rooms to be developed as midscale, as defined by Smith Travel Research (STR), without payment of an in lieu fee to fund lower cost accommodations. The Port's language is based on STR's definition of midscale; however, based on Commission staff's research of the STR website and phone discussions with STR staff, it is unclear how STR defines midscale. STR includes several different ways to categorize hotels, including, but not limited to, chain scale, class, and market price segment, that are not directly related to each other. For example, using the STR chain scale, a mid-scale or economy hotel would be the bottom two tiers of the scale. This is not the case if using STR's market price segments which are defined as follows:

Luxury: Top 15% average room rates  
Upscale: Next 15% average room rates  
Mid-Price: Middle 30% average room rates  
Economy: Next 20% average room rates  
Budget: Lowest 20% average room rates<sup>3</sup>

Thus, the Port's proposed PMPA would allow the construction of up to 418 new higher-cost hotel rooms in this subarea, and 100% of the remaining 82 rooms could be mid-scale rooms, while still being consistent with the PMPA as proposed. However, the Port has not specified which STR standard its proposed language is based upon and what it means. The ambiguity of the proposed language is confusing and the PMP should include more specifically defined terms. The PMPA also requires the provision of "amenities" to lower the cost of stay, but it does not specify the extent of amenities that would be required. Thus, these mid-scale rooms could include a microwave and free wifi as amenities, and still comply with the proposed PMPA. While the Port may have intended

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<sup>3</sup> Excerpt from the definition of "Market Price Segments (U.S. only) in the STR glossary of terms located at: <https://www.strglobal.com/resources/glossary#M>

for its submittal to adequately provide lower cost accommodations at the Port, as drafted, it could be construed as laid out above, resulting in the construction of only higher cost rooms. Thus, the proposed PMPA fails to protect or provide lower cost overnight accommodations

Given the prime location of the subject subarea, which is located along the waterfront and in close proximity to the airport and downtown San Diego, it is unlikely that any new hotel developed as an economy product, let alone a mid-scale product, would be lower cost. In order for overnight accommodations on East Harbor Island to be lower cost, and maintained as such, they would need to be a type of development that is designed in such a manner to be intrinsically lower cost.

The Port also argues that the requirement to implement lower cost overnight accommodation policies pursuant to Section 30213 would regulate room rates inconsistent with Section 30213. The Commission, however, has not suggested that the Port fix “an amount certain” for room rentals, as would be prohibited by Section 30213 for privately owned and operated hotels, motels, or other similar visitor-serving facilities on public land. However, as the manager of public lands, the Port does have the ability to plan for overnight accommodations that are inherently lower cost, such as hostels or campgrounds.

In addition, the removal of the in-lieu fee requirement should not be considered or permitted without detailed criteria and evidence regarding a project’s design to ensure a reduction or deletion in the fee is warranted. In this case, the proposed language is too general to ensure that the rooms actually constructed in compliance with this policy would result in accommodations that are truly lower cost such that the in lieu fee requirement should be waived. The PMPA would allow build-out of the remainder of the available land in this subarea with no assurances that lower cost accommodations would be protected. Full buildout should not occur until it has been determined that the land in this subarea is not required to provide lower cost accommodations, such as a hostel or cabins/yrts, through use of in-lieu fee payments and to fulfill the results of the Port’s study as described below.

According to a 2014 draft study conducted by the Port, there are currently 8,035 overnight accommodations on Port tidelands, with only 237 of these being lower cost (237 RV spaces at the Chula Vista RV Resort). The average room rate for hotel properties on Port tidelands in the summer of 2014 was \$242.42, with half of the rooms on District tidelands charging more than \$250 per night. This extreme shortage of lower cost accommodations on Port tidelands prompted the Port to pursue the, now discontinued, development of a lower cost visitor-serving accommodations policy that included a four step approach, which is summarized below:

1. Prepare a Draft Lower Cost Overnight Visitor Accommodations Study – this study was prepared to establish a baseline of existing lower cost overnight

accommodations within the Port and to create the framework for a future policy regarding the provision of lower cost overnight accommodations. The draft study was provided to Commission staff on December 23, 2014; however, the study was never finalized.

2. Nexus Study for Lower Cost Accommodation Fee Program – the Port was finalizing a nexus study and creating a potential fee program for developments that impact overnight lower cost accommodations. The purpose of this program was to ensure that the in-lieu fee is roughly proportional to the impact created by new development. The estimated completion for this step was July 2015; however, the Nexus Study was never finalized.
3. Site Selection – the third step was to develop site criteria for a variety of lower cost visitor-serving accommodations and identify potential locations throughout the Port for these potential accommodations. This step was originally anticipated to commence in December 2015 and take approximately 6 to 12 months to complete; however this step was never commenced.
4. Environmental Review and Port Master Plan Amendment – after potential sites have been identified, and deemed feasible, the fourth step was to conduct environmental review pursuant to the California Environmental Quality Act and propose a PMPA for the Board of Port Commissioners’ consideration that, if approved, would ultimately be submitted to the Commission for certification. This step was originally anticipated to commence between June and December 2016 and take approximately 12 to 18 months to complete; however, this step was never commenced.

Based on Port staff’s projections, this four-step process of developing a policy on lower cost overnight accommodations for inclusion in the Port Master Plan would have been completed within two to three years (by June 2017-June 2018) had it not been discontinued in March 2016 at the direction of the Board of Port Commissioners. The third step, site selection, which was never commenced, would have been integral in determining the appropriate location(s) for lower cost accommodations with the Port, but it does not appear that this step will be pursued by the Port.

Instead of pursuing completion of the study, in March 2016, the Board passed BCP Policy No. 775, Guidelines for the Protection, Encouragement and, Where Feasible, Provision of Lower Cost Visitor and Recreational Facilities ([Exhibit 10](#)). The guidelines consist of a vague three paragraph policy statement, with a set of examples of lower cost visitor and recreational facilities. The guidelines lack specific procedures for protecting, encouraging or providing for lower cost overnight visitor accommodations within the Port, and instead, delay consideration of how such accommodations could be provided, as explicitly mentioned in the example list:

Hostels, motels, hotels, campgrounds, yurts, RV parks, or tent campsites; provided, however, the District shall not regulate the amount for overnight stay at such facilities through a Coastal Development Permit or the Port Master Plan and therefore, the District needs to further evaluate on how this type of accommodation could be provided.

It should be noted that the draft study that was completed prior to the Board's abandonment of the development of a comprehensive lower cost overnight accommodations policy raised the same concerns, which were discussed in the staff report for the August 2015 hearing, and discussed in greater detail in Commission staff's comment letter ([Exhibit 6](#)) to the Port on the draft study. Given the finite amount of land available to develop or redevelop new lower cost overnight accommodations and the Port's responsibility as the manager of this land, the draft study's goal – that the combined percentage of lower and moderate cost overnight accommodations within the Port shall not be less than 10% of the total hotel submarket – seems especially low and would not assure that enough land area will be set aside for the provision of lower cost overnight options on Port tidelands. The Commission acknowledges that mid-price hotels may serve as a part of the overall effort to address the need for more affordable accommodations within the Port because they are typically less costly or are more reasonably priced for larger groups and families; however, the focus for any future resumption of the study should be the protection and provision of new lower cost accommodations that all economic segments of the population can afford to use, including hostels, tent camping, cabins/yurts, and low cost hotels/motels (e.g., budget hotels with the lowest average room rates). Thus, any future study should provide a goal specifically related to providing lower cost accommodations that is distinguishable from the goal for moderate cost overnight accommodations and include analysis of how this goal is consistent with the Public Trust Doctrine and the Coastal Act.

The Port has proposed that hotels that provide certain amenities free of charge, such as refrigerators, microwaves, Wi-Fi or continental breakfast, should be considered lower cost overnight accommodations because these amenities lower the overall cost to stay there. However, many hotels already include these amenities at no additional charge or at optional, minimal charges. As such, the Port should focus on providing for actual lower cost overnight accommodations and not rely on providing additional amenities as a substitute for a lower room cost.

Therefore, as discussed above, the Commission finds that the proposed Port Master Plan amendment, as submitted, does not conform to the provisions of Section 30711 of the Coastal Act. The proposed changes in land use do not contain sufficient detail in the PMP submittal for the Commission to make a determination of the proposed amendment's consistency with Sections 30210, 30211, and 30213 of the Coastal Act.



### **Public Access and Recreation**

The proposed PMPA provides for the creation of a public promenade and requires hotel developments to include “activating” uses for the public as part of the development in order to enhance public recreational opportunities. The activating uses would include restaurants, outdoor seating and dining areas, retail shops, and benches. As proposed, this area would be more accessible to the general public than the existing uses and would allow for some new public recreational opportunities along the waterfront and increased connectivity with the extension of the public promenade. Individual public access plans will be required concurrent with the coastal development permit applications and implemented for each hotel development on East Harbor Island. The public access plans will include information on signage, amenities, and public access to inform and invite the public to and around Harbor Island and downtown San Diego. All hotel developments will provide or participate in shuttle service to and from the airport and will provide information regarding other transit opportunities. The Port’s bayside shuttle system will be expanded to serve Harbor Island and will be in operation to serve the future hotel development on East Harbor Island.

The proposed amendment includes the provision of a public promenade as a public recreational amenity and to address the public shoreline access impacts that the proposed hotel developments would have on the subarea. The majority of the shoreline at East Harbor Island, which is public trust land, is currently inaccessible to the public and any delay in the construction of the public promenade as the subarea undergoes redevelopment would result in ongoing coastal resource impacts. Therefore, the revised PMPA language specifies that a temporary 10-ft. wide shoreline promenade is required to be constructed concurrent with development of the first hotel development. As a special condition of the coastal development permit(s) for the remaining hotel(s), the temporary promenade will be required to be replaced with a permanent 10-ft. wide shoreline promenade prior to the occupancy of the hotel(s). This language requiring a temporary public promenade will ensure the construction of a continuous pathway along the waterfront that does not rely upon the development of the additional hotel room allotment provided in the PMPA.

### **Parking/Transit**

In evaluating the impact the proposed development will have on coastal access, it is important to keep several factors in mind. Redevelopment efforts often present challenges with regard to parking, traffic, and circulation patterns. The Coastal Act supports the construction of new development in existing developed areas to decrease sprawl and impacts to open space. Development in these locations will be designed to take advantage of existing mass-transit opportunities, and to supplement existing facilities with new or expanded alternate transit systems.

To determine the adequacy of the proposed parking supply in accommodating the projected demand associated with the proposed PMPA, parking demand was calculated based on the Port District's Tideland Parking Guidelines (2001) using Port District parking rates developed specifically for Harbor Island. Although these guidelines are not part of the certified Port Master Plan, the ratios used are within the range of parking ratios commonly approved for coastal cities in San Diego County. In addition, the EIR for the PMPA includes a parking study that specifically evaluated peak parking demand for the hotels under various circumstances. Under both standards, even with the removal of 111 parking spaces, the 381 parking spaces proposed for the Sunroad hotel and the surface area available for future hotels is anticipated to be sufficient to meet the demand for parking at Subarea 23.

While the Sunroad hotel would remove 111 existing marina parking spaces, based on a parking analysis conducted by traffic consultants Linscott Law and Greenspan; the leasehold is currently over parked and the project will contain adequate surface parking for both the hotel and marina. The parking study concluded that the shared requirement would be 381 parking spaces, less than the 457 proposed spaces and 568 existing spaces. The traffic circle and the utilities underlying it will be realigned to accommodate the hotel project. In order to increase public parking, the Sunroad hotel will include a minimum of 5 spaces and the remaining one or two hotels will provide a cumulative total of at least 10 spaces, for a total of 15 public parking spaces that will be reserved exclusively for coastal access users and clearly signed as such. These coastal access parking spaces will be above and beyond the required parking for the hotel(s), marina, and any associated uses, such as in-hotel restaurants.

Prior to the approval of a coastal development permit for future development of a hotel on the existing west marina parking lot, the design of the proposed hotel development will be required to provide adequate on-site parking in accordance with the Port District parking guidelines and for the shared parking requirement of the existing marina and the proposed Sunroad hotel. Prior to the demolition or removal of any parking spaces in the existing west marina parking lot, which are required for the shared parking of the existing marina and the proposed Sunroad hotel, the project proponent will be required to submit a Parking Management Plan that provides adequate parking.

Any future hotel(s) would need to provide the required number of parking spaces based on how many rooms are proposed. Additional parking may be required depending on the types and sizes of ancillary uses proposed for the future hotel(s). The future development of the two hotels, approximately four-stories in height, will require adequate on-site parking. The PMPA also requires that in combination, future hotel development includes a minimum of 10 public parking spaces with adequate signage. Because public parking is not provided or allowed in the existing marina parking lot, future hotel development in this area would improve public parking opportunities in this area.

The summer of 2012 saw the first implementation of a summer season shuttle system for the Embarcadero region. The Port has reported that the program has been extremely successful, and plans are underway to expand both the range and duration of the project. The Port District, through this PMPA, is specifically committing to expanding the Port District bayside shuttle system to serve Harbor Island, to ensure that long term public access is preserved and enhanced. The proposed language specifically establishes that the shuttle will be in operation by the time the hotel expansion is open.

## **2. Visual Resources**

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visually degraded areas [...]

As proposed, the development permitted through the PMPA would have a significant effect on public views and the visual character of the area as seen from Harbor Drive, both positive and negative. As described above, the amendment would allow up to three new hotel buildings over a larger area and includes a substantial expansion and improvement to the public promenade. The construction of up to three hotel buildings raises concerns regarding the compatibility of the bulk and scale of the proposed structures with the surrounding pedestrian orientation and the current blockage of public views along Harbor Drive to the downtown skyline view.

Public views of the bay from East Harbor Island are considerably expansive, although various structures blocking views along this segment of the shoreline have arisen, including the Island Prime restaurant and the Coasterra restaurant at 880 Harbor Drive. The ongoing pressure to develop new and expanded structures that incrementally encroach upon the remaining public views of the bay and skyline is a challenge the Port and Commission must address on San Diego's historic tidelands. Under these circumstances, it is particularly important that all new shoreline development be sited and designed to restore and enhance the visual quality of the area. The views that exist on East Harbor Island are a valuable public resource and the development of the subarea must maintain views of the marina, boat masts, and city skyline by avoiding the creation of a wall of structures. In order to reduce the bulk and scale of the hotel structures and preserve public views, the building envelopes will not exceed 70% of each project site, not including ancillary uses.

The Port has asserted that the project will not significantly compromise existing views in the surrounding area. The development permitted in the PMPA would not be located in a

designated scenic view corridor and would not obstruct a protected view of the ocean or downtown skyline from or through the project sites. Viewing opportunities are available along Harbor Island Drive. The Sunroad hotel project is visually compatible with the character of the surrounding area and consistent with patterns of development.

Additionally, public access corridors that provide views will be located between hotel structures to allow visual and physical access and connectivity to the Harbor Island East Basin, San Diego Bay, and Harbor Island Drive. These public accessways will be kept free of obstructions. Public accessways may include public activation amenities such as benches, lighting, signage, parking, and landscaping, and these amenities shall not be considered obstructions.

### **Conclusion**

Thus, as proposed, this area will indeed be more accessible to the general public than the existing conditions; however, substantial unmitigated impacts exist with regard to the provision of lower-cost overnight visitor serving accommodations. Therefore, as proposed, the impacts to public access and recreational opportunities associated with the proposed PMPA cannot be found consistent with the public access and recreation policies of Chapter 3 and Chapter 8 of the Coastal Act. The Commission therefore cannot support certification of the proposed PMPA for East Harbor Island.

### **F. Consistency with the California Environmental Quality Act (CEQA).**

The proposed amendment was the subject of an Environmental Impact Report under CEQA. The EIR was subject to public review and hearing and was adopted by the Board of Port Commissioners. The Port of San Diego is the lead agency for purposes of CEQA. In the final EIR, the Port identified that even after adopting all feasible mitigation measures, there would be significant unavoidable environmental impacts on direct and cumulative Public Services and Utilities (Fire Protection Services) resulting from the primary responding fire station being above its workload capacity, and cumulative Transportation, Traffic, and Parking impacts resulting from the project's incremental contribution to project area intersections and roadway segments.

The Port determined that specific economic, social, and other benefits of the proposed project outweigh the project's unavoidable adverse environmental effects. In making this determination, the Port made a statement of overriding considerations. The Port identified the following overriding considerations: that the project would increase employment opportunities; create new and improved public access and shoreline enhancements in the project area; stimulate economic growth for the Port, the City of San Diego, and the overall region; and provide a benefit to the community by incorporating energy conservation and sustainability features into its design and construction that will provide energy and water efficiency equivalent to 15% in excess of standards required by Title 24 of the California Code of Building Regulations. Therefore, the Port determined

that the benefits of the project outweigh its significant environmental impacts, and therefore, on balance, such impacts are considered acceptable.

However, the Commission has found that the PMPA cannot be found in conformance with the Chapter 3 and Chapter 8 policies of the Coastal Act, due to the potential for significant adverse impacts to the environment of the Coastal Zone, including the potential to result in significant individual or cumulative impacts to public access and recreation in the coastal zone. There are feasible alternatives or feasible mitigation measures available, as described above, which would substantially lessen any significant adverse effect which the amendment may have on the environment. Therefore, the Commission finds that the PMPA is inconsistent with the California Environmental Quality Act.