

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-20-0654

Applicant: Jeff Kindness

Agent: Swift Slip, Attention Marissa Morales

Location: 3552 Gilbert Drive, Huntington Beach, Orange County (APN No. 178-402-06)

Project Description: Removal of an existing 726 sq. ft. floating dock and a 3-ft. x 18-ft. gangway and installation of a 782 sq. ft. floating dock and 3-ft. x 18-ft. gangway. Four (4) existing 16-in. sq. piles will remain and be re-used in place.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project is the removal of an existing private dock float system and replacement with a new private dock float system on and over the water associated with a single-family residence on a bayfront lot in Huntington Harbour in the City of Huntington Beach. The proposed project is located within the Commission's original permit jurisdiction because it is on and over the waters of Huntington Beach. The standard of review for this development is Chapter 3 of the Coastal Act, and the City's certified Local Coastal Plan (LCP) may provide guidance.

Commission staff is recommending **APPROVAL** of the coastal development permit application with **seven special conditions**. The major issues raised by this proposed

development concern consistency with the marine resources, water quality, public access policies of the Coastal Act.

Initially, the applicant proposed a dock which would increase water coverage by 90 sq. ft. The applicant has redesigned the proposed dock to shrink the finger width to now only increase water coverage by 56 sq. ft. While the applicant has revised the proposed project and provided updated plans, a revised Approval-In-Concept from the City of Huntington Beach Planning Department and revised Harbor Permit from the City of Huntington Beach Public Works Department has not been submitted. Thus, staff recommends the Commission impose **Special Condition No. 1**, which requires the applicant to submit Final Project Plans approved by the City of Huntington Beach Planning Department and City of Huntington Beach Public Works Department.

The dock float system has been designed in a manner that avoids adverse impacts to marine resources (no eelgrass is expected to be impacted based on the applicant's survey) while still maintaining a usable dock float system and enabling recreational boating. However, to minimize potential adverse impacts to biological resources and to ensure that there will not be negative cumulative impacts to the Huntington Harbour ecosystem, staff recommends the Commission impose **Special Condition No. 2**, which requires the applicant to prepare a new eelgrass survey prior to beginning construction. This condition will also require the applicant to apply for a permit amendment to relocate or redesign the dock float system to avoid direct impacts to existing eelgrass beds if the updated survey indicates eelgrass would be impacted by the proposed dock float footprint. Staff recommends the Commission also impose **Special Condition No. 3**, which requires the applicant to survey the project area for the presence of *Caulerpa sp.* (an invasive, non-native aquatic species) prior to commencement of construction activities.

While conditions have been imposed to minimize impacts to eelgrass and *Caulerpa sp.* from the project, impacts to biological resources may still occur if future development occurs without first being reviewed by the Commission. Thus, staff recommends the Commission impose **Special Condition No. 4**, which requires the applicant to obtain a permit amendment or a new permit for any future improvements to the proposed dock float system.

During construction and post-construction, the proposed project has potential for adverse impacts to water quality and marine resources. Therefore, staff recommends the Commission impose **Special Condition No. 5**, which outlines construction responsibilities and debris removal requirements for the applicant and also requires the applicant to implement post-construction operational Best Management Practices (BMPs) to protect water quality.

To ensure that the applicant complies with all requirements, requests and mitigation measures from California Department of Fish and Wildlife (CDFW), the Regional Water Quality Control Board (RWQCB); the U.S. Army Corps of Engineers (USACE), and the U.S. Fish and Wildlife Service (USFWS), with respect to preservation and protection of

water quality and the marine environment, staff recommends the Commission impose **Special Condition No. 6**, which requires that the applicant comply with all the requirements, requests, and mitigation measures of these agencies.

The proposed project will not result in any new adverse impacts to public access. In order to preserve and maintain access to the public tidelands, **Special Condition No. 7** is imposed stating that the approval of a coastal development permit for the project does not waive any public rights or interest that exist or may exist on the property, now or in the future.

The motion to approve the CDP application is on page 5.

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EXHIBITS

Exhibit No. 1 – Location Map

Exhibit No. 2 – Existing Plan

Exhibit No. 3 – Proposed Plan

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve the Coastal Development Permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit Application No. 5-20-0654 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided that the assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind

all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Final Project Plans.

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and written approval, two (2) full size sets of Final Project Plans approved by the City of Huntington Beach Planning Department and City of Huntington Beach Public Works Department. The Final Project Plans shall reflect the following changes:

The plans shall identify and state that the proposed project has reduced water coverage from 90 sq. ft. to 56 sq. ft.

- B. All revised plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports.
- C. The permittee shall undertake development in conformance with the approved final updated plans. Any proposed changes to the approved final plans, such as changes needed to be consistent with the City's certified Local Coastal Plan (LCP), or the requirements of other Resource Agencies, shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

2. Eelgrass Survey(s).

- A. **Pre-Construction Eelgrass Survey.** A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "California Eelgrass Mitigation Policy" dated October 2014 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an

amendment to this permit from the Coastal Commission or a new coastal development permit.

- B. Post-Construction Eelgrass Survey.** If any eelgrass is identified in the project area or the 10 meter buffer area by the pre-construction survey required by Subsection A of this condition, within 30 days of completion of construction, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth period, the applicant shall survey the project site and the 10 meter buffer area to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the CEMP adopted by the NMFS (except as modified by this special condition), and in consultation with the CDFW. If side-scan sonar methods are to be used, evidence of a valid permit from CSLC must also be provided prior to the commencement of each survey period. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been adversely impacted, the applicant shall replace the impacted eelgrass at a minimum final 1.38:1 ratio on-site (mitigation: impact), or at another location, in accordance with the CEMP. Any exceptions to the required 1.38:1 minimum final mitigation ratio found within the CEMP shall not apply. Based on past performance of eelgrass mitigation efforts, in order to achieve this minimum, the appropriate regional initial planting ratio provided in the CEMP should be used. Implementation of mitigation to ensure success in achieving the minimum final mitigation ratio (1.38:1) shall require an amendment to this permit or a new coastal development permit unless the Executive Director provides a written determination that no amendment or new permit is required.

3. Pre-construction Caulerpa Sp. Survey

- A.** Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa* sp. The survey shall include a visual examination of the substrate.
- B.** The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the National Marine Fisheries Service.
- C.** Within five (5) business days of completion of the survey, the applicant shall submit the survey:

(1) for the review and approval of the Executive Director; and

(2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through California Department of Fish & Wildlife (858/467-4218) National Marine Fisheries Service (562/980-4043).

D. If Caulerpa species is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director, subject to concurrence by the Executive Director, that all Caulerpa sp. discovered within the project and buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with Caulerpa species. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **Future Development.** This permit is only for the development described in CDP No. 5-20-0654. Pursuant to Title 14 of the California Code of Regulations, Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by CDP No. 5-20-0654, including the proposed private dock float system. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14 of the California Code of Regulations, Sections 13252(a)-(b), shall require an amendment to CDP No. 5-20-0654 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government.

5. Water Quality

A. Construction Responsibilities and Debris Removal

- (1) No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
- (2) Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
- (3) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;

- (4) Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
- (5) If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;
- (6) Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;
- (7) Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- (8) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- (9) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- (10) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- (11) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- (12) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- (13) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- (14) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- (15) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or

construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and

- (16) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. Best Management Practices Program

By acceptance of this permit the applicant agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

- (1) Boat Cleaning and Maintenance Measures:
 - a. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris;
 - b. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls shall be prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and the amounts used minimized; and
 - c. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.
 - d. Any and all debris/trash found near the dock will be removed.
- (2) Solid and Liquid Waste Management Measures:
 - a. All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits will be disposed of in a proper manner and will not at any time be disposed of in the water or gutter.
- (3) Petroleum Control Management Measures:
 - a. Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous

waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters will regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited;

- b. If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids; and
- c. Bilge cleaners which contain detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

(4) Leakage Measures:

- a. Any leakage or spills must be immediately reported to the management team, Huntington Beach Fire Department and/or the City of Huntington Beach Hazmat Team.
- b. In the event of leakage or spill of hazardous materials to the marine environment, the source of the leakage or spill is terminated immediately.
- c. All tenant vessels should have absorbent pads on board. This product should be an oil-only absorbent product which soaks up hydrocarbons – gasoline, diesel fuel, oil, hydraulic fluids- but not water. Other absorbent products that “eat” hydrocarbons are not allowed. No boater shall pour loose remediation productions or spray any remediation products on the water at anytime.

6. Resource Agencies. The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife (CDFW), the Regional Water Quality Control Board (RWQCB); the U.S. Army Corps of Engineers (USACE), and the U.S. Fish and Wildlife Service (USFWS) with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

7. Public Rights and Public Trust. The Coastal Commission’s approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property now or in the future.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The proposed project is the removal of an existing 726 sq. ft. floating dock and a 3-ft. x 18-ft. gangway and installation of a 782 sq. ft. floating dock and 3-ft. x 18-ft. gangway. Four (4) existing 16-in. sq. piles will remain and be re-used in place ([Exhibits No. 2-3](#)). The private dock is associated with a single-family residence on a bayfront lot in Huntington Harbour in the City of Huntington Beach. The new floating dock system will be comprised of wood and composite material, foam, and concrete. There is an existing deck cantilevered from the bulkhead, but no work to it is proposed. Initially, water coverage post-project would have increased by 90 sq. ft. However, the applicant has identified an alternative that would result in only 56 sq. ft. of additional water coverage, rather than 90 additional sq. ft. In addition, the floating dock will not extend any more bayward than the existing floating dock. This proposal is similar to adjacent docks in the area and is consistent with past Commission-issued permits. The applicant has provided an engineering report indicating that the reduced design is structurally sound.

While the applicant has revised the proposed project and provided updated plans, a revised Approval-In-Concept from the City of Huntington Beach Planning Department and revised Harbor Permit from the City of Huntington Beach Public Works Department has not been submitted. Thus, the Commission imposes **Special Condition No. 1**, which requires the applicant to submit Final Project Plans approved by the City of Huntington Beach Planning Department and City of Huntington Beach Public Works Department.

Any potential addition/expansion to the floating dock system, whether temporary or permanent, even if not required to be attached to the bulkhead or a pile in the bay, would constitute development as defined in section 30106 of the Coastal Act,¹ would be located in Huntington Harbour within the Commission's retained jurisdiction and would necessitate review and approval by the Coastal Commission, including issuance of an

¹ Section 30106 of the Coastal Act defines "Development" as follows: "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with [Section 66410 of the Government Code](#)), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the [Z'berg-Nejedly Forest Practice Act of 1973](#) (commencing with [Section 4511](#)).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

amendment to this permit or a new CDP. This review would also give the Commission an opportunity to review and analyze any potential adverse impacts of an increase of water coverage in an area where such coverage is already a concern. **Special Condition No. 4** further clarifies that any improvement or repair or maintenance of the subject proposed development will require an amendment to this CDP or a new CDP.

The subject site is associated with the residentially zoned, harbor front lot at 3552 Gilbert Drive, in Huntington Harbour in the City of Huntington Beach, Orange County ([Exhibit No. 1](#)). The dock will be used for boating related purposes to serve the adjacent single-family residence. Single-family residences and associated private dock systems characterize the subject site and the surrounding area.

The subject site is located within the City of Huntington Beach, which has a certified Local Coastal Program (LCP). However, due to the project location seaward of the mean high tide line, the project is within an area of the Commission's retained permit jurisdiction and the standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP is advisory in nature and may provide guidance for development. The water area within which the boat dock project is proposed is land use designated Open Space Water Recreation (OS-W) and zoned Waterways Recreation (WR). A private boat dock associated with single-family residential development on the adjacent lot is recognized by the City's certified LCP as an allowable use, specifically in Implementation Plan Chapter 213 Open Space District, which allows private boat docks abutting residential uses in Huntington Harbour in the Waterways Recreation zone. The City of Huntington Beach reviewed the proposed plans and issued an Approval-in-Concept dated July 21, 2020 from the Planning Department. In addition, the Public Works Department approved Harbor Permit No. 1338 on July 21, 2020 for the proposed boat dock project.

The proposed dock is located on Main Channel in Huntington Harbour. Main Channel is owned and administered by the California State Lands Commission (SLC). Development in this area requires review and approval from SLC, typically in the form of a lease agreement. The applicant has obtained a valid lease agreement from the SLC for the proposed boat dock. The lease runs from April 5, 2019 to April 4, 2029.

B. Standard of Review

The City of Huntington Beach LCP was effectively certified in March 1985. The proposed project is beyond the bulkhead located bayward of the mean high tide line and is thus within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP is advisory in nature and may provide guidance.

C. Marine Resources

The proposed private recreational boat dock development and its associated structures are an allowable and encouraged marine-related use. The design of the project

includes the minimum size and number of pilings necessary for structural stability. As conditioned, the project will not significantly adversely impact eelgrass beds and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa sp.* Further, as proposed and conditioned, the project, which is to be used solely for recreational boating purposes, conforms to Sections 30224 and 30233 of the Coastal Act.

The applicant submitted an eelgrass survey for the project site conducted on October 22, 2020, which determined that no eelgrass was located within the project site. Eelgrass surveys completed between August through October are valid until the resumption of active growth (i.e., March 1). This date has passed, and the subject eelgrass survey is no longer valid for project construction. Therefore, the Commission imposes **Special Condition No. 2**, which requires a new eelgrass survey and identifies the procedures necessary to be completed prior to beginning construction. If the pre-construction eelgrass survey required by **Special Condition No. 2** identifies new eelgrass beds that would be impacted by the proposed dock construction, the applicant must apply for a CDP amendment or new CDP to re-design and/or relocate the new dock to avoid eelgrass impacts consistent with Sections 30230 and 30231 of the Coastal Act which protect biological resources.

The applicant has submitted a *Caulerpa* survey conducted in conjunction with the eelgrass survey on October 22, 2020. The bathymetric surveys did not find evidence of *Caulerpa* onsite—however, *Caulerpa* surveys only remain valid for 90 days. Given the potential for the *Caulerpa sp.* to take over eelgrass and other marine habitat in the project vicinity, the Commission staff recommends requires an up-to-date *Caulerpa sp.* survey be conducted prior to commencement of the project, as addressed by **Special Condition No. 3**. Also, if any *Caulerpa sp.* is found on the project site, **Special Condition No. 3** identifies the procedures necessary to be completed prior to beginning any construction consistent with Sections 30230 and 30231 of the Coastal Act which protect biological resources.

As conditioned for eelgrass and *Caulerpa* surveys, impacts to those biological resources will be minimized. In order to protect these resources and additional biological resources from potential future impacts, **Special Condition No. 4** requires the applicant to obtain a permit amendment or a new permit for any repair or maintenance of the proposed dock system.

D. Water Quality

Coastal Act Sections 30230, 30231 and 30232 require protection of marine resources and, where feasible, the restoration of marine resources, as well as the maintenance of the biological productivity of coastal waters. Coastal Act Section 30250 requires that new residential development be located where it will not have significant individual or cumulative adverse effects on coastal resources.

There is potential for the discharge of demolition or construction debris into coastal waters at the project site. This could result in adverse effects on the marine

environment. The proposed development includes protective measures to ensure that coastal waters and marine resources will not be adversely affected before, during or after construction. To ensure that all impacts (pre- and post- construction) to water quality are minimized, and to reduce the potential for construction related impacts on water quality, the Commission imposes **Special Condition No. 5**, which requires, but is not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters; and the continued use and maintenance of post-construction BMPs. As conditioned, the proposed project minimizes impacts to biological resources consistent with Sections 30230 and 30231 of the Coastal Act.

The applicant has indicated that the project has a pending Clean Water Act Section 401 Water Quality Standards Certification under review from the Regional Water Quality Control Board (RWQCB). The applicant has also applied for a permit from the United States Army Corps of Engineers (USACE), which is pending until coastal development permit approval. To ensure that the proposed project adheres to the requirements from other resource agencies, and to account for changes to other resource agency permits that may be necessary given the design alternative required by the Commission, **Special Condition No. 6** requires the applicant to comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife (CDFW), the RWQCB, the USACE, and the United States Fish and Wildlife Service (USFWS) with respect to preservation and protection of water quality and marine environment consistent with Section 30231, 30232 and 30233 of the Coastal Act.

E. Public Access

Coastal Act Section 30210 mandates that maximum public access to the coast and recreational opportunities be provided consistent with private property rights. Section 30212(a) of the Coastal Act provides that adequate public access to the sea be provided in new development projects, except where adequate access exists nearby. Additionally, Sections 30220 and 30221 of the Coastal Act protect coastal areas suited for water-oriented recreational activities and oceanfront land for recreational uses. Section 30250 of the Coastal Act requires new development to not have significant adverse effects, individually or cumulatively, on coastal resources.

There is no direct public pedestrian access to public tidelands through the private residential lot at the subject site. The subject site is located on Gilbert Island in Huntington Harbour. The nearest public access in the area is at Sunset Beach, a sandy oceanfronting public beach, located approximately 2,300 feet south of the site. The proposed project will not result in any new adverse impacts to public access. In order to preserve and maintain access to the public tidelands, **Special Condition No. 7** is imposed stating that the approval of a coastal development permit for the project does not waive any public rights or interest that exist or may exist on the property, now or in the future.

F. Local Coastal Program (LCP)

An LCP for the City of Huntington Beach was effectively certified in March 1985. However, the proposed development is occurring within an area of the Commission's original permit jurisdiction, due to the project location seaward of the mean high tide line. Consequently, the standard of review is the Coastal Act and the City's LCP may be used as guidance. As conditioned, the proposed development is consistent with Chapter 3 policies of the Coastal Act and with the certified LCP for the area.

G. California Environmental Quality Act (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

In this case, the City of Huntington Beach is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Huntington Beach determined on July 21, 2020, that the project qualifies for a CEQA Exemption Class 1 Existing Facilities. The Commission finds that the project, as conditioned, is consistent with Coastal Act requirements and will not cause new adverse impacts to the environment.

The proposed project is located in an urban area. Infrastructure necessary to serve the project exists in the area. The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. As conditioned, the proposed project has been found consistent with the marine resources, water quality, and public access policies of the Coastal Act.

Therefore, as conditioned, the Commission finds that there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. The Commission finds that the proposed project, as conditioned, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act and CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

City of Huntington Beach Planning Department Approval-In-Concept dated July 21, 2020.

City of Huntington Beach Planning Public Works Department Harbor Permit No. 1338 dated July 21, 2020.

Floating Dock Replacement Review prepared by PMA Consulting, Inc. dated March 15, 2022.