



***“SAPPHIRE” RESIDENTIAL/TOURIST  
DEVELOPMENT OF LOTS 100 & 101 DP  
629555 AND LOT 2 DP 800836***

***740-742 PACIFIC HIGHWAY, SAPPHIRE  
BEACH***

***Proposed by SAPPHIRE BEACH  
DEVELOPMENT PTY LTD***



Director-General's Environmental Assessment  
Report  
Section 75I of the  
Environmental Planning and Assessment Act 1979

April 2007

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# 1 EXECUTIVE SUMMARY

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Sapphire Beach Development Pty Ltd is proposing to redevelop the Pelican Beach Resort at 740-742 Pacific Highway, Sapphire Beach, north of Coffs Harbour. The site is described as lots 100 and 101 DP 629555 and Lot 2 DP 800836. The proposal is a concept plan for a residential and/or tourist development including the provision of apartments, townhouses and villa style housing.

The estimated cost of the development is \$90 million. The proposal when constructed will create 225 full time equivalent construction jobs and between 3 and 20 full time equivalent operational jobs.

The Minister declared the proposal a Major Project under Part 3A of the Act on 30 June 2006, being:

- development of a tourist facility providing accommodation for any number of persons partly in a sensitive coastal location; and
- development of buildings greater than 13 metres in height within a sensitive coastal location; and
- subdivision of land in a residential zone into more than 25 lots.

The proposed development therefore achieves the criteria in Schedule 2 Clause 1(1)(f), (g) and (i) of the MP SEPP.

The Environmental Assessment was placed on public exhibition. The Department received a total of twelve (12) submissions from public authorities and fifteen (15) submissions from the public. The agency submissions were generally supportive while the public submissions objected to the proposal. Key issues considered in the Department's assessment included:

- Design and Visual Impacts;
- Coastal Processes;
- Stormwater Management;
- Geotechnical Issues;
- Traffic and Vehicular Access;
- Public Access to the Beach;
- Bushfire Management;
- Contamination;
- Flora and Fauna;
- Aboriginal Heritage; and
- Infrastructure Provision.

The Department has assessed the merits of the proposal and is satisfied that any impacts can be addressed via the Proponent's Statement of Commitments and the Department's recommended conditions of approval, and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. On these grounds, the Department is satisfied that the site is suitable for the proposed development and that the project will provide environmental, social and economic benefits to the region. All statutory requirements have been met.

Consequently, the Department recommends that the concept plan be approved, subject to the recommended modifications and conditions of approval.

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## 2 BACKGROUND

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### 2.1 THE SITE

#### 2.1.1 Site context and location

The site, located at 740-742 Pacific Highway, Sapphire Beach (Lots 100 & 101 DP 629555 and Lot 2 DP 800836), is located within the local government area of Coffs Harbour and is owned by Sapphire Beach Development Pty Ltd (the Proponent) as trustee for the Sapphire Beach Unit Trust. The site is located approximately 6km north of Coffs Harbour, on the eastern side of the Pacific Highway. The site lies between the Pacific Highway and Campbells Beach. Refer to Figure 1.

#### 2.1.2 Existing site features

The site is 4.15ha. The western area of the site is largely level with an elevation of approximately 27m AHD. The site then slopes steeply down and away from the Pacific Highway toward the east. A large flat area exists at the base of the slope. This area has an elevation of approximately 6m AHD and extends to Campbells Beach at the eastern extent of the site.

The site is accessed from the Pacific Highway via a shared driveway. The driveway also services two other properties including a residential development and the Nautilus Resort adjoining to the north.

The site is currently developed as the Pelican Beach Resort. The main resort building is located close to the southern boundary of the site and varies between 3 and 4 storeys as it steps down the slope of the site. Located at the base of the slope, behind the dunes of Campbells Beach, are the resort pool and tennis courts. In the north western elevated area of the site in a separate building is a disused restaurant building (previously 'Seafood Mamas'). The restaurant building includes its own car park adjacent to the building. In the lower north eastern corner of the site is an area of private open space. Refer to Figure 2.

There are two main areas of vegetation on the site. The first is located approximately in the middle of the site, near the northern boundary. This area of vegetation is approximately 4000m<sup>2</sup> and is zoned for protection under the Coffs Harbour LEP. This vegetation is on the steepest part of the site and contributes to the stability of this slope. The second area of vegetation exists in the north eastern corner of the site on the dunes behind Campbells Beach. Both of these areas of native vegetation on the site have been invaded by weeds.

#### 2.1.3 Surrounding development

To the north of the site is a residential unit development known as Sapphire on the Beach and a tourist development, the Nautilus Resort. To the south of the site is residential development which is characterised by single, 2 storey dwellings and duplexes., and a number of vacant housing blocks.. To the west of the site across the Pacific Highway is the Korora Basin which is characterised by large rural residential lots.

Immediately adjacent to the northern boundary of the site, and bounded by the site on three sides is a sewerage pump out station, owned by Coffs Harbour City Council. The site includes a right of way used by Council to access the station. This right of way forms part of an informal public access point to Campbells Beach.

Campbells Beach is an unpatrolled beach which lies adjacent to the eastern boundary of the site. The dunes directly behind the beach are quite small due to the lack of vegetation on the site. The dunes are more pronounced in the north of the site where a portion of native vegetation exists. To the south the dune is largely bare of vegetation except for grass and a small number of pandanus palms. There is access from the current resort via steps to Campbells Beach in the southern section of the site.



Figure 1. Site location



Figure 2: The site



### 2.1.4 Zoning

The site is zoned part Residential 2E Tourist and part Environmental Protection 7A Habitat and Catchment under the *Coffs Harbour City Local Environmental Plan 2000*. The proposal is fully permissible (refer to Section 4.2).

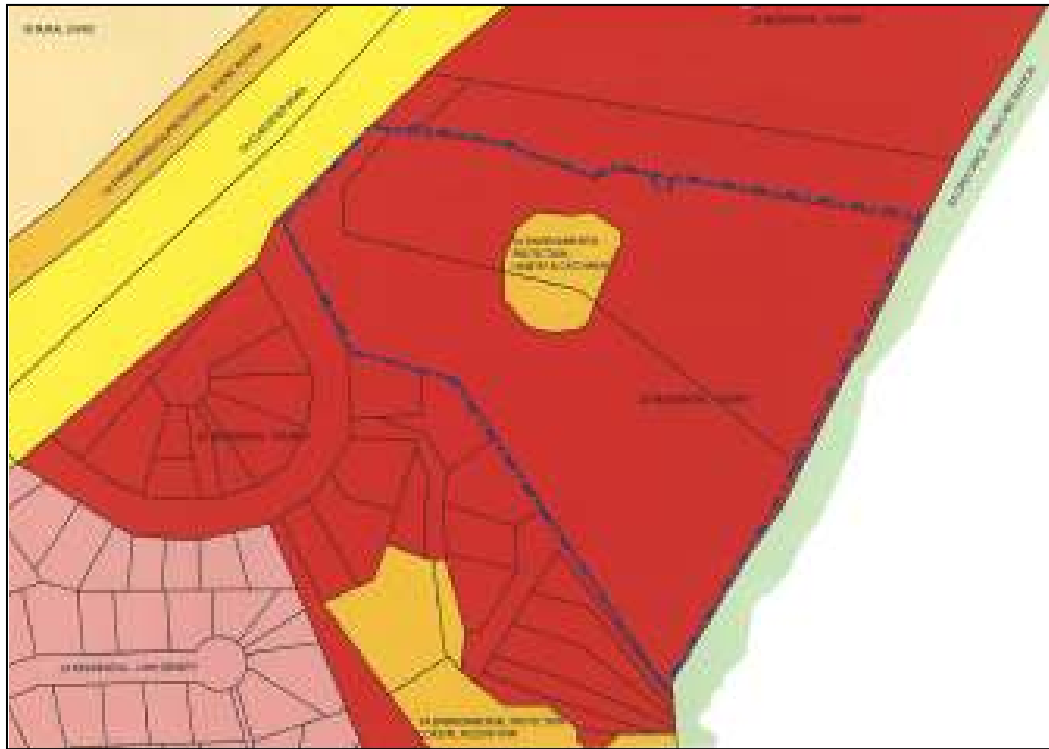


Figure 3: Zoning in accordance with Coffs Harbour City Local Environmental Plan 2000 (Source: Preliminary Assessment for Concept Plan dated May 2006)

### 2.2 SITE HISTORY

The site is currently developed as the Pelican Beach Resort which is a 114 suite, three and a half star resort. The resort was constructed in 1986 and has a swimming pool, tennis courts, volleyball court and mini golf facilities.

Adjacent to the Pacific Highway is a disused building which was previously a restaurant ('Seafood Mamas'). This building was constructed in 1984.

## 3 PROPOSED DEVELOPMENT

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### 3.1 THE PROPOSED DEVELOPMENT

The proposed concept plan is for a tourist and residential development consisting of apartments, townhouses and villa style housing.

The concept plan proposal has been based on a nominal 124 dwellings across the site which equates to 338 bedrooms and 270 car spaces. Flexibility exists to change the actual ratio of tourist to residential units and the number and size of dwellings in the future development applications. The concept application seeks approval for building envelopes with a total gross floor area (GFA) of 24,020m<sup>2</sup> (in addition 5,945m<sup>2</sup> balconies will also be constructed). The maximum number of bedrooms throughout the development will be 338. Any future changes to dwelling number or size in subsequent applications will be required to be equal to or less than these parameters.

A number of communal facilities are also proposed including an office, reception area, commercial kitchen (for catering purposes), pool and gymnasium.

There are 4 types of dwellings proposed, as shown in Figure 4:

**Upper Level Tourist Apartments and Facilities:** These facilities will be located on the upper level of the site, near the Pacific Highway (Blocks 2, 4a and 4b). One group of 3 storey buildings are proposed closest to the Pacific Highway (Block 2) with a group of part 4 and part 3 storey buildings further east (Blocks 4a and 4b respectively). These buildings comprise 2 and 3 bedroom apartments for both tourist accommodation and permanent residents and include basement car parking. The management office/reception area, meeting room, kitchen, pool and gym will be located in this area.

**Hillside Apartments:** Three groups of 2 and 3 bedroom 4 storey apartments will be located along the southern boundary of the site stepping down the hillside (Blocks 1, 3, 5, 6 and 7). Car parking is provided as basement car parking.

**Garden Apartments and Townhouses:** A mix of 3 storey townhouses (Block 8) and 4 storey apartment buildings (Blocks 9 and 10) are proposed at the base of the main slope on the site. A typical townhouse would range between 150m<sup>2</sup> and 200m<sup>2</sup> with provision for parking at ground level. Apartments would range in size from 90m<sup>2</sup> to 180m<sup>2</sup> with basement car parking.

**Beachfront Housing:** Part one and part two storey houses of approximately 200m<sup>2</sup> with minimum frontages of 10m facing east over Campbells Beach are proposed with the buildings sited immediately landward of Council's 100 year coastal hazard planning line ('Villas' on Figure 4). Private gardens for these dwellings would be provided seaward of Council's 100 year coastal hazard planning line.

The concept plan also shows an indication of:

- **Future Subdivision Type** which will be a community title subdivision of 26 lots with apartments and townhouses strata titled and beachfront villa style housing which will be Torrens Title.
- **Roads** - A main access road through the middle of the site and a second access road along the northern boundary of the site. This secondary road would provide a ROW for Council access to the sewerage pumping station and emergency access. Roads are proposed to remain within private ownership, but the most northern road will allow public pedestrian access via a ROW.
- **Environmental Works** – Proposed future rehabilitation and ongoing maintenance of the dune vegetation and area of vegetation within the site. A Plan of Management has been prepared for these works.
- **Open space** - 3715 m<sup>2</sup> of communal open space is proposed including the provision of picnic tables, benches and barbeques. One area is located behind Campbells Beach and another adjacent to the vegetation in the middle of the site.
- **Beach access** – Formalisation of an existing informal access to Campbells Beach along the northern boundary of the site will be provided by a public pedestrian right of way. A new access for residents and tourists of the development will also be provided to the beach approximately in the middle of the site.

The estimated project cost of the development is \$90 million. The proposal when constructed will create 225 full time equivalent construction jobs and between 3 and 20 full time equivalent operational jobs (the number of jobs will be dependent on the mix of residential and tourist accommodation within the development).

The concept plan is shown in Figure 5 and plans of the proposed development are at **Tag B**.

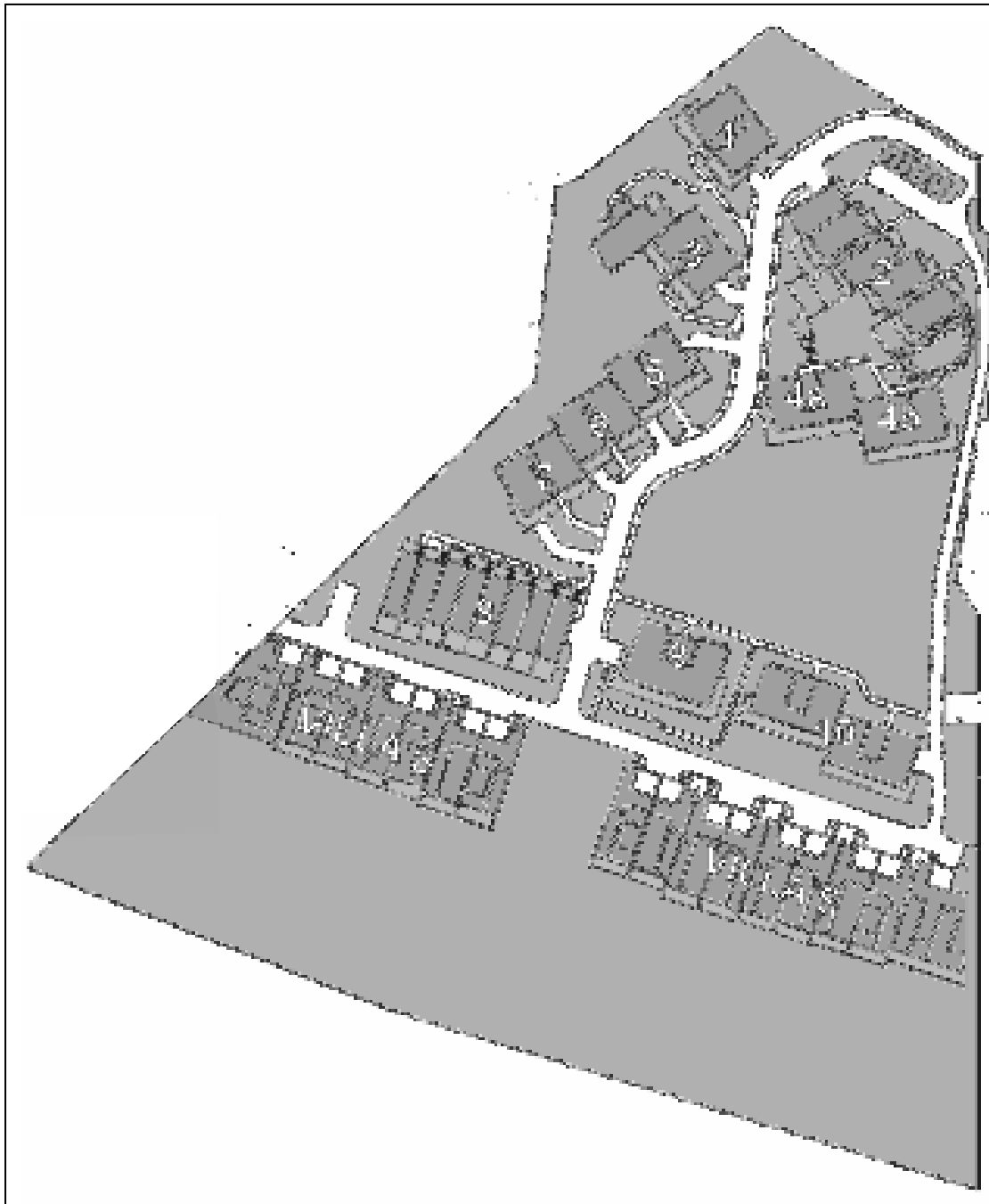


Figure 4. Proposed Development Layout (Source: Preferred Project Report dated February 2007, plan SK27).



Figure 5: Sapphire Concept Plan



### 2.2.1 Staging

The concept plan proposed that development be constructed in four stages, as follows:

- (1) Stage 1 will comprise demolition of the existing buildings, general clearing of the site of all structures, fencing of the dunes and fencing of the 7A zoned vegetation, subdivision, the construction of the northern block of beachfront villa housing and buildings 9 and 10 (as shown on Figure 4), stormwater management, all services and roads and rehabilitation of the dunes in front of the northern block of beachfront villa housing.
- (2) Stage 2 will comprise construction of buildings 2, 4a and 4b (as shown on Figure 4), rehabilitation of the 7A zoned vegetation.
- (3) Stage 3 will comprise construction of the southern block of beachfront villa housing and building 8 (as shown on Figure 4) and dune rehabilitation in front of the southern beachfront villa housing.
- (4) Stage 4 will comprise the construction of buildings 1, 3, 5, 6 and 7 (as shown on Figure 4) and application of the final 25mm of bitumen to the central access road.

It is proposed that all stages will be constructed within approximately 5 years, however market demand will largely drive the timing of the stages.

This staging will be amended via a modification to the Plan to ensure that all rehabilitation works are constructed as part of the first stage, as discussed further in Section 6.9.1.

### 2.2.2 Plans for Approval

The concept plan seeks approval for:

- building envelopes totalling 24,020m<sup>2</sup> gross floor area;
- building heights, in terms of storeys;
- a maximum number of 338 bedrooms;
- a maximum number of 270 car parking spaces;
- the location of internal access roads;
- the location of communal open space; and
- the location of future public access;

Should approval be granted to the concept plan the following plans will be approved:

- SK 01 Concept Plan;
- SK 13 Plans – Subdivision and Staging;
- SK 19 Building Setbacks;
- SK 25 Building and Block Envelopes (incl. balconies);
- SK 26 Masterplan – Key Building RL's; as modified in terms of building heights by Drawing SK12 Beachfront houses; and
- SK 27 Key Plan Heights – Building and Balcony GFAs.

These plans are at **Tag B**.

Other plans have been submitted with the Environmental Assessment, but these will not be recommended for formal approval as part of the concept plan as they show indicative future details only.

**Table 1 - Development Data**

<b>Lot Size</b>
<ul style="list-style-type: none"> <li>• Lots sizes proposed vary between 445m<sup>2</sup>-9540m<sup>2</sup></li> <li>• Coffs Harbour LEP stipulates a minimum lot size of 40ha for the 7A zone. No minimum lot size is identified for the 2E zone</li> <li>• The proposed development complies as no subdivision is proposed within the 7A zone</li> </ul>
<b>Height</b>
<ul style="list-style-type: none"> <li>• Council's Residential Tourist Lands DCP sets a building height of 14m for the site</li> <li>• Block 10 is proposed to be 14.2m in height, all other buildings will be below 14m</li> <li>• The proposal is not compliant. Modifications to the concept plan will require compliance. Refer to 5.1.1.</li> </ul>
<b>GFA</b>
<ul style="list-style-type: none"> <li>• The proposed GFA is 24,020m<sup>2</sup></li> <li>• No development standard exists for GFA</li> </ul>
<b>FSR</b>
<ul style="list-style-type: none"> <li>• The proposed FSR is 0.61:1 (based on total site area of 39623m<sup>2</sup> which excludes the 7A zoned land)</li> <li>• No development standard exists for FSR</li> </ul>
<b>Density</b>
<ul style="list-style-type: none"> <li>• Council's Residential Tourist Lands DCP states that for tourist development, densities should be less than 1 dwelling per 150m<sup>2</sup> and for residential development, densities should be less than 1 dwelling per 200m<sup>2</sup></li> <li>• 1 dwelling is proposed per 319m<sup>2</sup></li> <li>• Using a worst case scenario (that all proposed dwellings would be for residential purposes), the proposed development is compliant with the DCP standard. Therefore, should all dwellings in the development be used for tourist purposes, the proposal will remain compliant.</li> </ul>
<b>Setbacks</b>
<ul style="list-style-type: none"> <li>• Council's Residential Tourist Lands DCP requires setbacks of 20m to the Pacific Highway with side and rear setbacks assessed on merit.</li> <li>• The proposed development is compliant with the required 20m setback to the Pacific Highway.</li> <li>• Side setbacks vary between 2.5m-6m. These setbacks have been assessed and are considered appropriate, as discussed in Section 6.1.4.</li> </ul>
<b>Landscaping</b>
<ul style="list-style-type: none"> <li>• Council's Residential Tourist Lands DCP requires the submission of a landscape plan for proposed developments.</li> <li>• A landscape master plan was submitted with the concept plan, therefore the proposal is compliant with the DCP.</li> </ul>
<b>Car Parking</b>
<ul style="list-style-type: none"> <li>• Council's Off Street Car Parking DCP requires one car space for residential dwellings less than 100m<sup>2</sup> GFA and 2 car spaces for residential dwellings greater than 100m<sup>2</sup>. The DCP does not stipulate car space numbers for tourist developments of the type proposed. For motel developments, the DCP requires 1 space per unit for motels and 1 space per 2 employees and 1 space for a manager's residence.</li> <li>• As the car parking requirements for residential development are the worst case scenario, the residential requirements were used to assess the proposed development. The proposed development provides 2 spaces per dwelling (248 spaces) and is therefore compliant with the DCP requirements for residential development.</li> <li>• The DCP does not identify numbers of car parking spaces for visitors. 22 car parking spaces will be provided for visitors.</li> </ul>
<b>Foreshore Building Line</b>
<ul style="list-style-type: none"> <li>• Coffs Harbour LEP and the Residential Tourist Lands DCP require buildings to be sited landward of the foreshore building line (a 50m buffer from the eastern property boundary).</li> <li>• All buildings are sited landward of the Foreshore Building Line.</li> </ul>

### 3.2 PROJECT CHRONOLOGY

- 10 May 2006 – Request for a Clause 6 opinion and preliminary assessment lodged including a request for Director-General's Environmental Assessment Requirements (DGRs).
- 30 June 2006 – The Minister formed the opinion that the proposal was a project to which Part 3A applies.
- 18 July 2006 – The DGRs were issued to the proponent.
- 25 August 2006 – The Environmental Assessment was lodged with the Department.
- 12 September 2006 – The EA was deemed to be adequate
- 28 September to 30 October 2006– The EA was publicly exhibited.
- 9 November 2006 – The issues raised in public submissions and copies of agency submissions were provided to the proponent.
- 20 November 2006 – Department's comments provided to the proponent.
- 22 November 2006 – Meeting with proponent to discuss the Department's comments.
- 6 December 2006 – Meeting with proponent to discuss proposed changes to development.
- 19 December 2006 – proponent responds to issues and submits a Preferred Project Report.
- 3 and 10 January 2007 – Department requests further information from the proponent.
- 14 February 2007 – Meeting with proponent to discuss proposed changes to the development.
- 20 February 2007 – Proponent submits further information and updated Preferred Project Report (placed on Department's website between 21 February and 7 March 2007).

### 3.3 PROJECT AMENDMENTS

The concept plan application has been amended on two occasions. The first changes to the development were documented in the first Preferred Project Report (PPR) submitted to the Department on 19 December 2006 and were:

- The buildings closest to the Pacific Highway (Block 2 on Figure 4) reduced in height from four storeys to three storeys.
- Two blocks of buildings at the base of the slope (Blocks 9 and 10 on Figure 4) increased in height from three storeys to four storeys.
- The communal open space on the east of the site has been increased by 290m<sup>2</sup> with a reduction between 1m and 1.5m in the size of the gardens of the beachfront homes.
- The most northern beachfront home was moved 1m south, away from the northern boundary to allow landscaping along the link to the coastal walk.
- The lot boundaries of the two beachfront homes in the centre of the site were changed to reduce the lots sizes and increase the area of community open space.
- An additional six visitor parking spaces were added including two disabled spaces. A bus parking space was added near the entry to the site.
- Redesign of the stormwater system by removing the detention basin behind the Campbells Beach dunes and proposing to upgrade the existing pipe system so that it has the capacity to deal with stormwater from the site. A small detention basin (200 m<sup>2</sup>) was located on the southern boundary of the site.
- A pedestrian link was created between the beach access on the northern boundary of the site and the pathway along the east of the site in the community open space.
- A number of resting places have been added to the coastal walk link to Campbells Beach along the northern boundary of the site. In addition, a picnic area has been added directly behind the dunes of Campbells Beach. Signs will be erected at each end of the site to indicate this link to the coastal walk.

A second and updated PPR was submitted on 20 February 2007 incorporating the following further amendments:

- The beachfront homes have been moved landward by approximately 1m.
- The northernmost building of the upper apartments (Block 4b on Figure 4) has been reduced from four storeys to three storeys.

## 4 STATUTORY CONTEXT

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### 4.1 MAJOR PROJECT DECLARATION

The proposal is subject to assessment under Part 3A of the *Environmental Planning and Assessment Act 1979* ("the Act") and the approval of the Minister for Planning is required to carry out the project. The Minister declared the project on 30 June 2006. Consequently, the Proponent ("Sapphire Beach Development Pty Ltd") sought the Minister's approval for the proposal under Section 75J of the Act.

The proposed development is located within the coastal zone, as defined in Clause 1 of Schedule 2 of *State Environmental Planning Policy (Major Projects) 2005* ("MP SEPP") and is located within a 'sensitive coastal location' pursuant to the definition in Clause 1(4) of Schedule 2 of the MP SEPP, as the site is partly located within 100 metres above mean high water mark of the sea.

The concept plan involves:

- the development of a tourist facility providing accommodation for any number of persons partly in a sensitive coastal location,
- the development of buildings greater than 13 metres in height within a sensitive coastal location, and
- subdivision of land in a residential zone into more than 25 lots.

The proposed development therefore achieves the criteria in Schedule 2 Clause 1(1)(f), (g) and (i) of the MP SEPP.

### 4.2 PERMISSIBILITY

Under the *Coffs Harbour City Local Environmental Plan 2000*, the site is zoned:

- Part Residential 2E Tourist. Within zone Residential 2E Tourist, tourist facilities, dwelling houses, multi-unit housing and subdivision of land are permitted with development consent; and
- Part Environmental Protection 7A Habitat and Catchment. No development would be undertaken within zone 7A apart from revegetation works. Environmental protection works are permissible without consent.

The Proposal is considered to be consistent with the objectives of Zone 2E and Zone 7A and is therefore permissible subject to the Minister's approval.

### 4.3 MINISTER'S POWER TO APPROVE

The Department has exhibited the Environmental Assessment (EA) in accordance with Section 75H (3) of the *Environmental Planning and Assessment Act, 1979*, as described in Section 5. The project is permissible and meets the requirements of the Major Projects SEPP. Therefore, the Department has met its legal obligations and the Minister has the power to determine this project.

### 4.4 DIRECTOR GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRS)

The Director-General's Environmental Assessment Requirements (DGRs) issued on 18 July 2006, required the following key issues to be addressed:

- Design & Visual Amenity and Impacts;
- Flora and Fauna;
- The Coastal Foreshore and Public Access;
- Natural Hazards;
- Noise;
- Water Cycle Management;
- Traffic and Vehicular Access;



- Infrastructure Provision; and
- Heritage.

The EA was considered to satisfactorily address the key issues outlined in the DGRs. This was confirmed in correspondence to the proponent dated 12 September 2006.

The DGRs are at **Tag C**. The EA is at **Tag D**.

## **4.5 ENVIRONMENTAL PLANNING INSTRUMENTS**

### **4.5.1 Application of EPIs to Part 3A projects**

To satisfy the requirements of section 75(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project. A summary of compliance with the relevant EPIs is at **Tag E**.

The provisions, including development standards of local environmental plans, and development control plans are not required to be strictly applied in the assessment and determination of major projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGRs require the proponent to address such standards and provisions. Accordingly the objectives of a number of EPIs and the development standards therein and other plans and policies that substantially govern the carrying out of the project are appropriate for consideration in this assessment as follows:

### **4.5.2 State Environmental Planning Policy (Major Projects) 2005**

The MP SEPP applies to the project as discussed in Section 4.1.

### **4.5.3 State Environmental Planning Policy no. 71 – Coastal Protection**

SEPP 71 applies generally to land within the coastal zone. Clause 8 of the policy sets out matters for consideration by a consent authority when determining a development application to which the policy applies. Those matters reflect the key elements of the Coastal Policy of which the proposal generally accords. The proposal provides for the following, in accordance with SEPP 71:

- Formalises an existing informal public access to Campbells Beach;
- Ensures future rehabilitation and revegetation of the dunes behind Campbells Beach;
- All proposed future buildings to be located landward of the 100 year coastal hazard planning line for Campbells Beach; and
- The design of the stormwater management system for the proposed development protects the water quality of the Solitary Islands Marine Park.

### **4.5.4 State Environmental Planning Policy no. 65 – Design Quality of Residential Flat Buildings**

A number of the buildings proposed as part of the development are defined as 'residential flat buildings' pursuant to SEPP 65. The proposal complies with the design quality principles to the extent possible with the level of detail provided at concept plan stage. These design quality principles and the Residential Flat Design Code will be further considered during subsequent applications for the site.

### **4.5.5 State Environmental Planning Policy (BASIX) 2004**

The BASIX SEPP applies to the proposed development. A number of commitments have been made for the concept plan including the provision of rainwater tanks for each dwelling on the site. The provisions of BASIX will be required to be addressed in more detail during subsequent applications for the site.

### **4.5.6 State Environmental Planning Policy no. 11 – Traffic Generating Developments**

The proposed development is described by Schedule 2(a) and (h) of SEPP 11, being a residential flat development with more than 75 dwellings and a tourist facility with accommodation for more than 50 vehicles. The proposal was considered by the Northern Region Regional Advisory Committee on two occasions. The

Committee do not have any objection to the proposal, but request some additional works by the proponent. The comments provided by the Committee are discussed further in Section 6.5.

#### **4.5.7 State Environmental Planning Policy no. 55 – Remediation of Land**

The proponent provided a Phase 1 Preliminary Site Investigation with the EA in accordance with SEPP 55. The investigation concluded that the site was not contaminated and that it was suitable for the proposed use. Council has requested further contamination assessment to be undertaken for the proposal and this has been included in the proponent's revised statement of commitments. Contamination is further discussed in Section 6.8.

#### **4.5.8 North Coast Regional Environmental Plan 1988**

The North Coast Regional Environmental Plan (NCREP) applies to land within the Coffs Harbour LGA. The proposal complies with the relevant provisions for development control set out for coastal development, environmental hazards, tourism and tall buildings.

#### **4.5.9 Coffs Harbour Local Environmental Plan 2000**

The site is zoned Residential 2E Tourist in the *Coffs Harbour Local Environmental Plan (LEP) 2000*. The objectives of the 2E zone are to enable tourist development and other development that is compatible with the surrounding environment and to provide for development that is within the environmental capacity of a high density residential environment and can be adequately serviced. Tourist facilities, dwelling houses, multi-unit housing and subdivision of land are permissible with consent.

The development meets the objectives and provisions of the Coffs Harbour LEP 2000.

#### Clause 13 Landform Modification

The development proposes filling and excavation across the site. The impacts of these activities have been assessed and further information will be required during subsequent applications for the development.

#### Clause 14 Services

The proponent has consulted with all relevant service providers and they have confirmed that adequate services exist for the development.

#### Clause 18 Subdivision and Erection of Dwellings Within Rural and Environmental Protection Zones

While the lot containing the 7A zoned land is less than the required 40ha, the LEP allows for the subdivision of land zoned 7A when it adjoins land zoned 2E into smaller lots where the subdivision is desirable for achieving the long term management of the 7A zoned land. For the proposed development, the subdivision would allow for the 7A zoned vegetation to be a discrete lot and to be fenced to allow revegetation and rehabilitation in accordance with the Plan of Management submitted with the Environmental Assessment.

#### Clause 22 Waterways

The proposed buildings will all be sited landward of the foreshore building line identified for the site. The assessment of the proposal has considered impacts on the Solitary Islands Marine Park and the Marine Park Authority has been consulted. The stormwater management system for the site has been designed to ensure that there will be no impacts on the Solitary Islands Marine Park.

#### Clause 23 Environmental Hazards

Investigation concluded that acid sulfate soils do not exist on the site. The site is not mapped as flood prone however the eastern portion of the site is subject to oceanic inundation. The proposed buildings on this portion of the site would be sited above the relevant level.

### **4.6 OTHER PLANS AND POLICIES**

The Proposal has been considered against the following:

#### **4.6.1 Coffs Harbour Residential Tourist Lands DCP**

The Residential Tourist Lands DCP applies to those lands zoned 2E Residential Tourist under the Coffs Harbour LEP, as such the proposal has been considered under the relevant provisions of the DCP at **Tag F**. One of the groups of buildings proposed exceeds the DCP height limit of 14m by 0.2m. This is further considered in Section 6.1.1. The proposal complies with all other controls set out in the DCP.

#### **4.6.2 Coffs Harbour Off-Street Parking DCP**

This DCP applies to all lands within the Coffs Harbour LGA. The DCP sets out the number of off street car parking spaces that need to be provided by a development. As the development will be a mix of residential and tourist uses, the worst case scenario was assumed, being the residential requirement of 2 car spaces per dwelling for dwellings larger than 100m<sup>2</sup> GFA. The proposed development provides 270 car spaces, being 248 spaces (2 for each dwelling) plus 22 visitor car spaces. Therefore, the proposal complies with the parking requirements of the DCP.

#### **4.6.3 Coffs Harbour Subdivision DCP**

This DCP applies to all lands within the Coffs Harbour LGA. No minimum lot size for 2E zoned land is identified. A minimum lot size of 40ha is identified for 7A zoned land (for further discussion refer to Section 4.5.9). The relevant provisions of this DCP are further considered at **Tag F**.

#### **4.6.4 Coffs Harbour Access and Mobility DCP**

This DCP sets out access and mobility requirements for various developments. This DCP will be required to be complied with during subsequent applications for the site.

#### **4.6.5 NSW Coastal Policy 1997**

The policy applies to the proposal as it is located within the coastal zone. The proposal complies with the goals and objectives of the Policy. The proposal is assessed against the policy at **Tag F**.

#### **4.6.6 NSW Coastal Design Guidelines**

The proposal complies with the design principles for coastal settlements as set out in the Coastal Design Guidelines. The proposal is assessed against the relevant provisions at **Tag F**.

#### **4.6.7 Draft Mid North Coast Regional Strategy**

This draft strategy identifies 4 major regional centres and 6 major towns that are capable of accommodating population growth, residential development and employment growth. Sapphire Beach is not specifically identified in the Strategy. Coffs Harbour is identified as a Major Regional Centre and would provide services for the proposal.

## 5 CONSULTATION AND ISSUES RAISED

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### 5.1 PUBLIC EXHIBITION DETAILS

The application was exhibited from 28 September – 30 October 2006 and was published in the Coffs Harbour Advocate. The EA was made available to the public in the Department's Information Centre, the Department's Regional Office at Grafton and Coffs Harbour City Council.

A PPR was lodged on 19 December 2006 with a second, amended PPR lodged on 20 February 2007. The changes to the nature of the project in both PPRs were not significant, therefore it was not re-exhibited but was placed on the Department's website for a period of 14 days from 21 February 2007.

### 5.2 SUBMISSIONS RECEIVED ON ENVIRONMENTAL ASSESSMENT AND PREFERRED PROJECT REPORT

The Department received a total of 27 submissions comprising 15 submissions from the public and 12 submissions from public authorities being Department of Natural Resources (4 submissions), Roads and Traffic Authority (2 submissions), Coffs Harbour City Council (2 submissions), Rural Fire Service, Department of Environment and Conservation, Department of Primary Industries and Solitary Islands Marine Park Authority.

The 15 submissions from the public included 15 letters of objection from residents in the locality of the site (9 from residents of 744 Pacific Highway, three from residents south of the site, one from a resident west of the site and two other submissions were not specific in regard to the authors locations). None of the public authority submissions expressly objected to the proposed development, but all authorities made requests for further information, amendments to the design or other comments. These comments are addressed in more detail in Section 5.4.

### 5.3 PUBLIC SUBMISSIONS

#### 5.3.1 Summary of issues raised in public submissions

The following issues were raised in the public submissions:

- Urban Design;
- Overdevelopment;
- Visual Impacts;
- Traffic, Access and Parking;
- Flora and Fauna;
- Water Management;
- Coastal Processes;
- Infrastructure;
- Noise;
- Access to the Foreshore;
- Air Quality;
- Contamination; and
- Socioeconomic Impacts.

Discussion on the key issues which include those raised in submissions is in Section 6 of this report. A summary of all submissions received can be found at **Tag G**. The proponent responded to these submissions on 19 December 2006 and the proponent's response to submission is at **Tag H**.

### 5.4 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following submissions were received from public authorities:

#### 5.4.1 Coffs Harbour City Council

A response was received from Coffs Harbour City Council on 8 November 2006. Council raised a number of issues including stormwater management, filling of the site, sewerage provision, parking and public transport,

disability access and facilities, construction noise and vibration, contamination, access to the foreshore and urban design. A second submission was received on 6 March 2007 raising issues with regard to subdivision and carparking. Issues raised are discussed in Section 6 of this report.

#### **5.4.2 Rural Fire Service**

A response was received from the Rural Fire Service (RFS) on 2 November 2006. RFS supported the development based on the provision of identified Asset Protection Zones (APZ) and preparation of a Bushfire Management Plan and Bushfire Evacuation Plan. Bushfire risk is discussed further in Section 6.7 of this report.

#### **5.4.3 Roads and Traffic Authority**

A response was received from the Roads and Traffic Authority (RTA) on 8 November 2006. The RTA raised concerns with regard to the impact of the Pacific Highway Upgrade on access to the development. In addition, RTA raised issues with regard to management of pedestrians and cyclists within the site and the need for upgraded access arrangements to the site. These issues are discussed in Section 6.5 of this report.

#### **5.4.4 Department of Natural Resources**

A response was received from the Department of Natural Resources (DNR) on 3 November 2006. DNR raised concerns in regard to oceanic inundation, stormwater management and public access to the foreshore. Following a meeting with the proponent, DNR provided a second submission to the Department dated 13 December 2006. This submission outlined issues discussed in the meeting such as oceanic inundation, stormwater drainage and detention and public access to the foreshore. Two more submissions clarifying coastal hazard issues were received on 24 January and 28 February 2007. All issues raised in DNR submissions are further discussed in Section 6 of this report.

#### **5.4.5 Department of Environment and Conservation**

A response was received from the Department of Environment and Conservation (DEC) on 26 October 2006. DEC stated that the Aboriginal cultural heritage impact assessment of the proposal was inadequate and identified the need for further consultation. Although this issue is further discussed in Section 6.10 of this report, a recommended condition of approval requires that the final Aboriginal heritage assessment be submitted to and approved by DEC prior to the lodgement of the first application for the development.

#### **5.4.6 Department of Primary Industries**

A response was received from the Department of Primary Industries (DPI) on 13 October 2006. DPI raised no specific concerns but highlighted the need to achieve safe public access to the beach for recreational fishers. Public access to the beach is further discussed in Section 6.6 of this report.

#### **5.4.7 Marine Parks Authority – Solitary Islands Marine Park**

The Solitary Islands Marine Park is located north of Coffs Harbour and stretches along 75km of the coast. The Solitary Islands Marine Park Authority (MPA) and some members of the public were concerned with the potential for sediment laden runoff to enter the marine park. The MPA requested the implementation of an erosion and sediment control plan to ensure that any potential impacts on the marine park were minimised. In their revised Statement of Commitments submitted with the PPR the proponent has committed to the preparation and implementation of an erosion and sediment control plan. The implementation of an erosion and sediment control plan will satisfactorily address the concerns.

The MPA was supportive of the proposed revegetation of Campbells Beach dunes and encouraged further revegetation if possible.

A summary of all agency submissions received can be found at **Tag G**.

#### **5.4.8 Internal Consultation**

Both the Northern Regional office and Coastal Branch were consulted in regard to the proposal. Coastal Branch raised concerns with regard to the potential for coastal processes to impact on the proposal and for the proposal to impact on coastal processes, potential impacts on water quality and ensuring public access to the beach. The Regional office raised concerns with regard to the potential visual impact of the beachfront housing and the loss of private open space across the site. These issues are further discussed in Section 6.

## 6 ASSESSMENT OF ENVIRONMENTAL IMPACTS

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Key issues considered in the Department's assessment include the following:

- Design and Visual Impacts;
- Coastal Processes;
- Stormwater Management;
- Geotechnical Issues;
- Traffic and Vehicular Access;
- Public Access to the Beach;
- Bushfire Management;
- Contamination;
- Flora and Fauna;
- Aboriginal Heritage; and
- Infrastructure Provision.

Some of these issues were resolved following consultation with the Proponent, or are directly addressed via modifications to the concept plan or recommended conditions of approval (refer to **Tag A**). Significant issues are discussed in detail, below.

### 6.1 DESIGN AND VISUAL IMPACTS

#### 6.1.1 Height and Bulk of Upper Apartments

The proposal as **originally submitted** had buildings of the following heights (see Figure 4):

- Buildings 2, 4a and 4b in the upper part of the site, closest to the Pacific Highway were four storeys;
- Buildings 1, 3, 5, 6 and 7 stepping down the slope on the southern boundary of the site were four storeys;
- Buildings 8, 9 and 10 at the base of the slope on the site were three storeys; and
- The beachfront villa housing on the eastern side of the site behind Campbells Beach were two storeys.

The buildings located on the north western section of the site were considered to be particularly visually prominent from both the Pacific Highway and the ocean (Buildings 2, 4a and 4b). It was considered that these buildings, on the highest part of the site, were out of context with the surrounding development.

In response to these concerns, the proponent amended their design in the PPR and:

- removed one storey from the buildings closest to the Pacific Highway (Block 2);
- added one storey to Blocks 9 and 10; and
- removed one storey from Block 4b.

Block 4a was not amended and remains as a four storey building.

The proponent justified the additional storey to Blocks 9 and 10 on the basis that this would have minimal visual impact as these buildings sit at the base of the steep slope on the site and the additional height of these buildings would not adversely affect the views and amenity of adjoining buildings.

The proposed building heights in the PPR are now:

- Blocks 2 and 4b in the upper part of the site, closest to the Pacific Highway have been reduced to three storeys while Building 4a remains at four storeys (refer to Figure 7);
- Blocks 1, 3, 5, 6 and 7 stepping down the slope on the southern boundary of the site remain at four storeys;
- Blocks 9 and 10 at the base of the slope on the site have been increased to four storeys while Building 8 remains at three storeys; and

- The beachfront villa housing (Villas) on the eastern side of the site behind Campbells Beach remains at part one and part two storeys.

The height of the buildings closest to the Highway (Block 2) is now acceptable because they are less prominent in views from the Pacific Highway and are more in context with the adjacent buildings to the north.

The height of Blocks 9 and 10 is acceptable as the additional storey in this location would have a minimal visual impact as the buildings will be viewed against the vegetation on the slope behind. The application proposes the height to be 14.2 metres, but there appears to be no reason why the DCP height limit of 14 metres needs to be exceeded, so a recommended modification to the Concept Plan will be that no building will exceed 14 metres (equivalent to 4 storeys). It is noted that 'height' is as defined in DCP as being the distance measured vertically from any point on the eaves of the top most floor of the building to the natural ground level immediately below that point.

The buildings in Block 10 would be approximately 7m higher than the buildings on the adjacent site to the north. However, the proposed height is acceptable as there will be a 16m setback of the buildings from the northern boundary. In addition, the proposed buildings will not block the principal views of the adjacent residential building to the north toward the foreshore.

The amended design proposes Block 4a with a height of RL 38.7m (13.3 m overall – four storeys) and Block 4b with a height of RL 35.7m (10.7 metres overall – three storeys). The building adjacent to the northern boundary of the site has a height of RL 30.43m (three storeys). The revised design increases the integration of the proposal with the adjacent development by reducing the difference in height between the proposed northernmost building and the existing building to the north.

#### **6.1.2 Height and bulk of Beachfront Housing**

Sixteen beachfront Torrens Title villa style houses are proposed, on lots ranging between 455m<sup>2</sup> and 1045m<sup>2</sup>, each being approx 200m<sup>2</sup> in floor area. The beachfront housing has a linear design across the site, broken by a communal open space corridor which is approximately 25m wide. The houses have varying facades, setbacks, height (one and two storeys) and materials.

The low scale and variation in height, facades and setbacks minimises the visual impact of the beachfront houses on the foreshore. The actual houses will be setback between 20m and 25m from the public area of Campbells Beach. Existing dunal vegetation on the site will reduce visibility of these houses from the beach. The development proposes further revegetation of the dunes which will further minimise any views of these buildings from the foreshore. The height, bulk and siting of the houses is acceptable.

The drawing to be approved showing building heights, plan SK26 shows the beachfront dwellings as two storeys. This is not consistent with the indicative elevations as shown on drawing SK08 that shows the dwellings will be part one and part two storeys, thus providing a varied and low scale profile. It is recommended that the concept plan be modified such that the height of the Villas shown on drawing SK26 shall be one and two storey, as shown in elevation on drawing number SK08.

#### **6.1.3 Open Space**

The proposal will provide 3715m<sup>2</sup> (8.9% of the total site area) of communal open space, to be accessible to all future owners in the development (via community title). The PPR has increased the size of the beachfront communal open space on the east of the site, by reducing the size of the private yards for the beachfront homes by between 1m and 1.5m. Amenities within the communal open space are proposed such as picnic tables, benches and barbeques. The Department considers that sufficient open space is provided for the development.

#### **6.1.4 Setbacks from side boundaries**

Council's Residential Tourist Lands DCP requires side boundary setbacks to be assessed on merit. The proposed side setbacks of the development vary between 2.5m and 6m. The side setback of the beachfront buildings from the northern boundary in the PPR is 5m, increased from the original proposal that had setbacks of 4m to the north. This increased setback is acceptable as it will allow for a landscaped buffer between the dwelling and the proposed publicly accessible pedestrian path to the beach along the site's northern boundary.



Figure 7: Photomontage of the final amended proposal (dated 20 February 2007).

## 6.2 COASTAL PROCESSES

### 6.2.1 Foreshore Setbacks

The originally submitted proposal included a stormwater detention basin and private yards for the beachfront housing seaward of the 100 year coastal hazard planning line. This was raised as a significant concern due to the potential for coastal processes to impact on the stormwater detention basin and beachfront housing. Specifically, it was considered that the proposed setbacks may not be adequate for the stormwater detention basin and the private yards for the beachfront housing by locating them landward of the 100 year coastal hazard planning line identified for Campbells Beach.

The proposal presented in the PPR amended the stormwater management system for the development by removing the detention basin from the design (refer to Section 6.3 below). Furthermore, the beachfront housing was setback approximately 1m further to ensure that all beachfront housing (including the proposed patios on the eastern side of the buildings) was located landward of the 100 year coastal hazard planning line. The only works seaward of the 100 year coastal hazard planning line is fill and associated retaining walls to the patios.

This level of development seaward of the 100 year coastal hazard planning line is acceptable as:

- It is unlikely to have a significant impact on the operation of coastal processes;
- The proposed rehabilitation of the Campbells Beach dunes will reduce the potential for coastal processes to impact on this area; and
- It is consistent with other existing development adjacent to the site.

A recommended condition of approval for future applications requires that a registered surveyor accurately determine the location of the beachfront housing prior to construction to ensure it is located landward of the 100 year coastal hazard planning line.

### 6.2.2 Oceanic Inundation

There is the potential for the eastern portion of the site to be inundated by the ocean. DNR identified that the risk of dune overtopping is highest in the south of the site where the dune height is between 5m and 6m AHD. The inundation level for the site is 7.0m AHD. The development proposes the filling of this low lying area to 6.5m



AHD. The finished floor level of the buildings will be 7.5m AHD, which provides a 500mm freeboard to the identified inundation level.

Furthermore, the proponent's Statement of Commitments states that the design of the beachfront buildings will include the construction of suitable foundations to ensure that they are capable of withstanding forces that may occur if waves overtop of the dunes behind Campbells Beach.

The construction of the buildings above the inundation level and the inclusion of specially constructed foundations are considered to be appropriate responses to the site conditions. In addition, the Statement of Commitments requires the rehabilitation of the dunes behind Campbells Beach, further reducing the potential for the waves to overtop the dunes.

### 6.3 STORMWATER MANAGEMENT

As the stormwater detention basin was located seaward of the 100 year coastal hazard planning line in the originally submitted proposal (as stated in Section 6.2), there was concern that the detention basin may be eroded in conditions where storm waves are combined with elevated sea levels. This would result in the development being at further risk of coastal hazards. Furthermore, the original stormwater design would result in the potential for waters to flow to the properties north of the site under certain circumstances.

The amended plans submitted with the PPR removed the detention basin seaward of the 100 year coastal hazard planning line and proposed to increase the capacity of the existing stormwater system to the south of the site, removing the need for a detention basin. The PPR proposed to upgrade the relevant stormwater pipes so that they have sufficient capacity for the additional stormwater. A small detention basin of 200m<sup>2</sup> was proposed on the southern boundary of the site (landward of the planning line) to manage sediment loads in the stormwater. The amended stormwater system will not result in stormwater flows over the northern boundary of the site.

The amended stormwater management system for the site is acceptable as it reduces the level of infrastructure seaward of the 100 year coastal hazard planning line and removes the potential for localised flooding to the adjacent northern properties. A recommended condition of approval for future applications requires the provision of detailed designs of the stormwater system to Coffs Harbour City Council for approval.

The Solitary Islands Marine Park is located directly to the east of the site. The proximity of the site to the Marine Park raised concern in regard to water quality of the stormwater leaving the site, with the potential to pollute the Marine Park. The revised stormwater system for the development includes bioretention areas, a detention basin of 200m<sup>2</sup> to detain waters and allow the removal of sediment and a gross pollutant trap on the southern boundary of the site. It is therefore considered unlikely that this proposal will increase pollution into the Solitary Islands Marine Park.

### 6.4 GEOTECHNICAL ISSUES

In the originally submitted proposal, a number of buildings were located on the steep slope in the middle of the site. Concern was raised with regard to site stability and the site's ability to accommodate the proposed buildings. In addition, as filling is required for the beachfront houses, concern was raised with regard to the potential for the fill to impact on the future buildings, adjoining properties and the dunal system.

The proponent's geotechnical assessment found that the risk of slope instability on the site is moderate in accordance with the Australian Geomechanics Society Guidelines. A moderate risk is defined as *'tolerable provided treatment plan is implemented to maintain or reduce risks. May be accepted. May require investigation and planning of treatment options'*.

The PPR included a plan of the proposed excavation and filling across the site and an additional specialist geotechnical assessment that identified the likely types of foundations required and other management measures necessary to ensure the structural integrity of the buildings proposed across the site. Further, the proponent made a commitment to prepare detailed plans of the cut and fill across the site for approval by Council. In addition, they commit to ensuring that the cut and fill will be designed to ensure that there are no adverse impacts on the dune area or on neighbouring properties.

While it is recognised that the proposed buildings can be adequately constructed in consideration of the site conditions, as the current assessment has been based purely on building envelopes, a recommended condition

of approval has been included to require further assessment of geotechnical conditions during the detailed design of the buildings for each subsequent application for the site.

## **6.5 TRAFFIC AND VEHICULAR ACCESS**

The proposal was referred to the Regional Advisory Committee (RAC) as it is a development described by SEPP 11 – Traffic Generating Developments, being a residential flat development with more than 75 dwellings and a tourist facility with accommodation for more than 50 vehicles. The following issues were raised.

### **6.5.1 Pacific Highway Upgrade**

The RAC notes that the Pacific Highway adjacent to the site is identified for upgrade as part of the Coffs Highway Planning Scheme and that the current level of access to the site is not guaranteed in the future. The proposal for the upgrade for this section of the Pacific Highway, between Sapphire and Woolgoolga has been lodged with the Department (MP06\_0293) and was declared as critical infrastructure by the Minister on 5 December 2006.

The upgrade of the Pacific Highway proposes two interchanges at Split Solitary Road and Korora which will restrict right turns into and out of the site. The proponent is aware of the proposed Pacific Highway upgrade as stated in the EA. The revised statement of commitments includes a commitment for ongoing consultation with the RTA in regard to the Pacific Highway upgrade.

### **6.5.2 Site Access**

The proposal has the potential to increase traffic using the driveway access to the development and may reduce the level of service at the intersection with the Pacific Highway. It was considered that modifications may be required to the access way to ensure an acceptable level of service is provided for traffic.

The PPR provided an amended and more detailed traffic report addressing the existing worst case scenario for the access intersection (ie. assuming the Pelican Beach Resort at full capacity) and comparing this with the proposed traffic generation rates for each separate and subsequent stage of the proposal. The analysis shows that queue lengths at the intersection will not equal the existing situation until 2011. This would follow the anticipated completion of the Pacific Highway upgrade and is therefore, not likely to occur.

The RAC considers that the potential impacts on traffic and access are acceptable subject to the provision of a bus stop and shelter on the Pacific Highway and line marking of the access intersection. The proponent has committed to the provision of a bus stop and a recommended condition of approval requires the access road to be line marked to create separate right and left turning lanes.

### **6.5.3 Parking**

The initial proposal comprised a total of 234 car parking spaces on the site (including six visitor spaces). While the car parking spaces proposed accorded with Council's Off Street Car Parking DCP for dwellings, it was considered that a lack of visitor parking was provided within the development. Council noted that this is of particular concern due to the lack of on street parking available in the vicinity of the site.

The PPR amended the development to include a further 6 visitor spaces, providing a total of 12 spaces for visitors throughout the site. In addition a parking space that would accommodate mini buses was provided near the entrance to the development.

The amended proposal did not comply with the number of visitor car spaces required for this type of development in the RTA's *Guide for Traffic Generating Developments*, which requires the provision of 22 visitor car parking spaces across the site. The proponent's revised statement of commitments includes a commitment to provide 22 visitor car spaces, totalling 270 car spaces across the site. This is the 'worst case' maximum number required, assuming that the development will be 100% residential use.

## **6.6 PUBLIC ACCESS TO THE BEACH**

The development proposes the formalisation of a pedestrian access way to the beach which lies along the northern boundary of the site. The upgrading of the access includes the provision of a number of rest stops on the steeper sections of the path and a picnic table and rest area directly behind Campbells Beach.

In addition to the provision of this public access on the northern boundary of the site, a new private access to Campbells Beach will be created approximately in the middle of the site. This access will mainly cater for residents and tourists from the proposed development. All other areas of the dunes within the site will be fenced to exclude access and protect the dunes from erosion. These dunes within the fenced areas will be revegetated and rehabilitated in accordance with the Plan of Management submitted with the EA.

## 6.7 BUSHFIRE MANAGEMENT

Coffs Harbour City Council has mapped part of the site as bushfire prone. It was considered that the protection and rehabilitation of the 7A zoned vegetation may be in conflict with the need to manage the site as an Inner Protection Area (IPA). The protection and rehabilitation is considered appropriate due to its isolation from other areas of vegetation, its separation from the bushfire threat to the south of the site and the necessity of the vegetation in stabilising the steepest part of the site.

The proposal will implement a 5m buffer around the 7A vegetation that will be maintained as an IPA, ensuring consistency with Planning for Bushfire Protection (PBP, 2001).

The secondary access road to the development will have a maximum grade of 15.6 degrees (over a length of 23.5m) which exceeds the recommended maximum of 15 degrees in PBP. Following discussions with the RFS it was concluded that as the exceedance is minimal, it will form a secondary access only and is an existing road, it is considered acceptable (Dan Copeland, RFS pers. comm.).

## 6.8 CONTAMINATION

A Phase 1 Preliminary Site Investigation was submitted with the EA as the site is within proximity to former banana plantations. It was identified that the investigation did not address Council's Agricultural Chemical Residues Policy or the Guidelines for Assessing Banana Plantation Sites (EPA, 1997). The proponent's revised statement of commitments includes the provision of an additional study in accordance with these guidelines and the completion of any necessary remediation works prior to the commencement of works. This approach is considered acceptable as any necessary remediation works will be conditioned as part of future applications and remediation works be undertaken prior to the commencement of works on the site.

The Phase 1 Preliminary Site Investigation also recorded fragments of asbestos at one borehole location and recognised that there is the potential for lead-based paints to occur in the existing buildings on site. It is necessary to ensure that suitable management measures are implemented during demolition of the existing structures.

A recommended concept plan modification requires:

- The submission of a report showing the results of testing for asbestos and lead-based paints in conjunction with the Stage 1 development application for the development; and
- A detailed report covering the management measures proposed during demolition to minimise impacts on surrounding residents.

## 6.9 FLORA AND FAUNA

### 6.9.1 Vegetation Removal

There are 97 trees on the site being largely Hoop Pines, Norfolk Island Pines, Screw Pines, She-Oaks and Coastal Banksia, excluding trees on the area zoned 7A. It is proposed to remove 38 of these as they fall within the footprint of the proposed buildings. In addition, 29 existing Pandanus trees will be transplanted to new areas within the development.

The proponent provided an arborist's assessment of 6 of the trees to be removed stating that they are diseased and should be removed to ensure that the disease does not spread to the 7A zoned vegetation.

Given the development potential of the site, the proponent has attempted to maintain as many trees as possible. The proposal to transplant the pandanus trees on site will ensure that a number of mature trees are incorporated into the development. The implementation of the proposed landscape master plan would ensure that landscaping is undertaken across the site. Landscaping of the development would use species currently existing on the site..

In addition, the proponent has committed to the revegetation and rehabilitation of the dunes behind the beach in accordance with a Plan of Management submitted with the EA. This will ensure the ongoing stabilisation of the dunes behind Campbells Beach, reducing the impact of the development on coastal processes. The rehabilitation work will be required to be undertaken as part of the first stage of the development.

### 6.9.2 Threatened Species

There are no threatened species recorded on the site. However, a fauna species, Powerful Owl, *Ninox strenua* listed in the Schedules of the *Threatened Species Conservation Act 1995* was identified in the vicinity of the site. A search was conducted for potential Powerful Owl habitat within the site, but no suitable habitat areas were found. After undertaking an assessment of significance for the Powerful Owl, it was concluded that the proposal would not result in a significant impact on this species. This assessment is acceptable.

### 6.9.3 Overshadowing of Vegetation

Given the height of the proposed new buildings (three and four storeys) next to that part of the site zoned 7A, concern was raised with potential overshadowing impacts.

In response to this concern the proponent stated in their PPR that the impacts of the proposal on the vegetation from overshadowing will be minimal due to the south eastern aspect of the slope and the positioning of the buildings relative to the vegetation.

As the slope faces south east, the vegetation will receive sunlight until the early afternoon in midwinter (after midday) and until the late afternoon in summer (until 3pm). The amount of sunlight that will continue to be received by the vegetation is sufficient to minimise any potential impacts of the proposal and ensure the ongoing viability of the vegetation.

## 6.10 ABORIGINAL HERITAGE

As the site is located directly behind Campbells Beach, there is the likelihood of finding Aboriginal objects or places on the site.

The Aboriginal heritage information submitted with the EA was not fully undertaken in accordance with the relevant guidelines. In particular, the level of Aboriginal community consultation undertaken was not sufficient and the proponent had not undertaken an Aboriginal Heritage Information Management System (AHIMS) search.

While the proponent committed to completing this additional Aboriginal heritage work in subsequent applications for the site, the Department, supported by DEC, required that this further work be done prior to determination of the concept plan.

On 27 March 2007 the proponent submitted an archaeological assessment of the site. The AHIMS search returned no Aboriginal objects or places recorded on the site. In regard to Aboriginal archaeological heritage, the assessment found no indigenous archaeological sites, items or materials. While there is the potential for undetected archaeological material to be present within the site, the assessment concludes that there is an extremely low to negligible potential for the presence of sub surface material. The assessment recommends, and a condition of approval has been proposed, for the implementation of an indigenous cultural heritage induction for all workers on site prior to the commencement of construction works.

The archaeological assessment also included details of additional Aboriginal community consultation, in particular the placement of an advertisement in the local paper and letters sent directly to known Aboriginal community groups with an interest in the locality. As a result of consultation two community groups registered and were further involved in the Aboriginal cultural heritage investigation for the site. Representatives from these groups participated in the survey of the site. The archaeological assessment includes confirmation from these groups that they agree with the recommendations of the assessment and have no constraints to the development proceeding.

The additional information supplied for both Aboriginal archaeological and cultural heritage is acceptable. A recommended condition of approval requires the full report to be submitted to and approved by DEC prior to the lodgement of subsequent applications for the development.

## 6.11 INFRASTRUCTURE PROVISION

Council requested the proponent to confirm that there is sufficient capacity within the existing reticulated sewerage system, including pumping stations to accommodate the proposal. In addition, the public raised concerns with the potential for the development to exceed the capacity of the existing sewerage system. Further consultation with Council's Water Designer confirmed that the proposed development would not initially cause any extra loading on the sewer system. Council has scheduled an upgrade to the system in 2011 which will have the capacity to accommodate the later stages of the development.

The public raised concerns in regard to the capacity of the existing electricity system to cope with the proposed development. Further consultation by the proponent with Country Energy concluded that the adequacy of the existing electricity system cannot be properly determined without knowing the exact mix of dwellings on the site. However, as it is proposed to stage the development it is unlikely that the development would exceed the capacity of the existing electricity system until after 2010. Country Energy has advised that this electricity system will be upgraded in the next few years, ensuring that there will be sufficient capacity in the system for the development once all stages are constructed.

Subsequent applications for the site will require the payment of section 94 contributions in accordance with Coffs Harbour City Council's contributions plans. The plans that are likely to apply to the proposed development are:

- Coffs Harbour Regional District and Neighbourhood Facilities and Services – Developer Contributions Plan 2007;
- Coffs Harbour Road Network – Developer Contributions Plan 2005; and
- Surf Rescue Equipment – Developer Contributions Plan 2006.

In the EA, the proponent acknowledged that the payment of contributions will be required in subsequent applications.

## 6.12 SUBDIVISION

The development proposes the subdivision of the site into 26 lots under Community Title. Within the Community Title, apartment buildings will be strata titled and the townhouses and beachfront villa style housing will be Torrens Title.

Concern was raised that the subdivision of separate apartment buildings and their surrounding gardens may result in a number of different strata schemes managing the maintenance of the grounds across the development. It was considered that community land should be maximised across the development and that this land should be managed by the community scheme to ensure consistency.

To ensure that a desirable outcome is achieved, a modification to the concept plan is recommended to restrict the strata titling of the apartments to the buildings only, ensuring all grounds are part of the community title lot and will be managed consistently across the site.

## 6.13 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

While this report generally represents an assessment of ecologically sustainable development (ESD), it is considered appropriate to consider the Concept Plan in light of the DGRs that the EA should demonstrate that the Concept Plan address issues of sustainable development, drainage and stormwater issues (inclusive of Water Sensitive Urban Design principles (WSUD)).

The Proponent in the EA proposes that the Concept Plan will incorporate the following sustainable development principles:

- Adoption of water conservation measures including dual flush toilets and low flow shower heads;
- Use of water efficient appliances;
- Use of water sensitive landscaping;
- Harvesting of roof water into rainwater tanks to use for non-potable requirements;
- Direction of rainwater tank overflow onto the soil surface to encourage infiltration;
- Minimising the amount of impervious surfaces throughout the development to encourage infiltration;
- Minimising wastewater disposal by reducing potable mains water demand, using water efficient processes and reusing wastewater; and

- Treating stormwater leaving the site using a detention basin and gross pollutant trap.

Furthermore, the development will be required to comply with all requirements of BASIX during future applications for the site. Consequently, the Department is satisfied that the proposal is consistent with ESD principles and WSUD objectives.

## 7 CONCLUSION

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The Department has assessed the EA and considered the submissions in response to the proposal. The key issues raised in submissions related to design and visual impacts, coastal processes, stormwater management, geotechnical issues, traffic and vehicular access, public access to the beach, bushfire management, contamination, flora and fauna, Aboriginal heritage and infrastructure provision. The Department has considered these issues and a number of conditions of approval are recommended to ensure the satisfactory addressing of these issues in future applications for the site and minimal impacts as a result of the proposal.

The proposed development will provide a tourist/residential development within an area that is already developed as a resort. The proposed development is located only 6km from Coffs Harbour and therefore is close to existing services. Furthermore, the concept plan application has largely demonstrated compliance with the existing environmental planning instruments including the relevant development control plans relevant to the site.

The eastern portion of the site comprising Stages 1 and 3 of the proposed development is the most sensitive in terms of coastal processes and visual amenity. As such, it is recommended that future project applications for these stages be assessed by the Minister under Part 3A of the Act. Future assessments will consider detailed design issues such as final dwelling designs, landscaping, placement of fences and dunal rehabilitation works, in consultation with the Department's Coastal Branch and the Department of Natural Resources.

As this concept plan approval sets the development parameters for the site, such as building locations, building envelopes and access arrangements, it is recommended that Stages 2 and 4 of the development, being the future applications for development on the upper part of the site, closest to the highway be assessed under Part 4 of the Act, by Council.

On these grounds, the Department considers the site to be suitable for the proposed development and that the project is in the public interest. Consequently, the Department recommends that the project be approved, subject to the recommended modifications and conditions of approval.

## 8 RECOMMENDATION

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It is recommended that the Minister:

- (A) **consider** the findings and recommendations of this report;
- (B) **give** approval to the concept plan for the project, under section 75O *Environmental Planning and Assessment Act, 1979*; subject to the modifications and recommended conditions of approval; and sign the Determination of the Concept Plan (**Tag A**).
- (C) **determine**, that pursuant to section 75P(1)(b), approval to carry out Stages 2 and 4 of the project to be subject to Part 4 of the Act;
- (D) **determine**, that pursuant to section 75P(1)(a), approval to carry out Stages 1 and 3 of the project to be subject to Part 3A of the Act.

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