

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF CONCEPT PLAN NO. 06_0148

(FILE NO. 9042977-6)

**"SAPPHIRE" TOURIST AND/OR RESIDENTIAL DEVELOPMENT, 740-742
PACIFIC HIGHWAY, SAPPHIRE BEACH**

I, the Minister for Planning, having considered the following, pursuant to Part 3A of the *Environmental Planning & Assessment Act, 1979*, determine:

- a. Under Section 75O, to approve the concept plan referred to in Schedule 1 subject to modifications in Schedule 2;
- b. Under Section 75P(1)(b) that future development for Stages 2 and 4 be subject to Part 4 of the Act;
- c. Under Section 75P(1)(a) that future development for Stages 1 and 3 be subject to Part 3A of the Act; and
- d. Under Section 75P(1)(a), that future development be subject to the requirements set out in Part C of Schedule 2.

This approval applies to the plans, drawings and documents cited by the Proponent in their Environmental Assessment identified at Tag B and the Proponent's Statement of Commitments in Schedule 3, subject to the requirements in the attached Schedule 2.

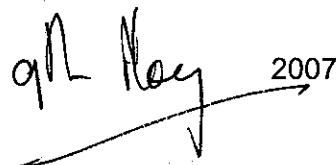
The reasons for the modifications are:

- a. To prevent and/or minimise adverse environmental impacts; and
- b. To ensure the ongoing effective management of the development.



Frank Sartor MP
Minister for Planning

Sydney,

 2007

SCHEDULE 1

PART A—TABLE

Application made by:	Sapphire Beach Development Pty Ltd
Application made to:	Minister for Planning
Major Project Application:	MP 06_0148
On land comprising:	740-742 Pacific Highway, Sapphire Beach Lots 100 & 101 DP 629555 and Lot 2 DP 800836
Local Government Area	Coffs Harbour LGA
For the carrying out of:	Concept plan for a tourist and/or residential development consisting of apartments, townhouses and villa style housing.
Estimated Cost of Works	\$90 million
Type of development:	Concept Plan
S.119 Public Inquiry held:	No
Determination made on:	9 May 2007
Date approval is liable to lapse:	5 years from the date of determination unless Stage 1 works have physically commenced in accordance with Section 75Y of the Act.

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 06_0148

Responsibility for other consents / agreements

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

Legal notices

Any advice or notice to the approval authority shall be served on the Director-General.

PART C—DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

Council means Coffs Harbour City Council.

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

Director-General means the Director-General of the Department.

Environmental Assessment means the Environmental Assessment prepared by PTW Planning and dated August 2006.

Gross Floor Area (GFA) means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls, as measured at 1.4m above each floor level, excluding:

- a. columns, fin walls, sun control devices, awnings and any other elements, projections or works outside the general lines of the outer face of the external wall, and
- b. lift towers, cooling towers, machinery and plant rooms, ancillary storage space and air-conditioning ducts, and
- c. car parking needed to meet any requirements of the Council and any internal designated vehicular or pedestrian access, and
- d. space for the loading and unloading of goods, and
- e. internal public arcades and thoroughfares, and
- f. terraces and balconies with outer walls less than 1.4m high.

Height means 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.

Minister means the Minister for Planning.

MP No. 06_0148 means the Major Project described in the Proponent's Environmental Assessment.

Proponent means Sapphire Beach Development Pty Ltd or any party acting upon this approval.

Regulation means the *Environmental Planning and Assessment Regulation, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

MODIFICATIONS AND CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 06_0148

PART A —TERMS OF APPROVAL

A1 Development Description

Concept approval is granted only to carrying out the development described in detail below:

A mixed tourist and/or residential development comprising a maximum total gross floor area of 24,020m² (an additional 5,945m² of balconies may be provided). The maximum number of bedrooms allowable is 338. The development includes:

- (1) Communal facilities including an office, reception area, commercial kitchen, pool and gymnasium;
- (2) Communal open space of 3715m²;
- (3) Subdivision of the site into 26 lots in a community title scheme;
- (4) A maximum number of 270 car parking spaces;
- (5) Access roads; and
- (6) Revegetation and rehabilitation works.

A2 Staging

The development is to 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 7A zoned vegetation, subdivision, the construction of the northern block of beachfront villa housing and buildings 9 and 10 (as shown on drawing SK27 - Key Plan Heights – Building and Balcony GFAs), stormwater management, all services and roads and rehabilitation of the dunes in front of the beachfront villa housing.

Note: This staging is a modification to the concept plan as presented in the Preferred Project Report as all dune rehabilitation works (previously Part Stage 1 and Part Stage 3) shall be undertaken as part of Stage 1 (see Modification B3).

- (2) Stage 2 will comprise construction of buildings 2, 4a and 4b (as shown on drawing SK27 - Key Plan Heights – Building and Balcony GFAs) and 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 drawing SK27 - Key Plan Heights – Building and Balcony GFAs) 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 drawing SK27 - Key Plan Heights – Building and Balcony GFAs) and application of the final 25mm of bitumen to the central access road.

Stage 1 must be constructed first. The order of subsequent stages is not prescribed.

A3 Development in Accordance with Documentation

- (1) The following documentation (including any appendices therein) are approved as part of the Concept Plan:
 - a. **Sapphire Environmental Assessment Report (Volumes 1, 2 and 3)**, prepared by PTW Planning on behalf of Sapphire Beach Development Pty Ltd and dated August 2006;
- (2) The following Preferred Project Report including a revised Statement of Commitments is approved:
 - a. **Preferred Project Report and Statement of Commitments**, prepared by PTW Planning on behalf of Sapphire Beach Development Pty Ltd and dated February 2007;
- (3) The additional documents listed below:
 - a. **Archaeological Assessment of Indigenous Values of Lot 100 and 101 DP 629555 and Lot 2 DP 800836 (Sapphire Beach Resort) Pacific Highway, Sapphire Coffs Harbour, Stage 1** prepared by Susan Davies for Sapphire Beach Development Pty Ltd and dated March 2007.
- (4) Additional correspondence listed below:
 - a. Letter regarding **views to proposed Sapphire development** from Jackie Amos Landscape Architect to Sapphire Beach Development Pty Ltd dated 19 February 2007.
 - b. Letter regarding **Coastal Hazard Line – Building Work** from Cox Richardson Architects and Planners to the Department dated 19 February 2007.
- (5) In the event of any inconsistencies:
 - a. The revised Statement of Commitments in (2) prevails to the extent of any inconsistency in the plans and documentation identified in (1), and
 - b. The modifications of the Concept Plan approval identified in Part B and C Schedule 2 prevail over the documentation listed in (1) and (2) above.

A4 Development in Accordance with Plans

- (1) The development will be undertaken in accordance with the following plans:

Architectural (or Design) Drawings prepared by Cox Richardson dated 20 February 2007	
Drawing No.	Name of Plan
SK01	Concept Plan
SK13	Plans – Subdivision and Staging
SK19	Building Setbacks
SK25	Building and Block Envelopes (incl. balconies)
SK26 SK8 SK12	Masterplan – Key Building RLs, as modified by Drawings SK8 and SK12 that shows Beachfront dwellings as one and two storey and not all two storey.
SK27	Key Plan Heights – Building and Balcony GFAs

- (2) The development will be undertaken **generally** in accordance with the following plans:

Architectural (or Design) Drawings prepared by Cox Richardson dated 20 February 2007	
Drawing No.	Name of Plan
SK02	Open Space and Pedestrian Circulation
SK03	Visitor Car Parking and Bus Access
SK04	Stormwater Management
SK05	Beachfront Cross Sections
SK06	Sections
SK07	Elevations
SK08	Elevations
SK09	Hillside Apartments
SK10	Upper Apartments
SK11	Garden Apartments
SK12	Beachfront Houses
SK14	Shadow Diagrams
SK15	Site Survey Plan
SK16	Site Analysis
SK17	Site Context
SK18	Excavation and Fill Diagram
SK20	Pacific Highway View 1
SK21	Pacific Highway View 2
SK22	Water View
SK23	Beach View 1
SK24	Beach View 2

A5 Lapsing of Approval

Approval shall lapse 5 years after the determination date in Part A of Schedule 1 of this approval unless works have physically commenced for Stage 1.

A6 Determination of Future Applications

The determination of future applications for development is to be generally consistent with the terms of approval of Concept Plan MP 06_0148 as described in Part A of Schedule 1 and subject to the recommended modifications and conditions of approval set out in Parts A, B and C of Schedule 2.

PART B—MODIFICATIONS TO THE CONCEPT PLAN

B1 Building Height

The concept plan is modified such that:

- (1) Block 10 (as shown on drawing SK27 - Key Plan Heights – Building and Balcony GFAs) is reduced in height so that it does not exceed 14m height as defined in Coffs Harbour City Council's *Residential Tourist Lands Development Control Plan*.

- (2) Beachfront villas (as shown on drawing SK27 - Key Plan Heights – Building and Balcony GFAs) are to be designed and constructed as a mix of single and two storey dwellings in accordance with Drawing SK8 and SK12

B2 Subdivision

The subdivision plan (drawing SK13) is modified as follows:

- (1) Strata titling of the apartments and townhouses shall be restricted to the buildings and private courtyards (where applicable); and
- (2) All remaining gardens, roads and open space across the site will be managed as one lot under the community scheme.

Note: Lots 1 to 16 on plan SK13 (20 February 2007) remain unchanged

The number of strata plans established across the site shall be minimised having regard to the staged implementation of the development.

B3 Revegetation and Rehabilitation

The staging plan (drawing SK 13) is modified as follows:

- (1) All rehabilitation and revegetation works on the dunes behind Campbells Beach as set out in the Sapphire Plan of Management (Appendix 8 of the Environmental Assessment) shall be undertaken as part of Stage 1 works.

PART C—FUTURE APPLICATIONS

C1 100 Year Coastal Hazard Planning Line

Prior to the commencement of works for Stages 1 and 3, a registered surveyor must determine the location of the 100 year coastal hazard planning line (as per Willing and Partners, *Map 1 Campbells Beach Hazard Lines*, September 1999) on the subject site. All buildings must be constructed landward of this line.

C2 Works Seaward of the Foreshore Building Line

The private yards of the beachfront housing must be extensively landscaped to ensure integration with the adjoining communal open space. Any fencing proposed seaward of the 100 year coastal hazard planning line (as per Willing and Partners, *Map 1 Campbells Beach Hazard Lines*, September 1999) or Coffs Harbour City Council's foreshore building line must be constructed of permeable materials. Detail of the proposed landscaping and fencing must be lodged with subsequent applications for Stages 1 and 3 of the development.

C3 Dune Management Plan

A Dune Management Plan providing detail with regard to the proposed rehabilitation of the dunes behind Campbells Beach shall be submitted with the development application for Stage 1 works.

C4 Linemarking of Access

The access way to the subject site must be linemarked to provide right and left hand turning lanes. Detailed plans of the works must be submitted to the RTA and approved prior to the commencement of works.

C5 *Demolition Management Plan*

A report determining the presence of asbestos and lead-based paint within existing structures on the subject site is required to be prepared and lodged to Council with the Stage 1 development application for the subject site.

Should these materials be present on the subject site a demolition management plan must also be prepared identifying management measures to be implemented to minimise impacts of the demolition.

C6 *Stormwater Management Plan*

Detailed designs of the upgrading of the stormwater system must be submitted to and approved by Council with the Stage 1 development application for the subject site.

C7 *Geotechnical Assessment*

Each subsequent development application for the subject site involving the construction of buildings is required to include a geotechnical assessment identifying necessary design measures to ensure the stability of the structures.

C8 *Aboriginal Heritage*

The Archaeological Assessment of Indigenous Values (dated March 2007) Aboriginal heritage assessment must be submitted to and approved by DEC prior to the lodgement of the first development application for the subject site.

C9 *Indigenous Cultural Heritage Induction*

All construction personnel involved in initial ground surface disturbance activities on the dune in the north eastern portion of the site must undergo an indigenous cultural heritage induction conducted by the Coffs Harbour Local Aboriginal Land Council prior to the commencement of works.

C10 *Public Access to Campbells Beach*

The complete length of the public access way to Campbells Beach must be established as a right of way when subdividing the subject site.

SCHEDULE 3

MP 06_0148

**"SAPPHIRE" TOURIST AND RESIDENTIAL DEVELOPMENT, 740-742 PACIFIC
HIGHWAY, SAPPHIRE BEACH**

740-742 PACIFIC HIGHWAY, SAPPHIRE BEACH

STATEMENT OF COMMITMENTS

(SOURCE: ENVIRONMENTAL ASSESSMENT)

6 STATEMENT OF COMMITMENTS

6.1 Introduction

A draft Statement of Commitments was included in the EAR. As a result of the public exhibition of the EAR and the draft concept plan and the submissions received on the matter changes have been made to the project and revised plans have been prepared for the Preferred Project. As a result, a revised Statement of Commitments has now been prepared to accompany the Preferred Project.

The Statement of Commitments identifies those matters which will be dealt with at the next stage of the proposed project in order to minimise impacts on the environment. These matters arise from a detailed analysis of the project proposals, the comments of the authorities on these proposals and the comments of the public on these proposals.

If approval is granted under Part 3A of the Environmental Planning and Assessment Act 1979, the Proponent will commit to the following controls for the construction and operation of the proposed project.

6.2 The Project

The proponent will undertake the subsequent stages of the development generally in accordance with:

(a) The Environmental Assessment Report dated August 2006, prepared by PTW Planning as amended by the Preferred Project Report dated December 2006

(b) All supporting technical reports included in the Appendices to the above report as amended in the Preferred Project Report Appendices

(c) The concept plans dated December 2006 prepared by Cox and Associates

(d) This Statement of Commitments

If there is any inconsistency between the conditions of this Statement of Commitments and a document listed above the conditions of this Statement of Commitments shall prevail to the extent of the inconsistency.

The project will have the following parameters:

- The project will be constructed within the building envelopes shown on the plans (including balconies).
- The project will have a maximum total gross floor area of 29965m² (including balconies).
- The project will have a maximum number of bedrooms of 338.
- The project will have a maximum number of car parks of 270 (including 22 visitor parking either on grade or within the buildings) If

the proponent requires more car parks then a further traffic report would need to be prepared to justify the increase

6.2.1 Statutory Requirements

(a) All approvals, licences and permits required by legislation will be obtained and kept current as required.

(b) The proposal will generally comply with the planning controls which relate to the site except as set out in the Preferred Project Report

6.2.2 Consultation

(a) The Community Consultation Programme prepared by Brian Elton and Associates will be implemented prior to the commencement of construction of the proposed project

(b) Consultation will continue throughout the development process with Coffs Harbour Council and relevant Government departments as necessary

6.2.3 Site Security

To prevent the unauthorised entry of people into the construction site and prevent damage to the environment, security for the construction site(s) will include:

- Lockable security gates
- A security fence around the perimeter
- Security lighting on site and
- Controlled access to the site through the site control office, visitor reception area and site management personnel

6.2.4 General Development Design Requirements

(1) Design

(a) The design philosophy of the project shall be within the parameters as set out by Cox and Partners in the Urban Design Report as in Appendix 5 of the EAR as amended by the Preferred Project Report

(b) Architectural input will be continued in the development of the proposals for the site to ensure that high standards of design excellence are achieved

(c) It will be an objective of the design process to provide a safe and secure environment within the development

(2) Vegetation Management

(a) The Sapphire Management Plan prepared by Bushfiresafe Services will be adopted in relation to the future of the site prior to the commencement of construction

(b) Prior to the adoption of the Management Plan Coffs Harbour City Council, relevant Government Authorities and the community will be consulted

(c) The Management Plan provides for the rehabilitation of the dune area and the area zoned Environment Protection

(d) The Management Plan provides for public access through the site and to the beach area

(3) Bushfire Protection

(a) A Bushfire Plan of Management will be prepared for the proposal to address the ongoing maintenance of the open space and landscaped areas on the site

(b) A Bushfire Evacuation Plan will be prepared for the proposal and submitted to the New South Wales Rural Fire Service for approval

(c) All roofing to be used on the site will be gutterless or will have leafless guttering

(4) Landscape

(a) Landscaping of the site will be carried out in accordance with the Landscape Management Plan prepared by Jackie Amos Landscape Architect set out in the preferred Project Plans

(b) A Landscape Architect will be retained to oversee the project and planting of the landscaped areas on the site. The landscape Architect will ensure that all landscaping is carried out in accordance with the Landscape Management Plan

(5) Coastal Issues

(a) The stormwater system for the site will be designed to ensure that there is no substantial increase in run-off to the Solitary Islands Marine Park once the project is completed

(b) The dune area will be revegetated in accordance with the Sapphire Management Plan as part of the project proposal

(c) All buildings behind the dune will have a minimum floor level of 7.5 AHD. This will provide 0.5m freeboard above the 7.0m AHD inundation level recommended by Geomarine (1998) and Coffs Harbour City Council. This will be achieved by partially filling the low lying area to a height of 6.5 AHD where the buildings are to be sited.

(d) All buildings will be landward of the 100 year Hazard Line as noted on the Willings and Partners (1999) drawing of the Campbell's Beach Hazard Lines provided by Coffs Harbour City Council

(e) All buildings immediately behind the dune (The Beachfront Houses) will have specially constructed foundations built to withstand a storm surge or tidal inundation

(f) Detailed plans will be prepared in consultation with Coffs Harbour Council of the cut and fill to be undertaken on the site. the cut and fill will be designed to ensure that there are no adverse impacts on the dune area or on neighbouring properties.

(6) Integrated Water Cycle Management

(a) A Water Management Plan which adopts the principles of Water Saving Urban Design will be prepared for the site prior to the commencement of any construction which will address the following issues:

- o Detailed design of the stormwater management system
- o Detailed design and landscaping of the bioretention system
- o Detailed Implementation of water saving measures for the site
- o Plans for the maintenance of water quality on the site

(b) A Sediment and Erosion Control Plan will be developed for the stormwater system for the site prior to the commencement of construction on the site

(7) Traffic and Access

(a) All parking proposals and the design of parking areas on the site will comply with the Coffs Harbour City Council Planning Controls

(b) The proponent will continue to liaise with the RTA in relation to the upgrade of the Pacific Highway by the RTA

(c) The proponent will continue discussions with the RTA in relation to the operation of the intersection with the Pacific Highway and possible changes to the operation of the intersection and traffic management arrangements for the site

(d) Prior to the commencement of any construction, the proponent will develop a Traffic Management Plan for the site which provides for the ongoing operation of the project in accordance with the requirements of the RTA

(e)The proponent will liaise with the RTA and Coffs Harbour City Council in relation to the provision of a Bus Stop and Shelter on the Pacific Highway and pedestrian access to it

(8)Heritage

(a)Community consultation will be undertaken with the Aboriginal community in line with the draft Guidelines for Aboriginal Cultural Heritage Impact Assessment before the commencement of construction of the project

(b)A search of the department of Environment and Conservation Heritage information Management system will be undertaken prior to the commencement of construction of the project

(c)A watching brief will be maintained during excavation of the site for any Aboriginal relics or signs of items of cultural heritage

(d)The procedures to be adopted should any Aboriginal relics or items of cultural significance be discovered shall be approved by the local Aboriginal Land Councils prior to the commencement of any excavation of the site

(9)Acoustics

(a)Prior to the commencement of construction an Acoustic Model will be prepared for the site to determine the measures to be implemented in the design of the buildings to achieve satisfactory acoustic levels

(b)Acoustic levels will not exceed levels specified in Environmental Criteria for Road Traffic Noise (DEC June 1999) and Noise Guide for Local Government (DEC 2004)

(10)Environmental Management

(a)A Waste Management Plan will be submitted to Coffs Harbour City Council for approval prior to the commencement of building works.

(b)Prior to the commencement of construction, an additional study and any site remediation works required as a result of that study will be undertaken by the proponent to the satisfaction of Coffs Harbour City Council in accordance with the EPA's Guidelines for Assessing Banana Plantation Sites

(11)Construction

(a)Prior to the commencement of construction works a Construction Management Plan is to be prepared covering the following:

- o Traffic access to the site during construction

- Demolition of the existing buildings on the site and a programme for the recycling of materials from them
- Plan for the disposal of waste from the site
- Acoustic and vibration management plan
- Plans for the protection of vegetation on the site during construction
- Visual aspects of construction activities

(12) Social and Community

(a) Prior to the commencement of any construction, the proponent will submit for approval appropriate s94 contributions for the proposed project to Coffs Harbour City Council

(13) Monitoring/Auditing and Reporting

(a) An Annual Environmental Management Report will be prepared for the 12 month period from the date of commencement of construction and for each 12 month period thereafter until the final occupation certificate is issued for the site detailing the proponent's performance in relation to these commitments

(b) The site manager will maintain a daily log book identifying the location, contractor and description of all earthworks, construction and environmental management activities undertaken. The logbook is to be made available to Coffs Harbour City Council upon request with a summary of the logbook included in the annual report to Council

(c) Communication protocol between the Site Manager and contractors is to be established to ensure compliance with these commitments.