

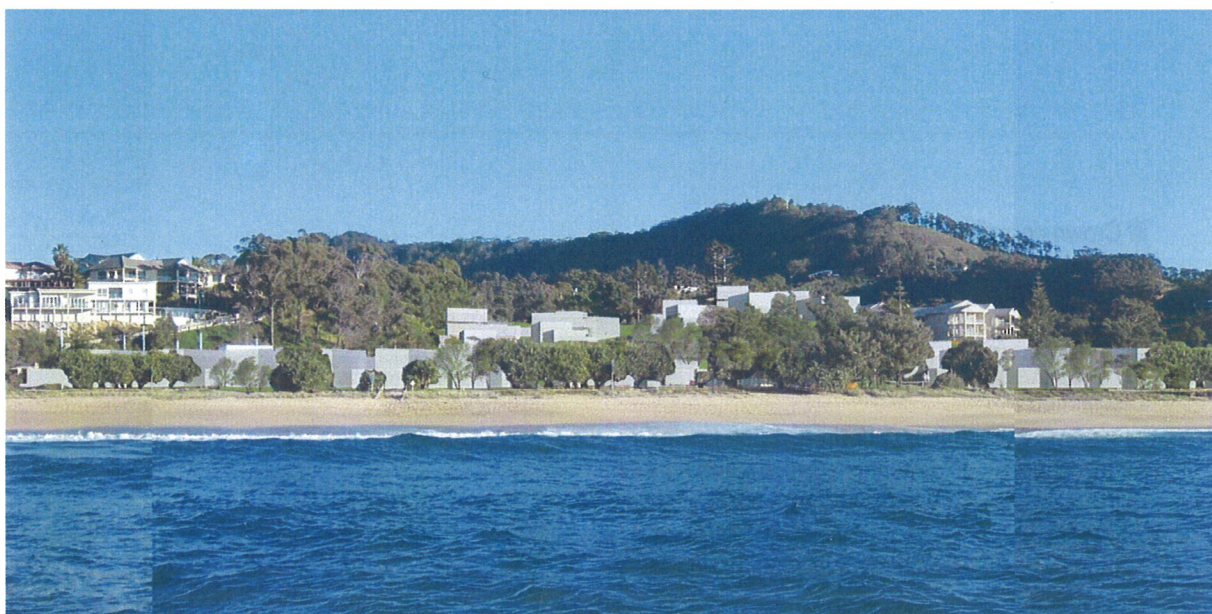


Planning

**MAJOR PROJECTS ASSESSMENT:
SAPPHIRE BEACH RESIDENTIAL
SUBDIVISION 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

November 2009



Conceptual view of residential subdivision at Sapphire Beach (Source: Environmental Assessment Report)

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EXECUTIVE SUMMARY

The Proposal by Sapphire Beach Development Pty Ltd (the Proponent) comprises two applications - an application to modify an approved concept plan, and a concurrent application to approve a project application for Stage 1 demolition works as proposed. The subject site is legally described as Lots 100 and 101 DP 629555 and Lot 2 DP 800836, currently occupied by the disused Pelican Beach Resort, and is located at 740-742 Pacific Highway, Sapphire Beach.

The existing concept plan was approved on 9 May 2007 and allowed for tourist and/or residential development to be completed in four stages. However, the existing concept plan approval was never enacted and no further application was received by the Department for development on the site. The site is presently disused and in a state of disrepair.

The two applications are briefly described below:

06_0148 Mod 1 – an **application to modify the approved concept plan** seeking approval for:

- a 40 lot residential subdivision,
- the removal of the previously proposed tourist use component of the site and residential flat buildings
- a reduction in the number of approved dwelling units from approximately 122 to 39 detached dwellings,
- an increase in lots subdivided from 26 to 40,
- the provision of a community lot for roads, conservation, and open space,
- revegetation and rehabilitation works to the Environmental Protection 7A Habitat and Catchment Zone in the centre of the site,
- rehabilitation of the dune system, and
- a change to the staging of the development and specified approvals regime.

09_0060 – a **project application** for Stage 1 works of the proposed modification seeking approval to:

- demolish all existing buildings and structures (No bulk earthworks or subdivision are proposed as part of this application),
- remove all redundant services, and
- commence dune rehabilitation works.

The estimated capital investment value of the modification to the concept plan is \$2.17 million. The estimated capital investment value of the project approval is \$750,000 and will create 12 full time equivalent construction jobs during demolition and site clearance works.

Environmental Assessment's for the Proposal were placed on public exhibition at four locations and on the Department's website for a period of 33 days. In total the Department received 8 submissions from public authorities and 9 submissions from the public. The submissions raised a number of key issues for assessment, including:

- the potential impact of climate change on coastal hazards at the adjoining section of Campbell's Beach and mitigation measures proposed
- urban form and design, and the appropriateness of the development type proposed in the Sapphire Beach area
- flora and fauna issues and the public/private space interface
- the potential for future earthworks to impact upon neighbouring properties
- transport and traffic impacts particularly with regard to the upgrade of Pacific Highway
- proposed staging

The Department has assessed the merits of the Proposal and is satisfied that any impacts can be addressed via the Proponent's revised Statement of Commitments and the Department's recommended conditions of approval, and will 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.

The **Concept Plan Modification** (06_0148 Mod 1) is therefore recommended for approval, subject to modifications. Approval of the Concept Plan allows the Minister to specify the environmental assessment

requirements for the future applications for the development. It is recommended that Stage 1 of the development (09_0060 – the **Project Application**) be approved concurrently with the Modification under Part 3A of the Act, subject to conditions. Stage 2 and 3 of the Proposal will be subject to future applications and shall be dealt with by the Council under Part 4 of the Act.

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1 BACKGROUND

1.1 THE SITE

1.1.1 Site context and location

The site is located at 740-742 Pacific Highway, Sapphire Beach (Lots 100 & 101 DP 629555 and Lot 2 DP 800836), within the local government area of Coffs Harbour City Council. The site is approximately 6km north of Coffs Harbour, on the eastern side of the Pacific Highway at the southern end of Campbell's Beach (refer to Figures 2 and 3). The property is owned by Sapphire Beach Development Pty Ltd.

The site is located in a depression between two ridgelines approximately 450m apart. The first traverses the northern part of Coachman's Close, south of the site. The second ridgeline runs west to east from the Highway at Sapphire Beach Apartments to the north of the site. Located below the Highway and below the ridgeline much of the site is tucked into a depression.



Figure 1. Site location

1.1.2 Existing site features

The site has an area of 41,503 m², is made up of three separate land parcels (as identified above), and is essentially split level in topography. The western area of the site closest to the Pacific Highway is largely level with an elevation of approximately 27m AHD (upper site). The site then slopes steeply down toward the coast and opens out into a large flat area at the base of the slope. This area has an elevation of approximately 6m AHD and extends on to Campbell's Beach at the eastern extent of the site (lower site) (refer to Figure 4 for a plan of site features).

Entry to the site is gained from the Pacific Highway via an access shared with the properties immediately to the north, including a residential development and the Nautilus Resort. The entry to the site is to be upgraded in line with the recently approved Sapphire to Woolgoolga Pacific Highway upgrade.

The site is currently developed, with the buildings and structures comprising the 114 suite Pelican Beach Resort. However the resort ceased trading in 2007 and the buildings have been unoccupied since. 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. The resort pool and tennis courts are located on the southern section of the lower site, behind the dunes of Campbell's Beach, while on the northern section of the lower site is an area of grassed private open space. A disused restaurant building (previously 'Seafood Mamas') and car park occupies the upper site. There are currently 134 car parks on the site and a parking space for a coach.

There are three main vegetation communities on the site – lowland/littoral rainforest, dune system vegetation, and open grasses and kept lawns. The lowland/littoral rainforest community is located approximately in the centre of the site, has an area of approximately 4,000m², is steeply sloping, and is zoned for environmental protection. This community is identified as lowland or littoral rainforest by its distinctive vegetation composition and its closed canopy. The second area of vegetation exists in the north eastern corner of the site on the dunes behind Campbell's Beach. Both of these native vegetation communities on the site have been invaded by weeds to some degree, but particularly on the edges. The third vegetation community is comprised of open grasses and kept lawns and dominates the northern part of the lower site.

1.1.3 Surrounding development

The site is situated along the coastal strip to the north of Coffs Harbour. This area of the coast is dominated by a mixture of well established residential and tourist developments built with access to the foreshore. Immediately to the north of the site is the Nautilus Resort (including the S-Cape Café) tourist development, with Sapphire Beach Apartments and a residential area further to the north. Adjoining the site to the south is an area of more recent residential development around Coachman's Close, and a natural headland which separates this area from Opal Cove Resort further south. The area to the west of the site across the Pacific Highway is the Korora Basin which is characterised by remnant banana farms, small rural holdings, residential properties and remnant vegetation.

Immediately adjacent to the northern boundary of the site, and bounded by the site on three sides is a sewerage pump 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 Campbell's Beach.

Campbell's Beach is an unpatrolled beach which lies adjacent to the eastern boundary of the site. The dunes directly behind the beach are generally low across the front of the site. However the dunes are more pronounced on the northern section of the site where remnant native vegetation exists (mostly Casuarina and Banksia). The southern part of the dune is largely grassed with sporadic Pandanus palms. Campbell's Beach is currently accessed from the resort via steps over the dune toward the south of the beach frontage. Campbell's Beach is relatively steep in this area and the low foredune is dominated by spinifex.



Figure 2. Collage showing various areas of the site: Plate 1 – view of Campbell's Beach and foredune looking south. Plate 2 – oblique aerial view of site with boundaries marked. Plate 3 – southern section of dune with Pandanus trees. Plate 4 – littoral rainforest vegetation in the centre of the site showing weed infestation at the edge.



Figure 3. Aerial photograph of the site.

1.1.4 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* (Coffs Harbour LEP), as shown on Figure 5 below. The Proposal is permissible with consent in the 2E Zone and the rehabilitation/re-vegetation works proposed in the 7A Zone do not require consent.

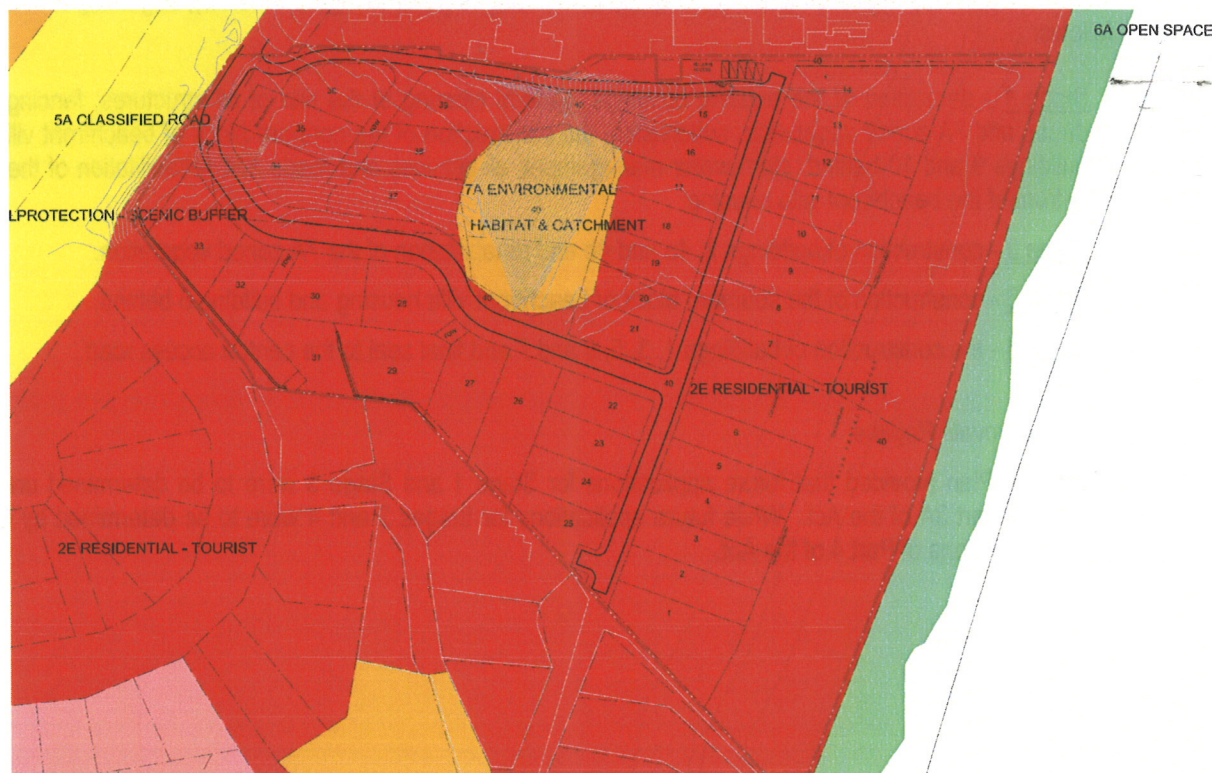


Figure 5. Zoning in accordance with Coffs Harbour City Local Environmental Plan 2000. Proposed subdivision layout overlain.

1.2 SITE HISTORY

The site is currently developed as the Pelican Beach Resort which operated as 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. The Resort has been closed for business since 2007.

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

1.3 PREVIOUS CONCEPT PLAN APPROVAL

A concept plan was approved for the site on 9 May 2007. The concept plan allowed for a tourist and/or residential development consisting of:

- Communal facilities including an office, reception area, commercial kitchen, pool and gymnasium
- Communal open space of 3,715 m²
- Subdivision of the site into 26 lots in a community title scheme
- Approximately 122 dwellings with a maximum of 338 bedrooms
- A maximum of 270 car parking spaces
- Access roads
- Re-vegetation and rehabilitation works

The concept application received approval for building envelopes with a total gross floor area (GFA) of 24,020m² (an additional 5,945 m² of balconies was also allowed). A mix of 3-4 storey apartment blocks, 3 storey townhouses, and 1-2 storey beachfront villas were proposed across the site. The previously approved concept plan is provided as Figure 6, and the previous approval as Appendix E.

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

1.3.1 Staging

The development was approved to be constructed in four stages (refer to Figure 6 below), beginning with Stage 1 as follows:

- (1) Stage 1 - 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 villas and buildings 9 and 10 behind, stormwater management, all services and roads and rehabilitation of the dunes in front of the beachfront villa housing.
- (2) Stage 2 - construction of buildings 2, 4a and 4b and rehabilitation of the 7A zoned vegetation.
- (3) Stage 3 - construction of the southern block of beachfront villa housing and building 8 behind.
- (4) Stage 4 - the construction of buildings 1, 3, 5, 6 and 7 and final seal to the central access road.

1.3.2 Approvals Regime

The Concept Plan provided that future applications for Stage 1 and Stage 3 were to be determined under the provisions of Part 3A of the Act. While future applications for Stages 2 and 4 were to be determined by Council under the provisions of Part 4 of the Act.

2 PROPOSED DEVELOPMENT

2.1 DESCRIPTION

The Proposal comprises an application for approval to modify an approved concept plan (section 2.1.1 below), and a concurrent application for approval to undertake Stage 1 of the proposed works (section 2.1.2 below).

2.1.1 Modification to approved concept plan

The proposed amendments to the approved concept plan are as follows:

- Removal of the approved tourist component use of the site;
- Removal of the residential flat buildings/tourist apartments and their replacement with detached dwellings;
- Removal of the communal facilities (including an office, reception area, commercial kitchen, pool and gymnasium);
- Reduction in the number of dwellings from approximately 122 to 39;
- Alteration of the number of beachfront houses from 16 to 14, and from being attached to detached dwellings;
- Increase in the number of lots subdivided on the site from 26 to 40 (39 residential lots and 1 community title lot for the roads, conservation area and open space), with residential lots ranging in size from 400m² to over 900m² (average size of 554 m²);
- Minor changes to the lot shapes and sizes;
- Reduction in the number of car parking spaces from 270 to 190;
- Reduction in the gross floor area of the development by approximately 10,000m²;
- Reduction in the approximate number of bedrooms from approximately 338 to 170; and
- Changes to the approvals regime for the site to provide for all future applications being dealt with under Part 4 of the *Environmental Planning and Assessment Act 1979* (Stages 2 and 3).

Open space will remain as in the approved concept plan, this comprises the:

- pedestrian pathway along the main road;
- public pedestrian access to Campbell's Beach along the northern extent of the site;
- landscaped parkland at the central beach link;
- landscaped area to the west of the dune;
- protected and rehabilitated Environmental Protection 7A Habitat and Catchment Zone; and
- public open space at the nearby Campbell's Beach.

All other works proposed on the site will remain generally consistent with the existing concept plan approval.

2.1.2 Stage 1 project approval

This application seeks approval for undertaking works to allow re-development of the former Pelican Beach Resort site. These works comprise Stage 1 of the above concept plan (as modified). It will comprise demolition of the existing buildings, the commencement of dune rehabilitation works, and general site preparation, and include removal of:

- The 114 room hotel building which includes the restaurant and conference centre and all back of house facilities;
- All ancillary buildings associated with the hotel primarily located around the existing swimming pool;
- The former Seafood Mamas Restaurant at the entrance to the site;
- The swimming pool & spa;
- The tennis & volley ball courts;
- All redundant services either above or below ground;
- All bitumen or concrete car parks and footpaths; and
- Any vegetation outside the dune area and the Environmental Protection 7A Habitat and Catchment Zone not marked for reuse or transplanting.

No earthworks are proposed as part of this application. However, clean brick, rubble and concrete construction materials will be retained for fill on the site.



CONCEPT PLAN

Figure 5. Sapphire Concept Plan

NSW Government
November 2009

2.2 PROJECT AMENDMENTS

A preferred project report was submitted on 15 October 2009, accepted by the Department on 28 October 2009, and incorporated the following amendments in order to address key issues:

- The Vegetation Management Plan was amended to alter the description of the Environmental Protection 7A Habitat and Catchment Zone vegetation;
- A detailed Dune Management Plan was prepared to accompany the application;
- The Bushfire Risk management Plan was amended with the inclusion of a revised APZ plan showing a 10m APZ to the dune rehabilitation area;
- Additional visitor car parking space has been added;
- The Sea Rise Protection Zone was amended;
- All community lots have been reduced to one (Lot 40);
- Right of Way servicing lots 34 - 39 has been reworked to improve access and turning area;
- North-south pedestrian path parallel to the beach has been removed from front of beachfront lots;
- Southern boundary is to be battered and landscaped to provide transition to neighbouring properties; and
- The Community Management Statement was revised.

As the proposed changes were not deemed to be significant, the project amendments were not advertised or made publicly available.

3 STATUTORY CONTEXT

3.1 ASSESSMENT PROCESS

3.1.1 Proposed Modification Application – 06_0148 Mod 1

The previous approval for Major Project 06_0148 was granted in accordance with Section 75O(4) of Part 3A of the Act.

Section 75W of the Act provides for the modification of the Minister's approval. As the Proposal is not consistent with the existing approval, the Proponent has sought the approval of the Minister for Planning (pursuant to Section 75W(3) of the Act) to modify the original approval. Section 75W of the Act does not limit the circumstances in which the Minister can modify an approval under Division 3 of Part 3A of the Act, nor does it limit the ability of the Minister to change the terms of approval of a determination made under Division 3 of Part 3A of the Act. As the Proposal does not constitute a radical alteration from the original Proposal, an application under Section 75W of the Act is deemed appropriate.

Section 75W(3) of the Act also provides that the Director-General may notify the Proponent of environmental assessment requirements (EARs) with respect to the proposed modification that the Proponent must comply with before the matter will be considered by the Minister. The Proponent was notified of the Director-General's EARs for the Proposal on 17 April 2009.

Under Section 75W(4) of the Act, the Minister may modify the approval (with or without conditions) or disapprove the modification. The following report describes the Department's assessment of the Proposal and supporting documentation as provided by the Proponent, and recommends **approving** the proposed modification, with conditions.

3.1.2 Project Application – 09_0060

As part of the Proposal, and pursuant to Section 75E of the Act, the Proponent has also made an application to undertake works associated with Stage 1 of the current Proposal.

Section 75F(3) of the Act also provides that the Director-General may notify the Proponent of environmental assessment requirements (EARs) with respect to the Proposal that the Proponent must comply with before the matter will be considered by the Minister. The Proponent was notified of the Director-General's EARs for the Proposal on 17 April 2009.

Pursuant to Section 75J(4) of the Act, this report recommends that Stage 1 of the Proposal pertaining to site clearance works and demolition (09_0060) be **approved** subject to conditions.

3.2 PART 3A DECLARATION

The Minister declared the original project as being a Major Project to which Part 3A of the Act applies on 30 June 2006. As the Proposal is a modification under Part 3A of the Act, pursuant to Section 75W(3) of the Act the request for modification must be lodged with the Director-General.

Therefore 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 (or delegate thereof) is required to carry out the project.

3.3 PERMISSIBILITY

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

- Residential 2E Tourist Zone: This zoning comprises the majority of the site. Dwelling houses, the subdivision of land for residential purposes, and demolition are permitted with development consent within this Zone; and
- Environmental Protection 7A Habitat and Catchment Zone: There is a small area of this zone that is completely surrounded by 2E Zone. No development is proposed within the 7A Zone apart from revegetation and rehabilitation works. Environmental protection works are permissible in this Zone without consent.

The proposed amendment removes the tourist-use part of the development and lowers the density of the site from that originally approved. However the approval provided for a "mixed tourist and/or residential development", therefore allowing a residential only development on site. It has subsequently been found that the apartment/residential flat style of development (like that approved) has recently become economically unsustainable

on the Coffs Coast, and that detached dwelling houses/holiday houses provides a more suitable and economically viable land use.

There are currently 391 hectares of land zoned Residential 2E Tourist in the Coffs LGA, this site represents just over 1% of that land and therefore has a negligible impact on the overall provision of tourist accommodation in Coffs Harbour. While subdivision, dwelling houses and development for residential purposes are a permissible use within the 2E Zone, there exists no requirement to attach these to a tourist development on-site. This stretch of Pacific Highway is dominated by substantial tourist developments and apartments (e.g. Pacific Bay Resort), most of which are either currently underutilised or investigating expansion alternatives.

Therefore the Proposal is considered to be generally consistent with the objectives of the zoning, and is therefore permissible subject to the Minister's approval.

3.4 EXHIBITION AND NOTIFICATION

The Department exhibited the Proposal and supporting documents in accordance with section 75H (3) of the Act. The Proposal was placed on public exhibition from 16 July 2009 until 17 August 2009 and submissions were invited in accordance with section 75(H) of the Act. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, notification of the Proposal was also provided via the Department's website.

3.5 MINISTER'S POWER TO APPROVE

The purpose of this submission is for the Director-General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant approval to the Proposal pursuant to Sections 75W and 75J of the Act.

Section 75I(2) of the Act sets out the scope of the Director-General's report to the Minister. Each of the criteria set out therein have been addressed below, as follows:

Table 1 – Compliance with Section 75I(2) Criteria

Section 75I(2) Criteria	Response
A copy of the Proponent's environmental assessment and any preferred project report	The Proponent's Environmental Assessments are included at Appendix C whilst the preferred project reports are set out for consideration at Appendix D .
Any advice provided by public authorities on the project; and	All advice provided by public authorities on the project for the Minister's consideration is discussed in detail in Section 4.3 below.
A copy of any report of the Planning Assessment Commission in respect of the project, and	N/A
A copy of or reference to the provisions of any State Environmental Planning Policy (SEPP) that substantially govern the carrying out of the project	An assessment of each relevant State Environmental Planning Policies that substantially govern the carrying out of the project is set out in Section 3.6 below.
A copy of, or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development relative to the prevailing Environmental Planning Instruments is provided in Section 3.6 below.
Any environmental assessment undertaken by the Director-General or other matter the Director-General considers appropriate.	The environmental assessment of the project is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The environmental assessment requirements under this Division, issued on 17 April 2009 are in Appendix B . The Department is satisfied that the EA submitted in support of the project application complies with these requirements. A detailed assessment of how the Proponent has addressed these issues is provided in Section 5 of this report.

Therefore the Department has met its legal obligations and the Minister has the power to determine this project.

3.6 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

3.6.1 Application of EPIs to Part 3A of the Act

To satisfy the requirements of section 75I(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.

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. In summary, the relevant EPIs for this project include:

State Environmental Planning Policy (Major Development) 2005

The MD SEPP applies to the project as discussed in Sections 3.1 and 3.2.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires the consent authority to consider the potential for a development site to be contaminated and therefore unsuitable for the use for which development is proposed. The requirements of SEPP 55 have been considered in the assessment of the Proposal and it is considered the EA adequately addresses the provisions of SEPP 55.

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 Campbell's Beach;
- Ensures future rehabilitation and revegetation of the dunes behind Campbell's Beach;
- All proposed future buildings to be located landward of the 100 year coastal hazard planning line for Campbell's Beach; and
- The design of the stormwater management system for the proposed development protects the water quality of the Solitary Islands Marine Park; and
- Detailed conditions dealing with Aboriginal cultural heritage issues.

State Environmental Planning Policy (Building Sustainability Index: 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.

North Coast Regional Environmental Plan

The North Coast Regional Environmental Plan (NCREP) is now considered a deemed SEPP (as of 1 July 2009). The Proposal is consistent with the relevant provisions of the NCREP as set out for coastal development, environmental hazards, and maintenance of environmental quality.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The Codes SEPP aims to provide for types of development to proceed as exempt or complying development where that development will have minimal environmental impact. The Codes SEPP applies to that part of the site that is further than 100m from the coast. Therefore some of the lots on site will be able to be developed under the provisions of the Codes SEPP. The subdivision and construction of individual dwellings will be subject to further applications to

the relevant authorities as part of Stage 2 and 3 of the development. Furthermore, Design Guidelines for the entire site will be submitted for approval as part of those applications.

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. This is further discussed in **Section 3.3** of this report above. Dwelling houses and subdivision of land are permissible with consent.

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

3.7 OTHER PLANS AND POLICIES

The Proposal has been considered against the following non-statutory documents:

- Coffs Harbour City Council Residential Tourist Lands Development Control Plan;
- NSW Coastal Policy 1997;
- North Coast Urban Design Guidelines and the NSW Coastal Design Guidelines; and the
- Mid North Coast Regional Strategy.

The Proposal has been assessed against these documents and is generally consistent with the provisions contained therein.

3.8 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES

There are five accepted ESD principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

3.8.1 Modification to approved concept plan

The Department has considered the Proposal in relation to the ESD principles and considers that the proposed modification to the approved concept plan does not significantly alter the compliance of the development with these provisions. Particular regard has been had to the precautionary principle in relation to addressing the effects of climate change induced sea level rise and a Sea Rise Protection Zone has been employed as an appropriate mitigation strategy to meet this challenge. The biodiversity principle has been considered in the protection and rehabilitation of the Environmental Protection 7A Habitat and Catchment zoned land on the site and the rehabilitation of the dune system.

3.8.2 Project application

This application is the first stage in the re-development of the site for residential dwellings. The proposal for demolition and site works are in compliance with the planning controls relating to the site and with the concept plan (as modified). The principles of ESD have been satisfactorily addressed for this application in key areas; including the Proponent committing to undertake dune rehabilitation works immediately in order to give the dune system time to establish, and the requirement for best practice in site management during works to minimise off-site effects.

3.9 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of an application under Part 3A must be informed by the relevant provisions of the Act, and must not be inconsistent with the objects of the Act.

The objects of the Act are as follows:

Section 5 - Objects

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,
- (iii) the protection, provision and co-ordination of communication and utility services,
- (iv) the provision of land for public purposes,
- (v) the provision and co-ordination of community services and facilities, and
- (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
- (vii) ecologically sustainable development, and
- (viii) the provision and maintenance of affordable housing, and

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

Of particular relevance to the assessment of the Proposal is consideration of the Objects under section 5(a). Relevantly, the Objects stipulated under section 5(a) (i), (ii), (vi), and (vii) are significant factors informing the determination of the applications. The project does not raise significant issues with regards to (iii), (iv), (v), or (viii).

The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the project application. The balancing of the project in relation to the Objects is provided in **Section 5** of this report.

3.10 DELEGATED AUTHORITY

Under current delegations dated 4 March 2009, the Executive Director, Major Development Assessment has the power to determine an application to modify a concept plan pursuant to Section 75W of the Act if there are less than 25 public submissions and the Capital Investment Value is less than \$50 million. In addition the same criteria apply for a determination made under Section 75J of the Act, except in this case the delegation extends only as far as the Director-General. Both applications meet these criteria and can be determined under delegated authority.

In this instance as the applications are being determined concurrently, the Director-General (being the highest order of delegated authority) is the appropriate person to approve both applications.

4 CONSULTATION AND ISSUES RAISED

4.1 PUBLIC EXHIBITION DETAILS

Both the application to modify the approved concept plan (06_0148 Mod 1) and the concurrent project application (09_0060) were advertised together. Unless otherwise stated, submissions received were taken to be regarding the Proposal in its entirety.

The Proposal was exhibited for 34 days from 16 July 2009 to 17 August 2009. Notification of the exhibition was given in the following local papers:

- Coffs Coast Advocate – 15 July 2009; and the
- Coffs Harbour Independent – 16 July 2009

Exhibition locations were at:

- Nature Conservation Council of NSW, Level 2, 301 Kent Street, Sydney, NSW;
- Department of Planning, Information Centre, 23-33 Bridge Street, Sydney, NSW;
- Department of Planning, North Coast Regional Office, 76 Victoria Street, Grafton, NSW; and
- Coffs Harbour City Council, corner of Coff & Castle Street Coffs Harbour, NSW.

The EA was also provided for download on the Department's website.

Letters were sent to adjoining landowners and relevant government agencies, including Council, notifying of the exhibition and inviting a submission. A total of 17 submissions were received, comprising 9 submissions from the public and 8 submissions from public authorities being:

1. Department of Planning
2. Coffs Harbour City Council (1 submission for each application)
3. NSW Office of Water
4. Department of Environment, Climate Change and Water (DECCW)
5. Solitary Islands Marine Park Authority
6. Rural Fire Service
7. Northern Rivers Catchment Management Authority
8. Roads and Traffic Authority (RTA)

The 9 submissions received from the public included 1 letter of outright objection, 5 letters of partial support, and 3 letters of outright support. Of the public authority submissions, all provided issues that were required to be addressed, except for the DECCW which raised concerns with regard to the Proposal. The RTA raised no issues with the Proposal.

A PPR was lodged on 15 October 2009. However, as a number of issues were not adequately addressed the Department requested the PPR be amended. The final PPR was accepted on 28 October 2009.

4.2 PUBLIC SUBMISSIONS

4.2.1 Summary of issues

The following issues were raised in the public submissions:

- Implications of the increased ground level (fill) on neighbouring properties, including visual, privacy, and overshadowing impacts of a possible 2.4m high wall separating proposed Lots 1 and 25 from numbers 9, 9a, and 14 Beachfront Close;
- Aesthetics of the interface between the Proposal and neighbouring properties to the south;
- Loss of views impacting Lot 7, Beachfront Close - requested a reduction in roof levels on Lots 1 and 2 by 500mm to allow for uninterrupted views; and
- Impact of the loss of tourism on surrounding business. S-Cape Café at Nautilus Resort expressed concern over the change of use from tourist to residential and potential loss of income.

An assessment of the key issues from the above list can be found in **Section 5** of this report. The Proponent responded to these submissions within the PPR, in **Appendix 4**.

4.3 PUBLIC AUTHORITY SUBMISSIONS

The following submissions were received from public authorities:

4.3.2 Coffs Harbour City Council

A submission was received from Coffs Harbour City Council (CHCC) on the 24 August 2009 regarding the Stage 1 project application (09_0060). The submission raised no issues with the application, and instead provided draft conditions of approval relating to the on-site management of demolition works.

A further submission was received from Coffs Harbour City Council on 2 September 2009 regarding the application to modify the approved concept plan (06_0148 Mod 1). Council raised a number of issues including coastal hazards, internal access, the provision and ownership of services, the impact of earthworks (fill) on adjoining properties, adequate visitor car parking arrangements, landscaping, the community lot, design guidelines implementation, and the detailed requirements of the Community Management Statement.

4.3.3 Rural Fire Service

A response was received from the Rural Fire Service (RFS) on 11 August 2009. The submission raised issues in regards to water and utilities, access, and landscaping and noted that the site would be subject to further applications under the Act, and would therefore need to address the requirements of *Planning for Bushfire Protection 2006*.

4.3.4 Roads and Traffic Authority

A response was received from the RTA on 29 August 2009. The RTA had no further concerns with the Proposal as issues regarding traffic and access were unchanged from the previous concept plan approval. Construction traffic will be controlled by conditions of approval for the Stage 1 project application.

4.3.5 NSW Office of Water

A response was received from the NSW Office of Water on 17 August 2009 and raised issues regarding the potential use of, and licensing of, existing bores on-site, the potential for construction works to intercept the water table, the potential for acid sulfate soils to be found on-site, and the construction of the stormwater basin.

4.3.6 Department of Environment, Climate Change and Water

A response was received from the DECCW on 21 August 2009. DECCW raised issues in regard to coastal hazards and the pending Coffs Harbour LGA Coastal Hazard Definition Study, Aboriginal community consultation and heritage.

4.3.7 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. A submission was received on 19 August 2009 from the Solitary Islands Marine Park Authority (MPA) requesting the latest climate change predictions regarding sea level rise be addressed as they relate to coastal hazards.

4.3.8 Northern Rivers Catchment Management Authority

A submission was received from the Northern Rivers CMA on 17 August 2009 that raised issues in regards to the rehabilitation of the dune system, maintenance of the dunal vegetation, the potential for acid sulfate soils, and the provisions of the Northern Rivers Catchment Action Plan.

4.3.9 Department of Planning

Issues were raised in regard to the incorrect classification of the Environment Protection 7A Habitat and Catchment zoned vegetation as Dry Sclerophyll Forest rather than Lowland/Littoral Rainforest; the alignment of Lot boundaries at the top of the slope adjoining this vegetation; bushfire safety and Asset Protection Zones; the Design Guidelines and their interaction with the NSW Housing Code; public access to the beach; earthworks (fill) levels; connectivity with neighbouring Beachfront Close; and the timing of foredune rehabilitation works.

4.3.10 Conclusion

The issues raised above are discussed in **Section 5** of this report and addressed by the Proponent's Environmental Assessment, the Preferred Project Report and revised Statement of Commitments, and conditions of approval where considered necessary.

5 ASSESSMENT OF ENVIRONMENTAL IMPACTS

Key issues considered in the Department's assessment of the Proposal and consideration of the Proponent's Statement of Commitments include the following:

- Subdivision - design, layout, density, open space, connectivity and setbacks;
- Visual impacts;
- Coastal processes and climate change;
- Stormwater Management;
- Flora and Fauna;
- Aboriginal heritage;
- Earthworks and fill levels; and
- Construction effects.

It is important to note that the nature and scale of these issues has been assessed against that which was approved previously, effectively acting as a 'permitted baseline'. Only key issues, or issues that have changed significantly are discussed here.

Some of these issues were resolved following consultation with the Proponent, or were directly addressed via the Proponent's Environmental Assessment, Preferred Project Report and revised Statement of Commitments, and where considered necessary, the Department's recommended conditions of approval. Significant issues are discussed in detail below.

5.1 SUBDIVISION LAYOUT AND DESIGN

5.1.1 Layout

The amendment to the approved concept plan provides for the subdivision of the site into 40 lots as follows:

- 14 Beachfront lots (lots 1-14);
- 11 Beach Garden lots (lots 15-25);
- 8 Hillside lots (lots 26-33);
- 6 Hilltop lots (lots 34-39); and a
- Community lot (Lot 40) (conservation area, road reserves, communal open space).

Each of the 39 residential lots will be for a detached residential dwelling. These lots occupy the same site area as in the previously approved concept plan apart from minor boundary adjustments in some areas. The larger lots which formerly contained residential flat buildings have been further subdivided thus increasing the number of proposed lots on the site from 26 to 40.

The lots are orientated east/west to maximise solar areas and cross ventilation to individual houses and to provide opportunities for ocean views from each house. Access to the lots has not been altered from the approved concept plan and is provided through a centrally located east/west spine road connected to a north/south road providing access to the beachfront and beach garden lots.



Figure 6. Subdivision layout with precincts identified

5.1.2 Design

The buildings permitted on the site will primarily be a maximum of two storeys, with three storeys allowed on lots 33, 34, 35, and 36 adjacent to Pacific Highway, and three storeys also allowed on lots 15-19 on the lower site immediately in front of the 7A Zoned vegetation (the Beach Garden precinct). The eventual built form of the buildings on the site will be controlled largely by the draft Design Guidelines provided as part of the application. The final Design Guidelines will be submitted to Council with application for subdivision (Stage 2). These will provide information for each owner on building location and setbacks, building heights, maximum roof levels, private open space areas, maximum floor space and general style of housing which will be acceptable on each lot.

The NSW Housing Code will also apply to part of the site, and together with the Design Guidelines will exercise control over the built form of the development and ensure a high quality of design, provide an ability for variable building concepts and diversity, and maintain the character of the site.

A Community Association will also be established through the Community Management Scheme, and they will be responsible for administering the Design Guidelines prior to any application to Coffs Harbour Council.

There will be no overshadowing of open space or the beachfront. The maximum height on site will be 11m above ground level or three storeys.

The built form proposed as part of this Proposal represents a reduction in bulk and scale from that previously approved.

Beach Front Precinct

The beachfront housing has a linear design across the front of the site facing Campbell's Beach, broken by a communal open space corridor which is approximately 20m wide. The houses have varying facades, setbacks, height (one and two storeys) and materials. Existing and proposed dunal vegetation on the site will reduce visibility of these houses from the beach. Their design will facilitate view corridors to the ocean from the Beach Garden lots behind. An existing condition of the approval specifies that beachfront houses must be a mixture of 1 and 2 storeys.

The low scale and variation in height, facades and setbacks minimises the visual impact of the beachfront houses on the foreshore and is a reduction in development intensity than that already approved. The actual houses will be setback approximately 18m from the public area of Campbell's Beach (proposed Lot 40). Mean high water mark is approximately 80-85 m from the seaward most edge of the houses.

Beach Garden Precinct

Individual buildings will be designed to take advantage of the view corridor provided by the mix of 1 and 2 storeys in the Beach Front precinct. Lots 15-19 in the lowest part of the site may build up to 3 storeys in height.

Hillside and Hilltop Precincts

Individual houses will be sited and designed to maximise views of the ocean by overlooking building roofs at lower levels and/or view corridors at lower levels and along the central access road. The houses will incorporate aspects of beachside homestead architecture such as verandahs, raised ground level floors, metal roofs and painted weatherboard cladding.

5.1.3 Density of development

The development proposes the subdivision of the site into 40 lots under a Community Title Scheme, comprising 39 residential allotments and 1 communal allotment. Lot sizes range from 430m² to over 900m². Coffs Harbour Residential Tourist Lands DCP aims for Sapphire to provide medium density accommodation (for either residential or tourist purposes) and sets a residential density control of 1 dwelling/200m². Although the Proposal constitutes a reduction in density from that previously approved, it is considered appropriate given the topography of the site, the desired future character of the development, and the neighbouring residential dwellings to the south of the site.

5.1.4 Open Space

Open space areas will remain as in the approved concept plan, as follows:

- the pedestrian pathway along the main road;
- the public pedestrian access to Campbells Beach along the northern extent of the site;
- the landscaped parkland at the central beach link;
- the landscaped area to the west of the dune;
- the protected and rehabilitated 7(a) zone; and
- the public open space at the nearby Campbells Beach.

The communal open space has an area of 9,849m². The 7A conservation zone measures 2,368m². Not including road reserves, rights of way, vegetation buffers and public access to the beach – open space and conservation areas account for almost 1/3 of the site.

5.1.5 Connectivity

As part of the exhibition process, the Department raised the possibility of connecting the proposed beachfront road with Beachfront Close immediately to the south to provide for a reinforced road hierarchy, enhanced connectivity between open spaces, and reduce the perception of private open space and privatisation of the coastline. Beachfront Close is a cul-de-sac in private ownership (community title) that has been designed to cater for the small amount of traffic servicing those beachfront lots. The road is narrow and part-suspended above a steep section of the site. However, the Owners Corporation of Beachfront Close confirmed by letter that connection of the two roads would not be favoured due to maintenance, liability, privacy and security issues. The Department considers these issues to be more significant and outweigh the minimal benefit gained from requiring a road connection in this locality.

5.1.6 Setbacks

Council's Residential Tourist Lands DCP requires side boundary setbacks to be assessed on merit. Side setbacks are set for each individual lot, but in general they vary between 1.5m and 6m. A maximum continuous wall length of 15m for second storeys applies to the entire site.

Lot 1 will have a 4m setback to the southern boundary of the site, and Lot 14 will have a setback of 4.5m to the northern boundary of the site for both single and second storeys. The rest of the northern boundary of the site is proposed Lot 40 (the road). The southern boundary of the site adjoins slightly elevated land with a height limit of 7.5m above ground level. The setbacks proposed on the southern boundary of the site vary between 3-6m for single storey, and 4-13m for the second storey depending on the nature of the topography. Lot 33 also has a 9m setback to the southern boundary for a third storey.

Setbacks are considered appropriate for the site and final Design Guidelines will be submitted to Council for approval as part of the Stage 2 subdivision application.

Building on the site is constrained in the east by a 100 yr coastal hazard line and Foreshore Building Line (as stated in the *CHCC Residential Tourist Lands DCP*), and to the west by a 20m building line from the Pacific Highway. No building works are proposed within these areas.

5.2 VISUAL IMPACT

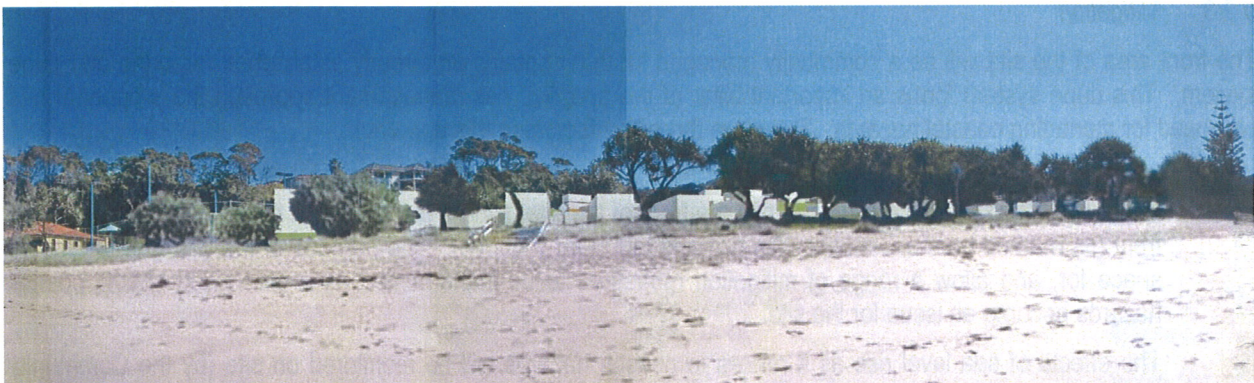


Figure 7. View of Proposal from Campbell's Beach

The proposal generally provides for reduced visual impact due to the reduction in bulk, scale and height of buildings across the site. The removal of the apartment blocks from the centre and top of the site improves the impression of the development from the highway and from the water. The beach front housing remains a mixture of 1 and 2 storey housing and views across the site from these lower levels remain unchanged. This variable height allows for view shafts to permeate through the development from the Beach Garden precinct behind, and neighbouring properties. Proposed landscaping will further reduce the visual impact of the development from the beach.

Final design guidelines will be submitted for approval to Council as part of the Stage 2 subdivision application.

5.3 COASTAL PROCESSES AND CLIMATE CHANGE

5.3.1 Foreshore Setbacks

All development is still proposed to occur landward of the 100 yr coastal hazard line (as per Willings and Partners, *Map 1 Campbells Beach Hazard Lines*, September 1999). 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.

5.3.2 Coastal Hazards

The Proponent was required to investigate the impact of predicted sea level rise in the DGRs. DECCW had released a Sea Level Rise Policy nominating two sea level scenarios (based on 1990 baselines):

- A sea level rise of 0.4m by 2050, and
- A sea level rise of 0.9m by 2100.

The 100 yr hazard line was recalculated using the new sea level scenarios and a revised (steeper) beach slope more relevant to the immediately adjacent area of Campbell's Beach. This resulted in a hazard line almost identical to the existing 100 yr coastal hazard line as defined by Willings and Partners in 1999.

DECCW made a submission on this aspect of the Proposal that requested the determination of the application be deferred until such time as the Coffs Harbour LGA Coastal Hazard Definition Study is completed. In the absence of this study DECCW requested that the Proponent demonstrate compliance with 'worst case' scenarios for sea level rise and coastal hazards. Given that the Proponent has remapped the 100 year coastal hazard line to incorporate sea level rise scenarios, this is considered to have been satisfactorily addressed.

There is no change proposed to the oceanic inundation planning level of 7m AHD. Building floor levels would remain at 7.5m AHD, thus providing 0.5m of freeboard. The entire lower portion of the site will be filled to a level of 7m AHD to establish this level. While this planning level does not contain any provision for a rise in sea level, the Proponent has adopted an adaptive risk management approach, as discussed below, to mitigating and/or avoiding coastal hazards.

5.3.3 Mitigation

The front area of the site will be a community managed lot that contains an already established foredune and dune system. This dune system forms an important pillar of the adaptive risk management approach the proponent has proposed for managing coastal hazards. There are three key factors in this approach:

1. the Sea Rise Protection Zone: as part of the Community Management Statement, a Sea Rise Protection Zone (SRPZ) will be established across the front of the site using the entire width of Lot 40 along the beach front (as marked on the Concept Plan drawing in Figure 5 above). The purpose of the SRPZ is to reserve space for, and allow a range of mitigation measures to be implemented as a precaution should coastal hazards become an issue for the site.

The effects of sea level rise as it relates to coastal hazards will be monitored on site (by the Community Association) and when a certain trigger value is reached (equivalent to the 50 year hazard line or a rise in sea level of 0.6m), the best practicable adaptation strategy will be formulated. This will be initiated by the Community Association and a suitably qualified person, and will be developed in conjunction with the appropriate authorities. An equitable levy is proposed on each lot to fund any additional adaptation works proposed.

2. Dune rehabilitation and maintenance: A Dune Management Plan was submitted as part of the PPR and requires the Proponent to report on its effectiveness after a period of 3 years. Notwithstanding this, a condition has been placed on the concept plan to ensure that the foredune is maintained in a healthy state at all times. Dune rehabilitation works will commence immediately (with Stage 1 demolition and site preparation works) to allow the dune to establish itself as quickly as possible.
3. as an additional precautionary measure, the foundation of the first row of dwellings will be designed to withstand wave run-up. Further detail of this design will be provided with applications for Stages 2 and 3 of the Proposal.

The Proponent has addressed DECCW's concerns by completing their own updated hazard assessment in lieu of Council's completed hazard definition study. Furthermore, the Proposal is consistent with the approach

recommended in the Department's *Draft NSW Coastal Planning Guideline: Adapting to Sea Level Rise* (October 2009)

In conclusion, the approach outlined above is considered to be a reasonable and innovative adaptation strategy to future potential issues associated with the impacts of projected sea level rise. Conditions placed on the concept plan, the project approval and other documentation provided by the Proponent (as modified) are sufficient to provide for an adaptive risk management approach to coastal hazards in this location.

5.4 STORMWATER MANAGEMENT

Because of changes to the layout and scale of the proposed development of the site, a revised stormwater management strategy was prepared. The strategy incorporated elements of Water Sensitive Urban Design and satisfied Coffs Harbour City Council requirements. It includes: a detention basin at the foot of the 7A Zoned vegetation to attenuate flows, a subsurface network of stormwater pipes, rainwater tanks, bio-retention swales, pit baskets and a Gross Pollutant Trap. The existing pipe outlet to Campbell's Beach will be upgraded to 1200mm diameter to accommodate site discharges and flows from the development adjoining to the south.

5.5 FLORA AND FAUNA

The proposed modifications to the concept plan do not alter the impacts to flora and/or fauna. The Department's Senior Environmental Advisor assessed the EA and issues were raised in regard to the description of the Environmental Protection 7A Habitat and Catchment zoned vegetation as dry sclerophyll forest. The Proponent accepted the revised description of this vegetation as lowland or littoral rainforest and submitted a revised Vegetation Management Plan as part of the PPR to reflect the appropriate management and rehabilitation of this area. These documents will form a part of the concept approval. There are no additional environmental management impacts from this change as it relates to flora and fauna.

5.6 ABORIGINAL CULTURAL HERITAGE

As the site is located directly behind Campbell's Beach, there is the potential for finding Aboriginal artefacts or places on the site. Consideration has been given to issues raised in consultation and appropriate mitigation of any potential adverse effects on Aboriginal cultural heritage.

DECCW raised concern over Aboriginal cultural heritage values on-site, and particularly had concern with the extent of consultation with the Aboriginal community and the management of any potential finds. As no large scale earthworks are intended as part of this Proposal, it is expected that there will be no significant sub-surface disturbance on-site. Furthermore, it is likely there will be no disturbance to Aboriginal cultural heritage during the removal of services as sub-surface disturbance was previously required during their installation.

In partial fulfilment of their requirements under the previously approved concept plan, the Proponent submitted a revised Archaeological Assessment Report to DECCW for approval on 9 May 2009. DECCW have responded to the submission of this report by the Proponent by making a submission during the public exhibition period outlining conditions to be attached to any approval. Although no further consultation has been undertaken with the local Aboriginal community since 2007, the potential for adverse effects on Aboriginal cultural heritage as a result of the Proposal are considered to be no greater than that already approved. Furthermore, conditions attached to both the Project Approval and the Concept Plan Modification Approval will ensure that appropriate consultation occurs prior to works commencing, and effective management of artefacts or sites occurs throughout the re-development of the site.

5.7 EARTHWORKS AND FILL LEVELS

During the exhibition period, a number of public submissions were received from adjoining property owners/occupiers and the Coffs Harbour City Council regarding the impact of proposed fill levels on adjoining properties immediately to the south of the development. Issues essentially related to the creation of a visually imposing vertical retaining wall up to 1.2m high (resulting from the necessity to increase ground levels to mitigate flood and inundation concerns) combined with a fence along the southern edge of the site. As a result of the issues raised the Proponent offered to 'soften' the interface of Lots 1, 25 and 28 with the adjoining properties by creating a sloping, planted edge to the development (refer Figure 8 below) along these edges. This has resulted in a reduced visual impact for neighbours and created a smoother transition between the development proposed, and existing development. A letter has been provided from a nominated representative of the neighbouring properties confirming that the revised design is an acceptable solution.

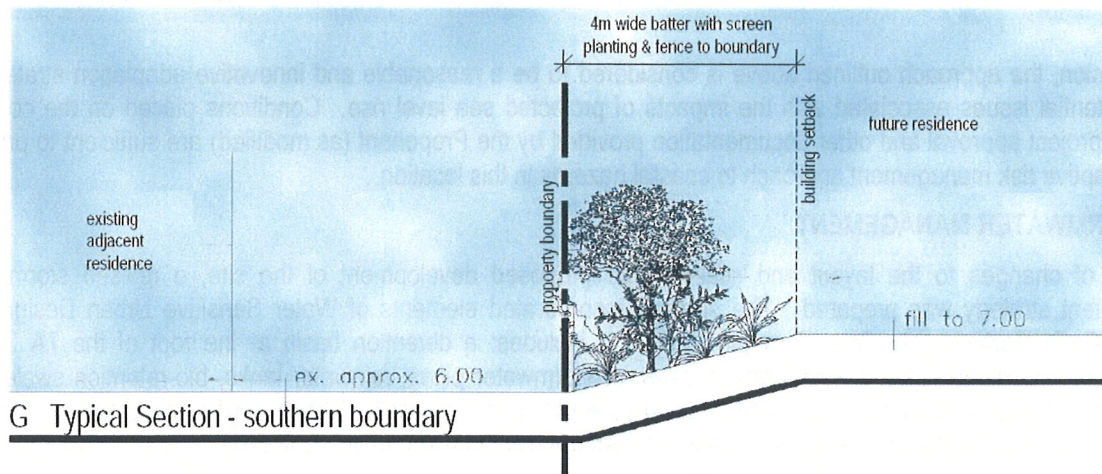


Figure 8. Cross-section at the southern boundary of Lot 25. Note difference in levels from 6.0m AHD (neighbouring residence) up to 7.0m AHD on site.

5.8 DEMOLITION AND SITE CLEARANCE WORKS

No significant issues were raised during public exhibition in relation to the Stage 1 demolition and site clearance works. As a result the potential adverse effects of the works can be effectively managed by the imposition of standard conditions, including conditions relating to the control of noise, vibration, procedures to follow for potential Aboriginal heritage finds, site management, erosion and sediment control, traffic and access, and procedures for notification. It is anticipated that there will be no significant adverse effects on the surrounding neighbourhood as a result of demolition and site clearance works.

6 CONCLUSION

Concept Application Modification

The Department has considered the key issues raised as a result of the proposed modification, and has recommended modifications to the concept plan, requirements for future applications and conditions of approval to ensure the satisfactory addressing of these issues and minimal impacts as a result of the Proposal. Key modifications and conditions of approval include:

- A modification to the future approval regime, with Stage 1 being assessed under Part 3A of the Act concurrently with the concept plan modification, and Stages 2 and 3 subject to the provisions of Part 4 of the Act and assessed by Council and/or the relevant certifying authority.
- The inclusion of a Sea Rise Protection Zone, foredune rehabilitation works initiated as soon as possible, and specialised foundations supporting the front row of houses on site. This will provide for an adaptive risk management approach to be taken to combat the potential for increased hazard risk as a result of climate change induced sea level rise.

The proposed development will provide for the establishment of a quality residential development within a zoned area that allows for both residential and tourist development.

Consequently, the Department considers the site to be suitable for the proposed development and that the project is in the public interest. In addition, the Proposal has largely demonstrated compliance with the existing environmental planning instruments. Therefore, the Department recommends that the concept plan modification be approved, subject to the modifications to the concept plan, requirements for future applications and conditions of approval.

Project Application:

The Department has assessed the EA and PPR and considered the submissions in response to the Proposal. The key issues raised in submissions related to the potential effects of construction and the management and mitigation of these impacts. The Department has considered these issues and a number of conditions are recommended in conjunction with the Proponent's Statement of Commitments to ensure these issues are satisfactorily addressed and the Proposal has minimal impacts.

The proposed development will provide for demolition of the existing derelict resort and ancillary buildings/structures and allow for earthworks and the eventual redevelopment of the site as a residential area. Furthermore, the Proposal has demonstrated compliance with the existing environmental planning instruments and meets the intent of the approved Concept Plan for the site (as modified).

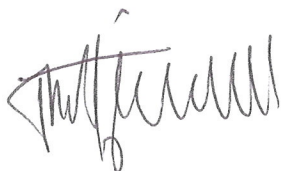
On these grounds, the Department considers the site to be suitable for the proposed project and that it is in the public interest. Consequently, the Department recommends that the project be approved, subject to the conditions of approval.

7 RECOMMENDATION

It is recommended that the Director-General, as delegate for the Minister for Planning:

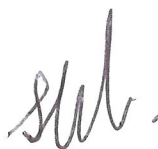
- (A) **consider** the findings and recommendations of this Report;
- (B) **approve** the modification to the Concept Plan pursuant to Section 75W of the *Environmental Planning and Assessment Act, 1979*; subject to modifications of the concept plan; and sign the Instrument of Approval at **Appendix A**;
- (C) **determine**, that pursuant to Section 75P(1)(a) that future development for Stage 1 be subject to Part 3A of the Act;
- (D) **approve** the carrying out of the Project for Stage 1 of the Proposal, under Section 75J of the *Environmental Planning and Assessment Act 1979*; subject to conditions; and sign the Instrument of Approval at **Appendix B**; and
- (E) **determine**, that pursuant to Section 75P(1)(b) of the *Environmental Planning and Assessment Act 1979*, approval for Stages 2 and 3 of the Proposal be subject to Part 4 of the Act.

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