

JRPP No.	Item 1 (2009NTH018)
DA No.	661/10
Proposed Development	COMMUNITY TITLE SUBDIVISION COMPRISING 40 LOTS (39 RESIDENTIAL LOTS AND 1 COMMUNITY LOT), LOTS 100 AND 101, DP629555 AND LOT 2, DP800836, NO. 740-742 PACIFIC HIGHWAY, SAPPHIRE BEACH
Applicant:	Sapphire Beach Development Pty Ltd
Report By:	Coffs Harbour City Council

Assessment Report and Recommendation

Purpose:

This report recommends conditional approval to Development Application No. 661/10 for a 40 lot community title subdivision at Lots 100 and 101, DP629555 and Lot 2, DP800836, No. 740-742 Pacific Highway, Sapphire Beach.

Concept approval for this development proposal was issued in November 2009 by the Minister for Planning (06_0148 Mod 1).

The application is to be determined by the Joint Regional Planning Panel – Northern Region.

Description:

The Site:

The site comprises 3 lots and has previously operated as the Pelican Beach Resort (114 suites, parking areas and recreational facilities) and the “Seafood Mamas” restaurant. Both uses have been closed for some time. The site has an area of 41503m². It terraces steeply from the Pacific Highway down to the Campbell’s Beach coastal dune (from a level of 27m AHD to 6m AHD). The site is accessed from the Highway via a shared access with adjoining northern properties.

The site comprises a lowland/littoral rainforest, the dune system, open grasses and kept lawns. The lowland/littoral rainforest occupies a steep part of the site and is zoned environmental protection.

The site is adjoined by residential development to the south (Coachmans Close and Beachfront Close) and to the north (No. 744 a townhouse/apartment complex). The Nautilus Resort is located further to the north of the site.

Campbells Beach is adjacent to the eastern boundary of the property. The beachfront dune is generally low lying, grassed with sporadic pandanus palms and remnant casuarinas’ and Banksias.

There is currently no public access available through the site to the beach. Council is benefitted via a right-of-way to access a sewerage pump station that is located on the northern side of the site.

Plans:

The following plans describe the proposal:

- Concept Plan SK01(A)
- Open Space and Pedestrian Circulation SK02
- Stormwater Management SK03
- Subdivision Plans SK06
- Site Analysis SK08
- Excavation and Fill SK10
- Subdivision and Aerial SK15
- Subdivision and Zoning SK16

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Department of
Planning

Major Project Number: 20, 204 (Map 1) approved on 11
November 2009 by the Minister in accordance with the
Environmental Planning & Assessment Act 1998, subject to
conditions of approval.



NOTES:

1. All lots are to be surveyed and shown on a plan of subdivision.
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Appendix 1
Figure 1
 Map of the Study Area
 The map shows the location of the study area in the Northern Territory. The map includes the following information:
 - The location of the study area in the Northern Territory.
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 - The location of the study area in the Northern Territory.



BITE ANALYSIS

SK 08

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Previous Concept Plan Approval (MP 06_0148):

In May 2007 the Minister for Planning granted concept approval to the redevelopment of the site with 122 dwellings, 26 lots in a community title subdivision scheme, 270 car parking spaces, access roads, communal facilities (including an office, reception area, commercial kitchen, pool and gymnasium), communal open space (3715m²) and revegetation and rehabilitation works. The concept approval endorsed a mix of 3-4 storey apartment blocks, 3 storey townhouses and 1-2 storey beachfront villas for the sites redevelopment. This concept approval also supported demolition of the existing buildings and structures and the reestablishment of the dunes. This concept approval included staging arrangements and an approvals regime for future applications.

Demolition Approval (MP 09_0060):

In November 2009 the Minister for Planning granted conditional approval for the demolition of existing buildings, the commencement of dune rehabilitation works and general site preparation. This approval also supported the removal of any vegetation outside of the dune area and the Environmental Protection 7A Habitat and Catchment zone not marked for reuse or transplanting. Clean bricks, rubble and concrete resulting from the demolition works are to be retained for fill on the site.

Commencement of demolition works are imminent at the time of this report preparation.

Concept Plan Approval Modification (MP 06_0148 Mod 1):

In November 2009 the Minister for Planning granted conditional approval for modification to the approved concept plan, for:

- 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 (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 554m²);
- 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, being the subdivision and the future dwellings).

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.

Approvals Regime:

As part of the determination of Concept Approval MP 06_0148 Modification 1 it was determined that all future applications be dealt with under Part 4 of the Act.

The subject application (No. 661/10) comprises a subdivision for residential purposes of land that is not in the metropolitan coastal zone into more than 25 lots but not more than 100 lots. Consequently DA 661/10 is for Regional Development (pursuant to Clause 13C(d) of the Major Development SEPP). The application is therefore to be determined by the Joint Regional Planning Panel, Northern Region.

Development Application No. 661/10:

This application is for the Community Title subdivision of the site 40 lots, comprising 39 residential lots and the community lot.

Access to the subdivision is provided through a central east/west road connection to a north/south road that provides frontage to beachfront and beach garden lots.

Pedestrian access (available to the public) will be provided via pathways located adjacent to the Highway and northern boundary of the site extending to the beach. This access will form part of the Coastal Walk. A central "internal" beach access for residents of the subdivision will also form part of the proposal.

The subdivision will connect to normal reticulated services – power, telecommunications, water and sewer.

The 40 lot subdivision comprises:

- 14 beachfront lots (1 – 14)
- 11 beach garden lots (15 – 25)
- 8 hill side lots (25 33)
- 6 hill top lots (34 – 39)
- Community lot (conservation area, road reserves, communal open space).

Each lot will be for a detached residential dwelling. Lots vary in area from 427.3m² to 908m² and are oriented east/west for maximisation of views.

Future dwellings (subject to separate determinations) are subject to compliance with Design Guidelines that are called up in the Community Management Statement. The Design Guidelines limit housing generally to 2 storeys, with 3 storeys on Lots 33 – 36 and 15 – 19. The Design Guidelines provide controls on building footprint, setbacks, heights, maximum roof levels, private open space, maximum floor space and general housing styles for each of the 39 lots. The Community Management Scheme provides for house design approvals by the Association's Design Review Panel prior to seeking the Part 4 approval (from Council or an accredited certifier). The Association's Panel must include a qualified and licensed architect.

Proposed housing on the site is limited to the east by a 100 year coastal hazard line and foreshore building line and to the west by a 20 metre building line from the Pacific Highway. These setbacks are reflected in the Design Guidelines.

CONSULTATION:

The application was advertised on two occasions in the Coffs Harbour Independent from 8 January 2010 to 21 January 2010 and from 12 February 2010 to 25 February 2010. Adjoining and nearby property owners were notified of the application by letter on 4 January 2010 and 9 February 2010 with each notification providing a 14 day period for review and submission making.

The application was referred to NSW Rural Fire Service for approval terms as Integrated Development Under Section 91 of the Act and the Solitary Islands Marine Parks Authority (SIMPA) and the RTA for comment.

The application was also referred to a number of internal technical sections at Council for review, comment and conditions.

Two (2) public submissions were received following exhibition. Matters raised in these submissions cover:

- recommending that Council await the completion of its coastal processes and hazard study which will be completed next month prior to any decisions being taken;
- the development should address the reestablishment and protection plans for vegetation, such as Littoral Rainforest and wildlife corridors which would have been present prior to original resort development;
- have a management plan in place to address adequate setbacks, buffer zones and a program of revegetation and weed management; and
- that an Aboriginal Cultural Heritage assessment be undertaken to ascertain if any Aboriginal Cultural Heritage constraints may exist over the development envelope.

These submissions are considered in the accompanying Section 79C report.

Submissions were received the NSW RFS, SIMPA and the RTA. Matters raised by these public authorities as well as advice from Council's Technical Sections are considered in the accompanying Section 79 C report.

STATUTORY ASSESSMENT:

The site is zoned part Residential 2E Tourist and part Environmental Protection 7A Habitat and Catchment under the Coffs Harbour City Local Environmental Plan (LEP) 2000.

The proposal, subdivision, is permissible with consent in the 2E zone and the rehabilitation/revegetation works proposed in the 7A zone are permissible without consent.

The application has an integrated development category as approval terms are required from the NSW Rural Fire Service (Section 91 of the Environmental Planning & Assessment Act). The application is identified as "regional development" under the Major Development SEPP and as a consequence the application is to be determined by the Joint Regional Planning Panel (Northern Region).

Section 79C of the Environmental Planning & Assessment Act 1979 specifies the matters which a consent authority must consider when determining a development application. The consideration of matters is limited in so far as they must be of relevance to the particular application being examined.

A Section 79C evaluation is provided as Appendix A to this report.

ISSUES:

Design Controls:

The site is zoned Residential 2E Tourist under the Coffs Harbour City LEP 2000 with the exception of the littoral rainforest area that has a 7A Environmental Protection Habitat and Catchment zone. The relevant Development Control Plan for this site is the Residential Tourist Lands DCP. This Plan's controls are primarily directed to tourist related development and for this particular site sets a density of 1 tourist unit/150m² or 1 dwelling/200m²; a 20 metre Highway setback with 6m to local roads; merit assessment for side and rear boundaries and a 14 metre height limit.

The Design Controls proposed in the application are seen as a preferred approach to providing a 'balanced' residential development of this site and the appropriate control for the assessment of future housing proposals. The Community Scheme's requirement for an association appointed panel (with architect inclusion) to sign-off on proposals prior to obtaining a Part 4 approval is both functional and practical. Council intends to apply the approved Design Controls in its assessment role for future housing applications.

The NSW Housing Code may apply to some of the lots in the subdivision (those that are not mapped as bushfire prone and those that satisfy the lot frontage/area requirements of the Code). Controls under the Community Scheme will be able to regulate house designs considered under the Housing Code by the sign-off process prior to any Part 4 approval being sought by an applicant.

Coastal Processes and Climate Change:

The proposal has been assessed referencing the NSW DECCW Sea Level Rise Policy (0.4m to 2050 and 0.9m to 2100), the 1999 Willing and Partners Campbells Beach Coastal Management Study and the definition of the 100 year hazard line as defined in this report. This assessment is supported by Council's City Services Section (Coastal and Flooding).

The 100 year hazard line was recalculated using the new sea level scenarios and the revised (steeper) beach slope more relevant to the immediately adjacent area of Campbells Beach. This resulted in a hazard line almost identical to the 1999 Willing's coastal hazard line.

The proposal provides for an oceanic inundation planning level of 7m AHD. Building floor levels are proposed at 7.5m AHD. The entire lower portion of the site is to be filled to 7m AHD. An "adaptive risk management approach" for a rise in sea level has been proposed and is endorsed. This approach comprises the establishment of a Sea Rise Protection Zone across the front of the site (within the Community Lot (Lot 40)) to allow for the implementation of mitigation measures should coastal hazards become a risk to the site. Sea level rise is to be monitored and certain triggers will require the development and implementation of mitigation measures. This process will be initiated by the Community Association, a suitably qualified person, and in consultation with appropriate authorities. Additional mitigation works include dune rehabilitation and maintenance works and a requirement that the foundations for the most eastern row of dwellings are designed to withstand wave run-up.

The applicant's coastal hazard assessment and management controls are supported and consequently it is not considered necessary to await the completion of Council's Coastal Hazard Study that is currently in preparation.

View Impact:

Buildings on the site will adhere to a 100 year coastal hazard line and foreshore building line. The eastern row of housing is limited to a mixture of 1 and 2 storey buildings. This row is broken by a central park/beach access. The existing dune is to be rehabilitated to mitigate view impacts from Campbells Beach.

Buildings will also observe a 20 metre Highway setback.

The subdivision pattern, design guidelines, density of housing and landscape treatment will result in an acceptable visual impact from the development, compatible with that of adjoining properties.

Flora and Fauna:

The development will result in the rehabilitation and ongoing management of the dune and littoral rainforest parts of the site through the preparation and implementation of relevant management plans.

Stormwater:

The stormwater design will incorporate elements of Council's Water Sensitive Urban Design Policy, to include a detention basin, subsurface stormwater drainage lines, rainwater tanks, bio-retention swales and pollution traps. Design details are to be approved as part of the construction certificate process.

Aboriginal Heritage:

An Aboriginal Cultural Heritage report was prepared for the Concept Application. This report was amended for the Concept Application Modification. Subsequently a Cultural Heritage Management Plan was prepared and submitted with this application. The Management Plan covers consultation, education and management requirements in relation to aboriginal cultural heritage considerations. The consent has been conditioned to address this consideration of the development proposal.

Earthworks and Fill Levels:

The site is to be filled by approximately one metre. Site filling is to be battered and landscaped in proximity to the southern boundary (Lots 1, 25 and 28) to ameliorate potential adverse visual impacts on adjoining properties. During determination of the Concept Application Modification it was noted that a nominated representative of the neighbouring properties endorsed this proposed treatment.

Concept Plan Approval and Modification (MP06_0148 and MP06_148 Mod 1):

Development Application No. 661/10 is consistent with the Minister for Planning's approval of MP06_0148 and MP06_0148 Mod1. Relevant conditions/commitments applied to this concept approval and modification have been applied to the recommended development consent.

SUMMARY:

Demolition works and dune rehabilitation works at this site form part of MP09_0060. The Minister for Planning has issued a Concept Approval and a Modification (MP06_0148 and MP06_0148 Mod1) for the proposed 40 lot Community Title Subdivision of the site.

The subject development application is consistent with the Concept Approval and Modification. Relevant conditions applied by the Minister to the Concept Approval and Modification are reflected in the recommended consent.

Primary development control issues of housing designs, coastal processes, climate change and sea level rise, visual impacts, flora and fauna, aboriginal cultural heritage, stormwater management and landform modification have been evaluated and are considered satisfactory and support conditional approval of the application. The application is consistent with relevant statutory planning controls and development controls that apply to the site.

Matters raised in public and public authority submissions to the application have been taken into account in the application's evaluation, and where considered necessary the consent conditioned accordingly. Matters raised in the submissions do not require amendment or change to the application.

The application is considered suitable for conditional approval.

RECOMMENDATION:

- 1. That Development Application No. 661/10 for a Community Title Subdivision comprising 40 lots (39 Residential lots and 1 community lot) at Lots 100 and 101, DP629555 and Lot 2, DP800836, No. 740-742 Pacific Highway, Sapphire Beach be approved subject to conditions specified in Appendix B.**
- 2. That persons who have made submissions on the application be informed of the determination.**

APPENDIX A

Section 79C Evaluation Development Application 661/10

a. the provisions of,

i. any environmental planning instrument, and

- ***North Coast Regional Environmental Plan/Mid North Coast Regional Strategy***

The Mid North Coast Regional Strategy, map 3, identifies this site for urban development (in line with the Coffs Harbour City LEP 2000). It is not an identified growth area. Under this application the site is proposed for redevelopment as a residential subdivision. The existing tourist facility and restaurant will be demolished. The area to which the development relates is zoned Residential 2E Tourist and Environmental Protection 7A Habitat and Catchment.

The proposal is considered to be consistent with the aims and objectives of the NCRE Plan. The relevant provisions of the Plan include: Clause 15 – Wetlands or Fishery Habitat; Clause 29A – Natural Areas; Clause 32B– Coastal Lands; Clause 66 – Adequacy of Community and Welfare Services; and Clause 81 – Development Adjacent to the Ocean or Waterways.

- The proposal includes stormwater management measures that will improve the quality of water flows and that will mitigate potential offsite impacts.
- The proposal does not involve the removal of any vegetation located within an environmental or scenic protection zone.
- The proposal is considered to be consistent with the provisions of the NSW Coastal Policy 1997, the Coastline Management Manual, and the North Coast Design Guidelines.

The NSW Coastal Policy outlines a number of strategic actions and design and location principles to be considered. Stormwater management will be achieved through a combination of measures including gross pollutant traps, swales and a constructed bioretention basin. The site is subject to coastal processes, and this hazard will be addressed by site filling, a foreshore building line, a minimum floor level requirement, dune rehabilitation and management, special foundation design for beach front housing and an adaptive risk management approach that requires certain protection works to be implemented in response to sea level rise.

The Coastal Management Manual focuses primarily on coastal hazards and processes. This issue has been considered in the design and management of the subdivision.

The North Coast Design Guidelines focus on urban design considerations and guidelines for maintaining the character of coastal areas. The proposal is considered to be consistent with these guidelines, resulting in the redevelopment of the site to a lower key and lower density built form that has acceptable visual impacts on the coastline, adjoining properties and the Pacific Highway.

The proposed development will not impede public access to the foreshore (as is currently the case), it in fact promotes the “coastal walk” by the coastal walk’s construction over this site and the creation of a public Right of Way over this pathway.

- The subject site is adequately serviced by community and welfare services in the nearby city of Coffs Harbour.

- ***State Environmental Planning Policy (SEPP) No 71 - Coastal Development***

The proposed development is considered to be consistent with the aims of the policy and satisfies the relevant matters for consideration and development control provisions. Clauses of particular relevance are discussed further below:

Clause 7 – Application of Clause 8 Matters

Clause 7 of the SEPP requires Council to take matters as listed in Clause 8 into consideration when determining development applications. Clause 8 matters have been taken into consideration in the assessment of the proposed development.

- The proposal is considered to meet the aims of the Policy.
- The proposal will not impede or diminish public access to and along the coastal foreshore, it promotes it via the coastal walk.
- Matters pertaining to Aboriginal cultural heritage significance have been assessed via a relevant Archaeological report, management plan and consent conditions.
- The site does not contain any known items of heritage, archaeological or historic significance.
- The proposed development will not adversely impact upon the scenic quality of the surrounding locality.
- The development has assessed the impact of coastal hazards and appropriate mitigation measures form part of the development.
- The subject site adjoins existing residential development to the south and north. The proposed development, in terms of type, location and design, is considered to be compatible with its immediate locality.
- The proposal will not result in any significant impacts to flora and fauna present on the site. The most significant vegetation will be retained and areas of the site (the coastal dune and the environmental protection area) will be regenerated.

Clause 16 – Stormwater

Clause 16 specifies that Council must not grant consent to development where stormwater will, or is likely to, be discharged untreated into the sea, a beach, an estuary, a coastal lake, a coastal creek or other similar body of water.

The proposed stormwater treatment response for the subdivision includes a combination of rain water tanks, pollutant traps, and bioretention systems. These measures will appropriately treat stormwater from the proposed development.

- **State Environmental Planning Policy No. 55 – Remediation of Land**

The site has been subject to detailed environmental assessment as part of the Part 3A applications and determinations. The assessments have determined that there is no requirement for the preparation of a Remedial Action Plan. The assessments disclosed the potential for the presence of asbestos products following demolition activity. The consent is conditioned to require validation soil testing and reporting for proposed lots 34 to 39 in the subdivision.

- **State Environmental Planning Policy – Major Development**

The application comprises a subdivision for residential purposes of land that is not in the metropolitan coastal zone into more than 25 lots but no more than 100 lots. Consequently the application is for Regional Development pursuant to Clause 13C(d) of this policy.

The application is responsive to Part 3A concept approvals (MP 06_0148 and MP06-0148 Mod1) for the community title residential subdivision of the site. The development application is consistent with these determinations. Conditions applied to the recommended consent take into consideration conditions and/or commitments applied to the Part 3A determinations.

- **Coffs Harbour City Local Environmental Plan (LEP) 2000**

Zoning

The subject site is zoned Residential 2E Tourist and 7A Environmental Protection Habitat and Catchment. The proposed development is defined as 'subdivision of land', which is identified as permissible with consent in the 2E zone. The residential subdivision is confined to the 2E portion of the site, the 7A zone is not intended to be fragmented by the subdivision proposal. No consent is required for environmental protection works that are proposed to be undertaken in the 7A zone.

Clause 13 - Landform Modification

The proposed development will involve excavation and filling to create the proposed lots, extend the necessary services, construct the internal roads and associated drainage infrastructure. The proposal satisfactorily addresses sediment and erosion, vegetation loss and drainage impacts associated with the proposed landform modification. It is proposed that Council impose a condition on the development consent that requires the preparation and approval by Council of a Sediment and Erosion Control Plan prior to issue of a Construction Certificate for the subdivision.

Clause 14 - Services

Sewerage, water and stormwater infrastructure is available to the subject site.

Clause 22 – Waterways

The site is identified by a "foreshore building line". Clause 22(3) requires consent for buildings to be erected forward of this line. The consent limits housing to west of this line.

Clause 22(4) requires Council to consider the objectives of the Marine Parks Act 1997. In this regard the application was referred to and considered by the Solitary Islands Marine Parks Authority. The Authority has issued conditional support to the application subject to sea level rise being a relevant consideration with respect to the proposal and sediment and erosion controls being implemented as part of the project.

Clause 23 (1) to (8) - Potential Acid Sulfate Soils

The subject land is mapped as Class 5 acid sulfate soils. Site filling is predominantly proposed, not excavation, and consequently the preparation of an Acid Sulfate Soils Management Plan is not required for the subdivision.

ii. The provisions of any draft environmental planning instrument

Nil applicable.

iii. any Development Control Plan (DCP)

• **Subdivision DCP**

The proposed subdivision is consistent with the provisions of this Plan. The proposal will involve the construction of an internal access road off the Pacific Highway in about the same location as the existing entry to the resort. The internal road construction will include the provision of parking bays, kerb, gutter and footpath. The road system is considered to be of an appropriate design to enable safe and efficient access for vehicles and pedestrians. Access is via a private road in this community title subdivision.

Proposed lots range in size from 427 to 908m² and are large enough to allow for future dwellings to be located in a way that optimise solar opportunities and views.

The subdivision will be provided with the appropriate services including reticulated water, sewer and telecommunications. Water, sewerage and stormwater services are proposed as private infrastructure, and will be the responsibility of the community association.

The application is accompanied by a draft community management statement. It will include a number of management controls that includes housing design, access, beachfront housing foundation design, coastal processes including an adaptive approach to rising sea levels, access for service vehicles, fencing controls as well as other operational and management considerations.

• **Residential Tourist Lands DCP**

The proposal is for a residential, not a tourist, development. LEP 2000 allows for housing and subdivision with consent in the 2E zone.

The proposed development, subdivision with housing, is consistent with the existing detached housing in the adjoining southern subdivisions and is also compatible with the multi unit housing development that adjoins the site to the north.

The redevelopment of this site with housing will see the loss of a tourist use, albeit a use that has been closed for some time and of questionable economic viability. The approval of this development is not likely to adversely impact on the local tourism industry so as to result in the industry becoming unsustainable.

Relevant controls in this DCP have been generally satisfied. The DCP specifies a Highway setback of 20 metres, the development complies; the DCP specifies buildings to be landward of the foreshore building line, the proposal complies; the DCP sets a density of 1/200m² for dwellings, the proposal complies; the DCP sets a height limit of 14 metres, the design guidelines provide for predominantly 2 storey dwellings, with some 3 storey, the proposal complies.

The proponent's proposed adoption of "design guidelines" for future housing on the 39 lots in the subdivision is endorsed and this document will be used by Council to evaluate future Part 4 applications for individual applications for new dwellings on the created lots.

- **Off Street Car Parking DCP**

The proposal satisfies the requirements of this plan in that each lot will contain sufficient on site space for at least 2 vehicles. 17 visitor spaces will occupy the community lot.

- **Notification DCP**

The development application was advertised and notified in accordance with the provisions of this Plan. Two (2) public submissions were received. The issues raised in these submission are discussed below in Section 79C (d).

iv. the regulations (to the extent that may prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,

Clause 92 of the Environmental Planning and Assessment Regulations 2000 requires that the NSW Coastal Policy 1997, be considered in the determination of development applications. The Policy focuses on population growth in coastal areas, whilst recognising the need preserve and protect the coast for future generations. The proposal is considered to be consistent with the provisions of the Policy.

b. the likely impacts of that development, including environmental impacts, on both the natural and built environments, and social and economic impacts in the locality,

1. The natural and built environment

The application is accompanied by a flora and fauna report that assesses the potential impacts of the proposed development on existing native flora and fauna. The beach dune is subject to a requirement for the preparation of a management plan under MP 09-0060 for the demolition works. The consent for this application requires the submission of a report to Council (and to the Department of Planning) in relation to the progress with dune management works. The 7A zoned littoral rainforest area will be subject to rehabilitation in accordance with an approved Vegetation Management Plan.

The application is accompanied by a bushfire hazard assessment, to address the risk of fire from vegetation to the south of the site. An Authority has been issued by the NSW Rural Fire Service for the subdivision and the Service's approval terms have been incorporated into the consent.

The application is accompanied by a detailed report on the risk of coastal processes and sea level rise and has addressed this hazard by a number of measures, to include filling of the site, a minimum dwelling floor level, fencing restrictions, dune rehabilitation, monitoring, triggers and an adaptive sea level rise protection system. The Community Association is required to implement the adaptive risk management approach in consultation with Council.

Ameliorative measures with regard to beachfront boundary fencing; sediment and erosion controls; stormwater and water quality management; vegetation management; protection of vegetation during works; site landscaping and other technical requirements have been incorporated into the consent conditions.

The site is to be filled (generally to 7mAHD in the flat, eastern part of the site) and controls in relation to the location and finish of these landform modification works relative to site boundaries have been incorporated into the preliminary design.

Future dwellings are subject to separate Part 4 determinations under the Act. In addition to statutory assessment controls the proponent has proposed a further layer of housing design control via the preparation of housing design guidelines for each lot in the subdivision. The designs are to be reviewed by a Community Association appointed panel (architect included) as a precursor to the application being lodged for the Part 4 determination. This action is endorsed by Council.

The consent addresses aboriginal cultural heritage matters by reference to and the implementation of a cultural heritage management plan.

Traffic movements from the development are less than that from the original tourist and restaurant development. The RTA has raised no objections to the proposal subject to consideration of highway noise, bus service connections on the Highway, and a number of design considerations. The consent requires future dwelling designs to address highway traffic noise, and the requirement for a bus stop/shelter to be provided on the Highway.

The proposal relates well with the existing urban settlement and provides an acceptable interface with the conservation areas of the site.

2. Social and Economic Impacts

The proposed development is not expected to result in any significant adverse social or economic impacts in the locality.

The proposed subdivision will provide for additional residential opportunities in Sapphire Beach area in a sustainable manner. The area is adequately serviced by community services and facilities and the proposed development is not expected to place any significant additional burden on these facilities. It is anticipated that the future residents of the subdivision will integrate with the existing community.

The project, involving the development of residential lots, the provision of services and associated roadworks will provide for employment opportunities and other economic benefits during the construction phase and after completion.

The proposed construction of the coastal walk and its connection from the Highway to the beach is an important facility for use by the wider community.

c. the suitability of the site for the development,

It is considered that the attributes of the site are conducive to the proposed development. The proposal will result in a relatively small community title residential subdivision that will include improvements and continued maintenance of the coastal dune and littoral rainforest parts of the site.

The site is subject to a number of hazards – sea level rise and coastal processes, bushfire, geotechnical considerations – that have been adequately addressed in the application processes (in the part 3A and part 4 applications).

The subject site is adequately serviced by the appropriate utilities and is located within reasonable proximity to community services and facilities. Proposed access to the site from the Highway is conditionally supported. Imminent Highway upgrading works will improve access to the site (currently direct from the Highway, but ultimately to a local service road).

Design controls for future housing provide for the balanced development of the proposed lots, in scale and compatible with adjacent urban areas.

d. any submissions made in accordance with this Act or the regulations,

The application has been reviewed by the following sections within Council and recommended conditions/actions have been incorporated into the evaluation process and consent conditions.

- City Services (subdivision, coastal processes and landscaping);
- Land Use Management (design controls and geotechnical considerations);
- Health (waste management and acoustic impacts);
- Strategy and Sustainability (biodiversity and site contamination); and
- Corporate Business (developer contributions).

The application was also reviewed by the Roads and Traffic Authority (RTA), NSW Rural Fire Service (RFS), the Solitary Islands Marine Parks Authority (MPA) and the Coffs Harbour & District Local Aboriginal Land Council (LALC).

The RTA has raised no objections to the application conditional to consideration being given to highway traffic noise, highway access works from the subdivision (existing and for the Highway upgrade), access to bus services, internal links to adjoining lands, road design to cater for large vehicles and on street parking design. The consent has been conditioned to address these matters.

The NSW RFS has issued a Bushfire Safety Authority for the “integrated” development. The consent has been conditioned accordingly.

The MPA has listed a number of issues of interest to the authority concerning this project, including that the proposal take into consideration the likely impacts of climate change such as rising sea levels, sediment and erosion controls and stormwater quality/treatment. The DECCW criteria for climate change and sea level rise has been addressed in the application. The consent has been conditioned accordingly.

The LALC has been provided with a copy of the Archaeological Assessment of Indigenous Values and a Cultural Heritage Management Plan that forms part of the application. The LALC endorsed the cultural heritage report. The consent has been conditioned to ensure that appropriate consultation occurs prior to works commencing, and effective management of artifacts or sites where discovered during construction activity.

Following advertising and notification of the application two (2) submissions were received. The submissions raised issues in relation to:

- Recommending that Council await the completion of its coastal processes and hazard study which will be completed next month prior to any decisions being made;
- The development should address the reestablishment and protection plans for vegetation, such as littoral rainforest and wildlife corridors which would have been present prior to the original resort development;
- Have a management plan in place to address adequate setbacks, buffer zones and a program of revegetation and weed management; and
- That an aboriginal Cultural Heritage assessment be undertaken to ascertain if any aboriginal cultural heritage constraints may exist over the development envelope.

In response:

- The proponent has prepared a site specific assessment for coastal processes and hazards that takes into account DECCW's Draft Sea Level Rise Policy. Proposed actions have been endorsed by Council's Coastal and Flooding section. There is no need to await the findings of a further study;
- The consent has been conditioned to require the preparation of a Vegetation Management Plan for the littoral rainforest area. The major project consent for the demolition works has required the preparation of a Coastal Dune Management Plan. These plans provide for the restoration, rehabilitation and management of these conservation areas of the site;
- The lot layout incorporates buffers to the dune and littoral rainforest parts of the site from future house footprints, the consent conditions, including the draft design guidelines limit the location of future housing relative to the foreshore. Vegetation Management Plans will address weed management for the conservation areas of the site;
- The application has been accompanied by a cultural heritage assessment and a management plan. The LALC has endorsed the cultural heritage assessment. The consent is conditioned in relation to aboriginal cultural heritage matters.

e. the public interest:

The proposed development does not present any issues that are contrary to the public interest. The proposal has been subject to a comprehensive consultation and evaluation process under Part 3A and Part 4 of the Act.

APPENDIX B**Development Application No. 661/10****Schedule of Conditions**

Prescribed Conditions:

1. The proponent shall comply with the prescribed conditions of development approval under Clauses 97A, 98, 98A-E of Environmental Planning and Assessment Regulation 2000 as are of relevance to this development.

Development is to be in accordance with approved plans and supporting documents:

2. The development is to be implemented in accordance with the plans and supporting documents set out below except where modified by any conditions of the consent:
 - a) Town Planning Justification Report December 2009, GHD Pty Ltd.
 - b) The following drawings:

Drawing No.	Name of Plan
SK01A	Concept Plan
SK02	Open Space and Circulation
SK03	Stormwater Management
SK06	Subdivision Plans
SK10	Excavation and Fill Diagram

- c) Cultural Heritage Management Plan January 2010, Davies Heritage Consultants Pty Ltd.
 - d) Draft Sapphire Design Guidelines June 2009, Cox Richardson Architects and Planners.
 - e) Draft Community Management Statement Sapphire, prepared by Swaab Attorneys.

Construction Certificate:

3. Subdivision works must not commence **prior to issue of the Construction Certificate**.

Sediment & Erosion Control:

4. Submission to Council, **prior to issue of the Construction Certificate**, of an Erosion and Sediment Control Plan, together with a management strategy, certified by a qualified Environmental or Engineering Consultant to be in accordance with the Landcom publication *"Managing Stormwater; Soils and Construction"* (the *"Blue Book"*, 4th Edition, 2004). Erosion and sedimentation controls to be implemented, managed and maintained during all development construction works and be maintained throughout the maintenance period.

During the construction stage a qualified Environmental or Engineering Consultant is to ensure that the erosion and sedimentation controls are appropriate for the site and current stage of construction.

No clearing or stripping works to be undertaken on the site until the Erosion and Sediment Control Plan has been implemented.

Prior to the issue of a Subdivision Certificate the site shall be stabilised to the Principal Certifying Authority's satisfaction which, as a minimum, shall be at least 50% grass cover or application of mulch or hydroseeding to all disturbed areas.

Fill Plans:

5. Contour Plans indicating the location of proposed fill areas (including the requirement for temporary stockpiles), in the subdivision being submitted to Council for approval **as part of the first Construction Certificate application**.

All fill is to be placed in accordance with the requirements of Council's Development Design and Construction Specifications and the approved Sediment & Erosion Control Plan.

Access and Services:

6. The following works:

- roads;
- stormwater drainage including stormwater treatment;
- water and sewer
- footpaths;
- upgrading of the intersection of the access road with the Pacific Highway;
- bus bay and shelter;
- retaining walls;
- carparking areas;

being provided to serve all lots with the works conforming with the standards and requirements set out in Council's Development Design and Construction Specifications and relevant policies (WSUD).

These works are to be completed OR other satisfactory arrangements for their completion are to be made with Council **prior to the release of the Subdivision Certificate**.

No engineering works are to be undertaken until plans and specifications have been approved by Council. Plan submissions are to be accompanied by payment of the prescribed fee.

All work is to be at the developer's cost.

Plans and specifications submitted later than six (6) months from the date of development approval shall comply with the Council's Development Design and Construction Specifications and relevant policies (WSUD) current at a date six (6) months prior to such submission.

Note 1: Water, sewer and stormwater works are to be owned and maintained by the Community Association, with the Management Statement acknowledging this requirement.

Note 2: Internal roads are to be designed to allow for typical service vehicles accessing the development to manoeuvre and turn around.

Note 3: The internal road layout is to provide adequate maintenance of service vehicle manoeuvring space at the Coffs Water sewer pumping station.

Note 4: Prior to commencement of the Pacific Highway intersection works the proponent must enter into a Works Authorisation Deed with the Roads and Traffic Authority (RTA) for the construction of the proposed access works. Prior to any construction affecting the Pacific Highway, the proponent will be required to provide to the RTA for consideration; design plans, linemarking layout, a review of environmental factors and pavement design for the works. All works affecting the Highway will need to be undertaken by an RTA approved Contractor and be at no cost to the RTA. No construction works are to commence without having obtained approval for a Traffic Control Plan beforehand.

Integrated Water Cycle Management:

7. Submission of a Water Management Plan to Council for approval **as part of the Construction Certificate application** for subdivision works, such plan to:

- adopt the principles of Council's Water Sensitive Urban Design Policy;
- detail the design of the stormwater management system;
- detail the design and landscaping of the bioretention system; and
- detail the maintenance arrangements for the Integrated Water Cycle Management Plan (Refer to By-Law 35 "Drainage" of the Draft Community Management Statement).

The approved details are to be implemented as part of the subdivision works.

Landscape Details:

8. A detailed landscaping plan being submitted to and approved by Council **prior to issue of any Construction Certificate**. The plan must be prepared and certified by a qualified Landscape Architect and have regard to plans:

- Concept Plan SK01(A).
- Open Space and Pedestrian Circulation SK02; and
- Statements for planting for coastal processes in GHD recommendations in clause 5.3.3 of the Town Planning Justification Report December 2009.

The plans shall include the following:

- Protection of existing trees during construction.
- Tree protection arrangements following construction.
- Level rest areas and seating, signage and furniture (to Regional Park Standards) for the Coastal Walk.
- All pedestrian paths shall be paved and/or full depth oxide concrete. Gravel paths shall not be used. Visitor parking shall not impede on pedestrian access paths. Use of bollarding and pavement treatment to delineate public space from vehicle movement shall be included in the plans.
- It is recommended that landscape treatments include the use of sustainable landscape materials where practical including the use of recycled hardwood or recycled aluminium or plastic products.
- The tree species shall be predominantly native. Street trees shall have adequate space for the full growth of the tree. Trees adjacent to hard surfaces shall have recognised industry standard root deflection tree pits and include measures for appropriate root development, air and water penetrations. Robust tree protection cages shall be included.
- A landscape maintenance plan shall be prepared and submitted for approval by Council for use by the Community Title Management **prior to issue of the first Subdivision Certificate**. The maintenance plan shall document landscape establishment, annual treatment and also longer term maintenance to ensure that design integrity is maintained.

Vegetation Management Plan:

9. A revised Vegetation Management Plan (VMP) to be prepared by persons with professional qualifications and/or knowledge and experience in bush regeneration and who are members of the Australian Association of Bush Regenerators is to be submitted and approved by Council **prior to the issue of the Construction Certificate**. The revised VMP is to be prepared in accordance with Council's Biodiversity Guideline No. 1 - "Preparing Vegetation Management Plans" and is to detail in particular: methodology, protection of remnant / retained vegetation on site, relocations, maintenance, monitoring and reporting, costing and approval schedule. Note, any asset protection zone is to be located outside of the Environmental Protection area of the site.

Construction Management Plan:

10. **Prior to the commencement of construction works** a Construction Management Plan being submitted to Council for approval that details:
 - appointment of a project liaison officer with 24 hour contact details;
 - traffic management plan;
 - acoustic and vibration management plan;
 - dust controls;
 - hours and days of operation.

The terms of the Plan are to be implemented as part of the development.

100 Year Coast Hazard Planning Line:

11. **Prior to the commencement of works on site**, 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.

A copy of the determination (plan) is to be provided to Council **prior to the commencement of works**.

Aboriginal Heritage:

12. All reasonable efforts must be made to avoid impacts to Aboriginal cultural heritage values at all stages of site development works. If impacts are unavoidable, mitigation measures are to be negotiated with the Coffs Harbour and District Local Aboriginal Land Council and the Department of Environment, Climate Change and Water (DECCW).

Archaeological Findings:

13. Should any future works associated with the site uncover anything which may be interpreted as Aboriginal in origin, work in the vicinity of the find should cease immediately. Temporary fencing must be erected around the site and the material must be identified by an independent and appropriately qualified archaeologist. The DECCW, and the Coffs Harbour and District Local Aboriginal Land Council must be notified as soon as possible. These groups will advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the DECCW and the Coffs Harbour and District Local Aboriginal Land Council.

Finding of Human Remains:

14. If human remains are located during the project, all works must halt in the vicinity of the find and must cease immediately in order to prevent any further impact on the find. The NSW Police, the Coffs Harbour and District Local Aboriginal Land Council and DECCW are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the NSW Police consider the site not an investigation site for criminal activities, then works shall not recommence in the vicinity of the find until written consent is granted from DECCW and the Coffs Harbour and District Local Aboriginal Land Council. In the event that a criminal investigation ensues, works shall not recommence in the vicinity of the find until written consent is granted from the NSW Police.

Aboriginal Heritage Information Management System (AHIMS):

15. The proponent will provide an updated site card to the DECCW for inclusion in the AHIMS **prior to issue of the final Subdivision Certificate.**

Aboriginal Cultural Heritage Management Plan:

16. Compliance with the terms of the Cultural Heritage Management Plan, January 2010, prepared by Davies Heritage Consultants Pty Ltd.

Pre-Clearing Procedure:

17. All trees to be removed are to be inspected by an ecological consultant or equally experienced WIRES carer immediately prior to the commencement of tree removal to check for resident wildlife.

Tree removal / tree retention is to accord with "Vegetation to be Removed / Retained" Illustration 8 of the Sapphire Landscape Masterplan Report.

18. If any animal is located in the tree to be removed the tree must be retained and no tree removal operations are to be undertaken within a 30m radius until the animal has vacated. Physical removal of the animal is not to be attempted.
19. An ecological consultant or equally experienced WIRES carer is to be present on site during tree removal operations to check each felled tree for any hollows and displaced or injured wildlife.

Site Security - Construction:

20. To prevent the unauthorised entry of people into the construction site and prevent damage to the environment, security for the construction site is to 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.

Fencing to Beachfront Housing Lots:

21. The eastern boundary fencing to lots 1 - 14 being completed **prior to the release of the Subdivision Certificate** for those lots. Fencing is to be constructed of permeable materials, with details of fencing construction **to accompany the relevant Construction Certificate application.**

Bushfire Safety Authority Considerations:

22. Water, electricity and gas are to comply with Section 4.1.3 of "*Planning for Bush Fire Protection 2096*".
23. Access for the development shall comply with Section 4.1.3(1) of "*Planning for Bushfire Protection 2006*".
24. Landscaping of the site is to comply with the principles of Appendix 5 of "*Planning for Bushfire Protection 2006*".

Waste Management:

25. All demolition material, soil, wastes, etc shall be assessed in accordance with the NSW EPA Waste Classification Guidelines (2009) prior to being removed from the site. Materials classified as waste shall only be disposed to an appropriately NSW EPA licensed facility. All potentially contaminated soil (including asbestos impacted soil) shall be managed in accordance with NSW EPA Contaminated Sites Guidelines.

Imported Fill:

26. Fill imported to the site is to meet the following requirements:
 - the fill is to be sourced from an approved site, with details of the source to be provided to Council prior to fill being brought to the site;
 - the fill is to accord with the provisions of the Protection of the Environment Act 1997 and the DECCW's "*Environmental Guidelines Assessment, Classification and Management of Non-Liquid Wastes*", with certification of compliance with this Guideline to be provided to the Principal Certifying Authority (PCA) from the proponent's civil engineer or other suitably qualified consultant **prior to issue of the relevant Subdivision Certificate**.

Signage:

27. A sign indicating the name, address and telephone number of the Principal Certifying Authority, and the name and telephone number of the principal contractor (if any) must be erected in a prominent position on the site and maintained until the building work has been completed. The sign must also state that unauthorised entry to the site is prohibited. The signage must be erected prior to commencement of work

Hours of Work:

28. Construction works are to be limited to the following hours:

Monday to Friday	7.00 a.m. - 6.00 p.m.
Saturday	7.00 a.m. - 1.00 p.m. if inaudible from adjoining residential properties, otherwise 8.00 a.m. - 1.00 p.m.

No construction work is to take place on Sunday and Public Holidays.

Design Guidelines:

29. Final Design Guidelines being submitted to and approved by Council **prior to issue of the first Subdivision Certificate**.

Landscape Works:

30. **Prior to issue of the relevant Subdivision Certificate** a works as executed landscape plan is to be submitted to the PCA certifying that all landscape works have been carried out in accordance with the approved details.

Vegetation Management Plan (VMP) Works:

31. All initial works described within the approved (revised) VMP are to be completed **prior to issue of the relevant Subdivision Certificate**, with certification of completion being provided to the PCA by a member of the Australian Association of Bush Regenerators.

Follow up works are to be completed in accordance with the approved (revised) VMP and reported to Council and the Department of Planning in accordance with the provisions of the Community Management Statement.

Site Validation - Asbestos:

32. Proposed lots 34 - 39 inclusive shall have validation soil testing following successful demolition of existing site features (which include asbestos products) and removal of asbestos impacted soil. A validation report shall be provided to Council for approval **prior to release of the Subdivision Certificate for lots 34 - 39 inclusive**. Site validation reporting shall accord with NSW EPA Contaminated Sites Guidelines and relevant statutes. (Note see "*Hazardous Material Survey and Register David Lane Associates Pty Ltd June 2009*".)

Street Names:

33. A street name application being submitted to Council and is to be approved **prior to issue of the Subdivision Certificate**.

Services and Street Lighting:

34. The subdivision being provided with underground reticulated electricity and telephone cables. The applicant shall provide a letter from Country Energy stating that satisfactory arrangements have been made for the supply of electricity and a letter from Telstra stating that satisfactory arrangements have been made for telecommunications infrastructure in the subdivision / development. These letters are to be provided to Council **prior to release of the Subdivision Certificate** of subdivision/development.
35. Street lighting being provided to the requirements of Country Energy with all work being completed prior to release of the **Subdivision Certificate**.
36. Water and sewerage mains being extended to the subdivision from Council's existing mains at the developer's cost **prior to release of the Subdivision Certificate** OR other arrangements satisfactory to Council being made **prior to the release of the Subdivision Certificate** for extension of these services to the subdivision.
37. A water service and sewer junction being provided within each lot. These services are to be provided **prior to release of the Subdivision Certificate** with the works conforming to Council's Development Design and Construction Specifications.

Fill:

38. **Prior to the release of the Subdivision Certificate** a final contour plan is to be submitted to the PCA showing the location, depth and type of fill located on the site. Alternatively, where no fill has been placed on the site, a written statement to that effect is to be submitted to the PCA.

Housing Design - Restriction:

39. A restriction on title (Section 88B Instrument) being created over lots 1 - 39 to the effect that house proposals shall comply with the relevant Design Guidelines referenced in the Community Management Statement that specifies that the written consent of the Executive Committee be obtained prior to making application for any statutory approval under the Environmental Planning and Assessment Act 1979.

Beachfront Housing Foundations Restriction:

40. A restriction on title (Section 88B Instrument) being created over lots 1 - 14 to the effect that the foundations of buildings and structures erected on those lots are designed and constructed to withstand storm surge and/or tidal inundation.

Acoustic Impacts Restriction:

41. A restriction on title (Section 88B Instrument) being created over lots 1 - 39 to the effect that an acoustic report is to be prepared in association with each house design to address traffic noise impacts and mitigation measures in accordance with the provisions of NSW EPA's Environmental Criteria for Road Traffic Noise, May 1999. The actions of the acoustic report are to be implemented in the house design and construction.

Beachfront Housing Building Footprint and Floor Level Restriction:

42. A restriction on title (Section 88B Instrument) being created over lots 1 - 14 to the effect that no dwelling is to encroach beyond the 100 Year Coastal Hazard Planning Line and that the floor level of each dwelling is to be constructed at 7.5m AHD.

Asset Protection Zones Restriction:

43. A restriction on title (Section 88B Instrument) being created over lots 1 - 39 to the effect that those lots cannot be sold until they are hazard reduced with vegetation managed as an Outer Protection Area as outlined in Section 4.1.3 and Appendix 5 of "Planning for Bushfire Protection 2006" and the NSW Rural Fire Service's document "Standards for Asset Protection Zones".

Fencing Restriction:

44. A restriction on title (Section 88B Instrument) being created over lots 1 - 14 to the effect that 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.

Geotechnical Assessment Requirement:

45. A restriction on title (Section 88B Instrument) being created over lots 1 - 39 to the effect that a geotechnical assessment identifying necessary design measures to ensure the stability of future structures is to accompany the relevant application for dwelling approval on each lot unless evidence from the Geotechnical Engineering consultant is produced to Council with the relevant Subdivision Certificate application to the effect that lot(s) specific geotechnical assessment(s) is/are not required.

Right of Way:

46. The complete length of the Coastal Walk public access way (including the path to Coachmans Close) is to be established as a Right of Way in favour of the public.

Community Management Statement:

47. By-law 41 of the Draft Community Management Statement being amended to the effect that the information required by this condition is to be provided by a suitably qualified person.
48. By-law 41 of the Draft Community Management Statement is to be amended such that the actions identified in this by-law shall be undertaken when either of the following triggers occurs:
- a) significant coastal erosion resulting from a storm event (or other natural hazard) and occurring within 20m of the eastern-most boundary of any of lots 1 - 14 (inclusive); or
 - b) Mean Sea Level (as recorded from the nearest appropriate Mean Sea Level record) reaches 0.6m above the benchmark. The benchmark shall be defined as being Mean Sea Level being that determined on 1 July 2010;

whichever is the sooner.

Note: It is the intention of this condition to ensure that an appropriate benchmark is defined and used as the basis for any adaptive management approaches that may need to be undertaken. This benchmark replaces the benchmark included in the Draft Community Management Statement that accompanied the application.

Note: The Dictionary for "*Benchmark Sea Rise Level*" and "*Benchmark Sea Rise Level Measurement Point*" require amendment.

49. The following by-law being incorporated in the Draft Community Management Statement:

"Council Access

- a) *Council, its servants and agents have the full and free right at all times to enter upon Neighbourhood Property and to operate vehicles and other equipment for the purpose of garbage and recycling collection, and to repair and maintain the statutory services and statutory services lines.*
 - b) *Council, its servants and agents shall not be liable for any damage caused to the Neighbourhood Property arising from the operation of any vehicle or other equipment as envisaged by clause a) except where such damage is caused by the negligence or recklessness of Council, its servants or agents.*
 - c) *The terms of this clause may not be varied except with the prior written agreement of Council from time to time, or the successor of Council."*
50. The Draft Community Management Statement, "*Design Guidelines*" being amended to require the Community Association to obtain Council approval to any change to the Design Guidelines (see by-laws 3.7 to 3.12).

Dune and Vegetation Management Plans Reporting:

51. A report on the effectiveness of the Dune Management Plan and the Vegetation Management Plan in establishing a healthy dune system shall be submitted to both the Coffs Harbour City Council and the Department of Planning three years following commencement of dune rehabilitation works. In addition, this report shall include actions to improve management of the dune system, and identify future funding arrangements.

This report shall be prepared by persons with professional qualifications and/or knowledge and experience in bush regeneration and who are members of the Australian Association of Bush Regenerators.

This reporting requirement is to be regulated via a by-law in the Community Management Statement.

Dilapidation Report:

52. A second dilapidation report is to be prepared by a suitably qualified engineer at the completion of the demolition and subdivision works to ascertain if any structural damage has occurred to the adjoining and adjacent buildings, infrastructure and roads. The report is to be compared with the first dilapidation report (MP09_0060) and recommend a course of action to carry out repairs if required. This report is to be submitted to Council **prior to issue of the first Subdivision Certificate.**

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 8741 5175

Facsimile: 8741 5433

e-mail: development.assessment@rfs.nsw.gov.au



The General Manager
Coffs Harbour City Council
Locked Bag 155
Coffs Harbour NSW 2450

Index: CHCC 66/10
INT REF No. 220628
3 - FEB 2010
OFFICER I.D. MSH.
DTWKS No.

Your Ref: 661/10
Our Ref: D10/0004
DA10010666218 MH

ATTENTION: Mark Hannon

29 January 2010

Dear Mr Hannon

**Integrated Development for Lots 100/101//629555 & Lot 2//800836 740-742
Pacific Highway Sapphire Beach**

I refer to your letter dated 23 December 2009 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

1. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on all lots within the subdivision which specifies that the proposed lots cannot be sold until they are hazard reduced with vegetation managed as an outer protection area (OPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

SCANNED

- ✓ 2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

- ✓ 3. Access for the development shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

Landscaping


- ✓ 4. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

General Advice – consent authority to note

This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

For any queries regarding this correspondence please contact Mark Hawkins on 8741 5175.

Yours sincerely



Corey Shackleton
A/Team Leader - Development Assessment & Planning

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.



File No: 110NTH10/00009 10/29
Your reference: 2390292 (DA 661/10)
Mr Greg Sciffer

C.H.C.C.	
Index:	661/10.
INT REF No.	2390292
8 - FEB 2010	
OFFICER I.D.	MSH.
DTWKS No.	2421388

The General Manager
Coffs Harbour City Council
Locked Bag 155
COFFS HARBOUR NSW 2450

Highway No 10 - Pacific Highway, Coffs Harbour City Council, DA 661/10.
Lots 100/101 DP 629555. Proposed Subdivision, Sapphire.

Dear Sir

Reference is made to your letter dated 4 January 2010 to the Roads and Traffic Authority (RTA) concerning the proposed development.

The RTA would in principle have no objection to the amended development, however, the following impacts on road safety and traffic management will need to be considered and catered for in the determination.

- i. The development will be responsible for providing for the existing and future road traffic noise impacts from the Pacific Highway.
- ii. No detail has been provided of the connection to the upgrade of the Pacific Highway to make sure that a safe and efficient arrangement will be provided.
- iii. Consideration needs to be given to how passengers will access town and school bus services to avoid having to cross a 100km/h section of the Pacific Highway. This should include facilities such as bays and shelters.
- iv. Internal roads should be dedicated as public roads. Places open to the public are covered by the Road Related Area Regulations.
- v. Internal links for at least pedestrians/cyclists should be provided to adjoining lands to encourage other modes of transport and to lessen the impact of travel on the highway.
- vi. It should be demonstrated that internal roads can cater for the turning paths of larger service vehicles.
- vii. On-street public parking for the beach access will have an impact on traffic management and residences.

If Council have any further enquiries regarding this matter please contact Greg Sciffer on 6640 1344

Yours faithfully

David Bell
Regional Manager, Northern Region

- 4 FEB 2010

SCANNED

Roads and Traffic Authority

DOC 10/5152

The General Manager
Locked Bag 155
COFFS HARBOUR NSW 2450

28 January 2010

Attention: Mark Hannon

Dear Mark

DEVELOPMENT APPLICATION No. 661/10

Thank you for the opportunity to provide comment on the proposed subdivision of the old Pelican Beach site. The Marine Parks Authority (MPA) has previously provided comment to the Department of Planning on proposed development of this site. Copies of letters to the department are attached for your information.

The main issues for the Solitary Islands Marine Park with regards to subdivision and development of the site are as follows:

- Ensuring the maintenance of an adequate natural buffer between the park and urban development into the future. A 100 year planning time frame would be appropriate. The buffer should take into consideration the likely impacts of climate change such as rising sea levels.
- Ensuring sediment and erosion is controlled on site during the construction stage.
- Ensuring stormwater generated on site during the operational phases does not pollute the waters of the Solitary Islands Marine Park.

We ask that you take these issues into consideration when determining the development application.

If you would like to discuss this matter further please contact David Greenhalgh on 6652 0915.

Yours sincerely



NICOLA JOHNSTONE
Marine Park Manager
Solitary Islands Marine Park
NSW Marine Parks Authority

C.H.C.C.	
Index:	661/10
INT REF No.	2340303
5 - FEB 2010	
OFFICER I.D.	MSH
DTWKS No.	



Solitary Islands Marine Park
PO Box J297
Coffs Harbour Jetty
NSW 2450

Telephone: 02 6652 3977
Facsimile: 02 6651 1440

SCANNED

Tom FitzGerald
Department of Planning
GPO Box 39
SYDNEY NSW 2001

13 August 2009

Dear Mr FitzGerald

MP06_0148 Mod 1 & MP09_0060 – RESIDENTIAL DEVELOPMENT

Thank you for the opportunity to comment on the modifications to the approved concept plan for the above major projects.

The major issue that the Marine Parks Authority asked to be addressed is how the latest climate change predictions, including sea level rises of 40cm by 2050 and 90cm by 2100, will impact on the proposal and how the impacts will be managed.

The original proposal used 40cm as the predicted sea level rise by 2100. Using this criterion it was determined that the 100 year hazard line for Campbell's Beach is 51m.

In the revised material, a new assessment using the Department of the Environment, Climate Change and Water's draft guidelines for sea level rise of 90cm by 2001 was conducted. This resulted in a 100 year hazard line for Campbell's Beach of 50.5m.

It is difficult to understand how more than doubling the predicted sea level rise for the year 2100 can result in a smaller 100 year hazard line. The Marine Parks Authority requests that the Department of Planning look carefully at how this figure was determined prior to accepting the amended 100 year hazard line.

If you would like to discuss this matter further please contact David Greenhalgh on 6652 0915.

Yours sincerely

COPY

NICOLA JOHNSTONE
Marine Park Manager
Solitary Islands Marine Park
NSW Marine Parks Authority

Paula Tomkins
Department of Planning
GPO Box 39
SYDNEY NSW 2001

3 October 2006

Dear Paula

**MAJOR PROJECT 06_0418 – RESIDENTIAL & TOURIST DEVELOPMENT
(SAPPHIRE BEACH)**

Thank you for the opportunity to comment on the above major project. The Marine Parks Authority (MPA) has reviewed the information supplied with your letter. As the proposed site has already been highly modified it is unlikely there will be any significant additional impacts to the Solitary Islands Marine Park as a result of this project.

However, there is potential for sediment laden runoff from the site during the construction phase that may affect the Solitary Islands Marine Park. The MPA requests that a suitable sediment and erosion control plan be developed, implemented and monitored to protect the marine park from possible pollution events.

The MPA recognises that vegetation along the shore will be retained at current levels and in some instances enhanced. The MPA would like to see vegetation and the natural dunal system reinstated as much as possible to protect the shoreline from oceanic processes and to re-establish some natural functioning of foreshore.

If you would like to discuss this matter further please contact David Greenhalgh on 6652 0915.

Yours sincerely

NICOLA JOHNSTONE
Marine Park Manager
Solitary Islands Marine Park
NSW Marine Parks Authority

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