

APPENDIX B – RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The following environmental planning instruments are relevant to the assessment of the subject development application:

- *State Environmental Planning Policy No. 14 – Coastal Wetlands;*
- *State Environmental Planning Policy No. 26 – Littoral Rainforests;*
- *State Environmental Planning Policy No. 44 – Koala Habitat Protection;*
- *State Environmental Planning Policy No. 71- Coastal Protection;*
- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *North Coast Regional Environmental Plan 1988; and*
- *Byron Local Environmental Plan 1988.*

State Environmental Planning Policy No. 14 – Coastal Wetlands

Clause 7 indicates that a person shall not clear, construct a levee, drain or fill land subject to this Policy without consent from Council and the concurrence of the Director. Clause 6 provides that for State Significant Development the consent authority is the Minister for Planning and the concurrence of the Director is not required.

There are two SEPP 14 Coastal Wetlands located in the vicinity of the proposed development. SEPP 14 No. 74 is located adjacent to Tyagarah Nature Reserve and SEPP 14 No. 76 is located adjacent to Belongil Estuary.

Matters for Consideration

In determining whether to grant consent, the following matters are to be taken into consideration as provided in Clause 7(2) of the Policy:

- (a) the environmental effects of the proposed development, including the effect of the proposed development on:*
 - i. the growth of native plant communities,*
 - ii. the survival of native wildlife populations,*
 - iii. the provision and quality of habitats for both indigenous and migratory species,*
 - iv. the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding area, including salinity and water quality,*
- (b) whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment,*
- (c) whether carrying out the development would be consistent with the aim of this policy,*
- (d) the objectives and major goals of the "National Conservation Strategy for Australia" (as set forth in the second edition of a paper prepared by the Commonwealth Department of Home Affairs and Environment for comment at the National Conference on Conservation held in June, 1983, and published in 1984 by the Australian Government Publishing Service) in so far as they relate to wetlands and the conservation of "living resources" generally, copies of which are deposited in the office of the Department,*
- (e) whether consideration has been given to establish whether any feasible alternatives exist to the carrying out of the proposed development (either on other land or by other methods) and if so, the reasons given for choosing the proposed development,*
- (f) any representations made by the Director of National Parks and Wildlife in relation to the development application, and*
- (g) any wetlands surrounding the land to which the development application relates and appropriateness of imposing conditions requiring the carrying out of works to preserve or enhance the value of those surrounding wetlands.*

As indicated in Section 5.1, the Department does not consider that the Applicant has adequately assessed the potential impact from the proposed filling of the central drainage line on the site (which drains SEPP 14 Wetland No.74) and therefore has recommended that this drainage line remain in its current state and not filled as part of

the proposed development. The proposed development footprint is not located near SEPP 14 No. 76.

State Environmental Planning Policy No. 26 – Littoral Rainforests

Clause 4 of this Policy applies to:

- (a) *land enclosed by the outer edge of the heavy black line on the series of maps held in the Department and marked "State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)", and*
- (b) *land not so enclosed but within a distance of 100 metres from the outer edge of that heavy black line except residential land and land to which State Environmental Planning Policy No 14—Coastal Wetlands applies*

While the site contains littoral rainforest, it is not land that has been identified as such under SEPP 26 and therefore the provisions of the Policy do not apply. Littoral rainforest occurs in the vicinity of Belongil Estuary. The proposed development includes buffer areas between the proposed units and any rainforest areas. These buffers, in addition to specific mitigation measures for the protection of water quality proposed as part of the development would ensure that any impacts to the estuary are considered negligible.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

Clause 7 and 8 of the Policy applies to land that is considered to be "potential koala habitat" or "core koala habitat".

"Potential koala habitat" is defined as:

areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree environment.

"Core koala habitat" is defined as:

an area of land with a resident population of koalas evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population.

The Schedule 2 trees on the site do not comprise 15% of the total number of trees in the upper or lower strata of the tree component and therefore the site is not considered to comprise "potential koala habitat" in accordance with the provisions of the SEPP.

State Environmental Planning Policy No. 71 – Coastal Protection

Clause 4 identifies that the Policy applies to land within the coastal zone and as such applies to the site.

Matters for Consideration

Part 2 contains matters for consideration in the assessment of a development application under clause 8. The matters for consideration under clause 8 are identified and considered following:

- a) *the aims of this Policy set out in clause 2:*
 - i) *to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast;*
The proposed development will have a positive economic impact with regard to the creation of jobs in the building industry, additional jobs in the tourist industries and the increased spending catchment for local retail and tourism operators. The proposal will have minimal impact upon the cultural or

recreational attributes of the coast. The impacts upon the natural attributes of the coast are assessed throughout the report, with impacts being acceptable for the form of development proposed.

- ii) *to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore;*

The proposal involves the provision of a stable and suitably located pedestrian path to the beach and provides parking for the general public off Bayshore Drive, which is to become a public road. The provision of the path and dune stabilisation works is appropriate and will enhance the natural attributes of the coastal foreshore.

- iii) *to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore;*

This is addressed with regard to the previous objective, with improved access rather than a new access proposed.

- iv) *to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge;*

An assessment of the likelihood of such places has been prepared by Navin Officer Heritage Consultants in consultation with the Tweed Byron Local Aboriginal Land Council and the Arakwal Corporation. The findings of the report are that there are no long-term Aboriginal cultural heritage constraints to the proposed development.

- v) *to ensure that the visual amenity of the coast is protected;*

The proposed development is low in scale and given the height of the existing dunes, will not be visible from the beach. Further, the visual impact of the development as viewed from surrounding highpoints is minimal as is discussed in the Urban Design Assessment prepared by Architectus Sydney Pty Ltd (see Appendix H). As such the visual amenity of the coast is protected.

- vi) *to protect and preserve beach environments and beach amenity;*

As is discussed above, the proposal will not be visible from the beach and stabilised and appropriately located access is provided to the beach, protecting and preserving the beach environment and amenity.

- vii) *to protect and preserve native coastal vegetation;*

A Dune Management Plan (DMP) has been prepared detailing how existing weed species will be removed and replaced overtime with native coastal vegetation. Subject to amendments required by conditions of consent the DMP will protect and preserve native coastal vegetation.

- viii) *to protect and preserve the marine environment of New South Wales;*

Impacts on the marine environment of NSW have been assessed as satisfactory in the consideration of the application by the Department of Environmental and Conservation and Marine Parks Authority.

- ix) *to protect and preserve rock platforms;*

The site contains no rock platforms.

- x) *to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the Protection of the Environment Administration Act 1991);*
The principles of ecologically sustainable development with regard to the proposed buildings would require that the buildings were designed and constructed in a manner that minimised their use of non-renewable resources and energy during the construction process and life of the development. The proposal supports the principle of sustainable development, being designed to minimise stormwater runoff and maximise onsite reuse or absorption, maximise passive solar use and utilise appropriate cross ventilation for energy efficient cooling of the accommodation suites.
- xi) *to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area;*
The scenic impact of the development has been discussed in relation to aim v) above.
- xii) *to encourage a strategic approach to coastal management.*
A strategic approach to the coastal development of the area is ensured by the controls within SEPP 71. From the above it is clear that the application is generally consistent with the aims of SEPP 71.
- b) *Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved;*
The existing public access to the beach is maintained and improved, with car parking provided adjacent to the proposed public road. Access to the beach by disabled persons cannot be ensured due to the need to provide an appropriately designed access path in relation to the protection of the dunes.
- c) *Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability;*
See comments in relation to b) above.
- d) *The suitability of development given its type, location and design and its relationship with the surrounding area;*
The suitability of the design of the development has been assessed in the Urban Design Assessment prepared by Architectus Sydney Pty Ltd and it has been determined that the type, location and design of the development is suitable having regard to the surrounding area (see Appendix H).
- e) *Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore;*
The proposed buildings are low scale and well setback from the foreshore and as such will not result in any overshadowing of the foreshore. The proposed buildings are low scale and no significant views from public places will be lost.
- f) *The scenic qualities of the New South Wales coast, and means to protect and improve these scenic qualities;*
The impact upon the scenic qualities of the area are addressed in aim e) and has been found to be acceptable.

- g) *Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats;*
This is addressed in detail in the assessments of the Department of Environment and Conservation and have been found to be acceptable.
- h) *conservation of fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats;*
The proposal will have no significant detrimental impact upon fish or marine vegetation.
- i) *existing wildlife corridors and the impact of development on these corridors;*
Subject to the conditions recommended, the proposal will improve the condition of existing wildlife corridors, particularly in the provision of a southern wildlife corridor in keeping with the provisions of DCP 18.
- j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards;*
All development is proposed outside the zone of coastal processes and the demolition of the Bayshore building within that zone is appropriate and supported.
- k) *measures to reduce the potential for conflict between land-based and water-based coastal activities;*
The proposal is not likely to result in any potential conflict between land-based and water-based activities.
- l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals;*
The impact upon Aboriginal archaeology is addressed with regard to aim d) of SEPP 71.
- m) *likely impacts of development on the water quality of coastal waterbodies;*
The proposed stormwater system will improve the water quality of the waterbodies within and adjoining the site to a suitable degree.
- n) *the conservation and preservation of items of heritage, archaeological or historic significance;*
The impact upon Aboriginal archaeology is addressed with regard to aim d) of SEPP 71 and no items of heritage or conservation areas are within the vicinity of the site.
- o) *only in cases in which a council prepared a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities;*
N/A.
- p) *only in cases in which a development application in relation to proposed development is determined:*
 - i) *the cumulative impacts of the proposed development on the environment,*
and
 - ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

The proposal will not result in any significant cumulative impacts upon the environment, generally being of suitable scale and design in the context of the area. The suitability of the design with regard to water and energy usage efficiency is addressed in relation to objective j) above.

Development Controls

Part 4 contains clauses that apply to all development that the Policy applies to and will be addressed following.

Flexible Zone Provisions	N/A
Public Access	The proposal retains and improves the existing public access to the foreshore
Effluent Disposal	The site is connected to a reticulated sewer
Stormwater	The proposal incorporates several measures for the treatment of stormwater, including reduction of quantities released due to reuse and infiltration and the use of wetland vegetation to "polish" stormwater prior to release.

State Environmental Planning Policy No. 55 – Remediation of Land

In relation to land contamination, a preliminary assessment for contamination was prepared by Golder Associates in 2003, which identified one sample with PBIL in excess of the required standard for heavy metals associated with either road runoff or the resort washing facility. The report indicated that further sampling may be required, with the extent of further testing requirements to be developed in consultation with the EPA or an EPA accredited auditor. A condition to this effect is recommended. The Department is satisfied that the likely contamination is minimal and manageable through standard remediation practice.

North Coast Regional Environmental Plan 1988

Wetlands or Fisheries Habitat

Clause 15 requires consideration at the DA stage of development with regard to the water quality and quantity impacts on SEPP 14 wetlands and vegetation adjoining them.

The proposal incorporates several measures for the treatment of stormwater, including reduction of quantities released due to reuse and infiltration and the use of wetland vegetation to "polish" stormwater prior to release. The other impacts of the development are assessed in section 5.2 of the report.

Coastal Lands

Clause 32A requires the following documents to be taken into consideration in determining a development application:

- NSW Coastal Policy 1997;
- Coastline Management Manual; and
- North Coast: Design Guidelines

The clause also prevents development that significantly shadows the beach or impedes public access.

The NSW Coastal Policy, the Coastline Management Manual and the North Coast: Design Guidelines are addressed in Appendix E.

The proposal does not shadow the beach and improves public access to the beach.

Coastal Hazard Areas

Clause 33 requires that prior to granting consent the Coastline Management Manual must be considered, a condition must require rehabilitation of disturbed foreshore areas and ensure access across foredune areas be confined to specified points.

The Coastline Management Manual is addressed in Appendix E, a specific access route across the foredunes is proposed and a Dune Management Plan (DMP) has been prepared. Subject to conditions of consent, the DMP is satisfactory.

Tourism Development

Clause 75 requires that prior to granting consent the development must have adequate access for the scale of the development, will not be detrimental to the scenic quality or other significant natural features of the area and will have reticulated water and sewerage services.

Adequate access is provided by the proposed extension of Bayshore Drive, which will become a public road. The impact on the scenic quality of the area is addressed in the Urban Design assessment prepared by Architectus Sydney Pty Ltd (see Appendix H). The development will have a reticulated water and sewerage service.

Clause 75(2) requires consideration to be given to the Tourism Development Along the New South Wales Coast: Guidelines prior to granting consent and clause 75(3) requires that large scale tourism can only be approved where adequate urban services are available.

The Tourism Development Along the New South Wales Coast: Guidelines are addressed in Appendix E. Adequate urban services are available for the site, which is already operating as a tourist facility.

Clause 76 requires that prior to granting consent, the Tourism Development Near Natural Areas: Guidelines for the North Coast must be considered regarding the location of facilities, the intensity of development and the means of access available from the development to any adjoining natural areas. This document is addressed in Appendix E.

Development Adjacent to the Ocean or a Waterway

Clause 81 requires that prior to granting consent for the development consideration must be given to whether there is sufficient foreshore open space accessible to the public, buildings will detract from the amenity of the foreshore and the development is consistent with any foreshore management plan.

The proposal improves accessibility to the foreshore and the beach and dune area is already Crown land. The buildings are low in scale and will not be visible from the foreshore area given the height of the dunes. The provisions of the Coastline Management Manual are addressed in Appendix E.

Byron Local Environmental Plan 1988

Permissibility

The site is zoned under the provisions of clause 8 as part:

- 2(t) Tourist Area– central portion of site and area to the centre of the south-western boundary adjoining the railway line;
- 7(a) Wetlands – area to the south-west of Belongil Creek up to the railway line and an area behind the coastal lands to the north of the site;
- 7(b) Coastal Habitat – area to the north-west of the site; and
- 7(f1) Coastal Lands – area adjacent to the beach;

Clause 9 provides objectives for each zone and identifies uses that are permissible with consent as follows:

2(t) Tourist Area

- a) *to identify land for tourist infrastructure and to encourage tourist accommodation and facilities;*
- b) *to permit tourist development and uses associated with, ancillary to, or supportive of, tourist developments including retailing and service facilities where such facilities are an integral part of the tourist development and are of a scale relative to the needs of that development; and*
- c) *to control by means of a development control plan the location, form, character and density of permissible development.*

The proposed accommodation units, associated parking, village centre and all roads are located within the 2(t) Tourist Area zone. Pursuant to clause 5, the proposed uses within this zone are defined as a tourist facility, roads, food shop and general store, all of which are permissible with consent.

As the proposal is for a tourist resort with ancillary uses, the proposal satisfies objectives a) and b). A development control plan, addressed at Appendix D of this report, has been adopted for the site in accordance with objective c).

7(a) Wetlands

- a) *to identify all lands covered by State Environmental Planning Policy No. 14 – Coastal Wetlands;*
- b) *to identify and preserve estuaries and wetlands and allow them to continue to function as feeding and breeding areas for wildlife, shellfish and fish;*
- c) *to prohibit development within the zone that is likely to have a detrimental effect on the habitat or landscape qualities or the flood mitigation function of the wetlands;*
- d) *to enable development of public works and environmental facilities where such development would not have a significant detrimental effect on the habitat or landscape qualities of the wetland and other significant coastal habitat areas; and*
- e) *to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.*

The only proposed works within the Wetlands Zone is for removal of weeds and revegetation with suitable species to recreate habitat and as such the proposed works, being defined as environmental facilities, are permissible with consent and are consistent with the zone objectives.

7(b) Coastal Habitat

- a) *to identify coastal habitats (being wetlands, heath, sedge, marshland, rainforest types, sclerophyll forest and the like) of local significance;*
- b) *to identify and preserve estuaries and other significant coastal habitat areas, wetlands and allow them to continue to function as feeding and breeding areas for wildlife, shellfish and fish;*
- c) *to prohibit development within the zone that is likely to have a detrimental effect on the habitat or landscape qualities or the flood mitigation function of significant coastal habitat areas, including wetlands;*
- d) *to enable development of public works and environmental facilities where such development would not have a significant detrimental effect on the habitat or landscape qualities of the wetland and other significant coastal habitat areas; and*
- e) *to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.*

The only proposed works within the Coastal Habitat Zone is for removal of weeds and revegetation with suitable species to recreate habitat and as such the proposed works, being defined as environmental facilities, are permissible with consent and are consistent with the zone objectives.

7(f1) Coastal Lands

- a) *to identify and protect environmentally sensitive coastal land;*
- b) *to enable development for certain purposes where such development does not have a detrimental effect on the habitat, landscape or scenic quality of the locality;*
- c) *to prevent development which would adversely affect, or be adversely affected by, coastal processes; and*
- d) *to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.*

The proposed works for Stage 1 within the Coastal Lands Zone are the removal of weeds and revegetation with suitable species to recreate habitat, the demolition of the Bayshore Building, the creation of an asset protection zone and the provision of access tracks to the beach. As such the proposed works, being defined as environmental facilities, bushfire hazard reduction and beach and coastal restoration works, are permissible with consent and are consistent with the zone objectives.

Aims and Objectives

Clause 2 sets the aims, objectives and guiding principles of the LEP and clause 2A requires that development be consistent with them. Further clause 2A requires that regard shall be had to the following documents prior to determining a development application:

- State of the Environment Report;
- Byron Flora and Fauna Study;
- Byron Biodiversity Conservation Strategy;
- Byron Rural Settlement Strategy;
- Small Towns and Villages Strategy; and
- Coastline Management Plan.

Aims

The aims of the LEP are stated following:

The aim of this plan is to promote sustainable development in Byron by furthering the objects of the Environmental Planning and Assessment Act, 1979, particularly in regard to:

- a) the application to proposed development of guiding principles for the management, development and conservation of natural and man made resources (including natural areas, forests, coastal areas, water, agricultural land, extractive resources, towns, villages and cultural amenities) for the purpose of promoting the social and economic welfare of the community, protecting ecological and cultural heritage and achieving a better environment;*
- b) the promotion and coordination of orderly and economic use and development of land;*
- c) the provision and coordination of community services and facilities;*
- d) 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*
- e) the provision of increased opportunity for community involvement and participation in environmental planning and assessment.*

The proposal supports the principle of sustainable development, being designed to minimise stormwater runoff and maximise onsite reuse or absorption, maximise passive solar use and utilise appropriate cross ventilation for energy efficient cooling of the accommodation suites. Further, the development seeks to revegetate substantial areas of land to recreate habitat and protect adjoining and nearby sensitive lands including coastal land and wetlands.

The proposed development of a tourist resort allows for the economic and orderly use of part of the land to fund the previously mentioned habitat repair.

The appropriateness of the revegetation works and the impacts of the tourist development upon the environment, including the protection and conservation of native animals and plants, threatened species, populations and ecological communities and their habitats is addressed elsewhere in this report. A summary of the assessment and a summary of the response to the notification of the application from the Departments of Natural Resources and Environment and Conservation is contained in Sections 5 and 4 respectively.

Finally, the application has been notified in accordance with the requirements of the Act and as such there has been sufficient opportunity for community consultation in the assessment process.

Objectives

The objectives of the LEP are stated following:

- a) to enhance individual and community (social and economic) well-being by following a path of economic development that safeguards the welfare of future generations;*
- b) to provide for equity within and between generations;*
- c) to protect biodiversity, and re-establish and enhance essential ecological processes and life supporting systems.*

The development of the site as a tourist resort is in accordance with the zoning of the site. It has been proposed with appropriate regard to the need to improve and protect the habitat of the more sensitive lands within and adjoining the site, safeguarding the welfare of future generations, protecting biodiversity and re-establishing appropriate habitat areas. The tourist resort will also result in additional economic benefits to the area

without resulting in unacceptable social impacts. As such the proposal is consistent with the objectives of the LEP.

Consideration of Specified Documents

The State of the Environment Report, Byron Flora and Fauna Study, Byron Biodiversity Conservation Strategy and Coastline Management Plan have been taken into consideration, where relevant, in the assessment of flora and fauna impacts in section 5.2 of the report.

The proposal is generally consistent with the Byron Rural Settlement Strategy or the Small Towns and Villages Strategy.

Subdivision

The provisions of clause 10 require development consent for the subdivision of land other than strata subdivision.

Clause 11 sets a minimum subdivision area of 1 hectare for the subdivision of land in the 2(t) Tourist Area Zone where the subdivision is for the purpose of agriculture, forestry or a dwelling house. The subdivision proposed is for the purpose of a tourist resort and environmental facilities and as such the clause is not relevant to the application.

Flood Liable Land

Clause 24 deals with development on flood prone land and requires consent for the erection of a building on flood prone land. Prior to granting consent for the erection of a building the consent authority must be satisfied that:

- a) *the development would not restrict the flow characteristics of flood waters;*
- b) *the development would not increase the level of flooding on other land in the vicinity;*
- c) *the structural characteristics of any building or work the subject of the application are capable of withstanding flooding; and*
- d) *the building is adequately flood proofed*

Further, adequate arrangements are to be made to access the buildings in a flood situation.

A report addressing flooding and drainage has been prepared for the development by Maunsell Australia Pty Ltd, entitled Flooding and Drainage – An Assessment of Flooding and Drainage Requirements, dated 2005.

The report identifies potential flooding events as a result of inundation from elevated ocean levels and Belongil Estuary. The report identifies the 1% AEP flood event as being determined by a combination of a 1% AEP design ocean level (stormtide) and a 1% AEP flood from Belongil Creek.

The report indicates the site is classified as Low Hazard Flood Storage and that in the PMF event the railway line will be overtopped by approximately 300mm for a width of approximately 1km.

The proposal to erect the buildings on stumps above the Predicted Maximum Flood (PMF) level will result in no significant decrease in flood storage area and as such will ensure no significant increase in flood levels on other land. In this regard the predicted increase in the maximum flood level on site as a result of the development is 0.03m, with a predicted reduction in average flood depth and peak velocity. A predicted increase in flood depth for the area near Belongil Creek is 0.002m.

Therefore, the buildings are adequately flood proofed, being above the PMF, the flood waters are not unacceptably restricted, being only slowed, and there is not significant increase in flood depth on adjoining land and as such criteria (i), (ii) and (iv) are satisfied by the proposal.

Additional information was provided as to the ability of the proposed buildings to structurally withstand the floodwaters. A letter was received from Geolink Environmental Management and Design, dated 16 June 2006, indicating that the flood loading conditions are minor on the site given the slow velocity of the floodwaters. It also indicated that the structural design of the footings and bracing will be capable of withstanding the predicted floods.

The report indicates that only a major flood (1% AEP) would require evacuation due to the submergence of access roads, though the main access road would remain above the flood level. The report identifies that the association manager will door knock to warn of impending danger and that the evacuation of 1 car per accommodation unit would take less than 1 hour.

Comments received from the Department of Natural Resources indicate that the application adequately addresses flooding issues and comments from Council's Engineer indicate that the flood report is generally supported.

Development in the Coastal Lands Zone

Clause 33 deals with development in the Coastal Lands Zone and requires that any development in the 7(f1) Coastal Lands Zone have the concurrence of the Director General. In determining whether to grant concurrence the Director General must take into consideration the following matters:

- a) *the likelihood of the proposed development adversely affecting, or being adversely affected, by coastal processes;*
- b) *the likelihood of the proposed development adversely affecting any dune or beach of the shoreline or foreshore;*
- c) *the likelihood of the proposed development adversely affecting the landscape, scenic or environmental quality of the locality of the land; and*
- d) *whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment.*

The proposed Stage 1 works within the Coastal Lands Zone are the removal of weeds and revegetation with suitable species to recreate habitat, the demolition of the Bayshore Building, the creation of an asset protection zone and the provision of access tracks to the beach.

The proposed works, in particular the demolition of the Bayshore Building, will appropriately remove a building that is located in a position of imminent danger of being damaged due to coastal erosion. Further, the proposed Dune Management Plan and works for the beach access track, will, with appropriate changes that can be conditioned, appropriately address the stability of the dune area and its rehabilitation. As such the proposal is appropriate in relation to the matters to be considered. It is recommended that the concurrence of the Director General be given to the Stage 1 development with regard to its satisfying this clause.

Development Adjoining Wetland

Clause 36 deals with land adjoining or contiguous with land zoned 7(a) Wetland and as such applies to the application. Consent is required to clear, drain, excavate or fill land and consideration must be made to the following prior to granting any consent for such works:

- a) *the likely affects of the development on the flora and fauna found in the wetlands;*
- b) *the likely affects of the development on the water table; and*
- c) *the effect on the wetlands of any proposed clearing, draining, excavating or filling.*

The impacts of the proposed development upon the wetland and the flora and fauna found within it are addressed in the Species Impact Statement (SIS) accompanying the application. An assessment of the SIS and the impacts of the proposal is contained within section 5 of the report.

Height

Clause 40 provides that consent should not be granted to any development if the floor of the top level of the building is greater than 4.5m above the existing ground level or if the height of the building is greater than 9m (measured from the highest point on the building to the existing ground level).

Some slight breaches of the height control and the maximum height above ground level of the first floor were found in relation to 4 buildings, however subject to the following changes (recommended by the applicant and to form a condition of consent), the proposal will satisfy the height controls:

- Hotel villa 1 on Lot 7 is to have its ground floor to ceiling height reduced to no more than 2.84m and its first floor to ceiling height increased to no more than 2.87m;
- Hotel villa 2 on Lot 7 is to have its ground floor to ceiling height reduced to no more than 2.59m and its first floor to ceiling height increased to no more than 3.12m;
- Hotel villas 5/6 on Lot 7 are to have their ground floor to ceiling height reduced to no more than 2.59m; and
- Hotel villas 7/8 on Lot 7 are to have the topmost part of the ridge reduced by a minimum of 190mm, to a maximum height of RL10.75 AHD.

Provision of Services

Clause 45 requires that consent may not be granted to development unless prior arrangements have been made to adequately provide sewerage, drainage and water services for the site.

Comments received from the Department of Natural Resources indicates that the application adequately addresses drainage issues and comments from Council's Engineer indicate that the drainage proposal is generally supported.

Further, Council's Engineer has indicated that sufficient ET's are available for the development for sewage treatment and that town water will be supplied, supported by rainwater tanks and future use of reclaimed water.

Acid Sulfate Soils

Clause 63 applies to land identified within Classes 1-5 on the Acid Sulfate Soils Planning Map. The site is identified on the map as being Classes 1, 2, 3, and 5. In this classification if works are proposed then consent is required for those works. Consent cannot be granted unless consideration has been given to the adequacy of an acid sulfate soils management plan for the proposal, the likelihood of works resulting in the discharge of acid water and comments received from the Department of Natural Resources.

Council's officers have indicated they are satisfied with the Acid Sulfate Soil Management Plan prepared by Golder Associates subject to conditions, which form part of the recommendation.